

Explaining the Great Racial Divide: Perceptions of Fairness in the U.S. Criminal Justice System

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We examine the huge racial divide in citizens' general beliefs about the fairness of the criminal justice system, focusing on the political *consequences* of these beliefs for shaping diverging interpretations of police behavior. Predictably, most blacks believe the system to be unfair and most whites believe the opposite. More importantly, these beliefs influence the *interpretation* of events quite differently. African Americans who view the system as unfair are much more suspicious of the police in confrontations with black civilians. Fairness for whites, however, has fewer racial connotations; they naively interpret the confrontations disregarding civilian race. Still, whites holding antiblack stereotypes are much more sympathetic to the police in their confrontations with black civilians.

On April 29, 1992, a mainly white jury in Simi Valley, CA voted to acquit four white police officers charged with the beating of Rodney King, an African American. Almost immediately, massive rioting erupted in nearby Los Angeles; one of the casualties was Reginald Denny, a white truck driver who was pulled from his vehicle and severely beaten. On October 18, a mostly African-American jury acquitted the two blacks accused of beating Denny on virtually all counts. Racial divisions over this verdict were stark: a *Los Angeles Times* poll found whites almost twice as likely to disagree with the verdict as blacks (67 to 38%), with whites more than twice as likely to express "anger" over the outcome (48 to 19%). A magnified division reemerged several years later during the contentious trial of O. J. Simpson and continues today over a host of criminal justice issues and events (Roberts and Stalans 1997), many of which¹ are nationally scrutinized.

¹ Abner Louima, a Haitian immigrant, was arrested outside a Brooklyn nightclub in 1997. On the way to the police station, he was severely beaten by officers in the patrol car and sodomized with a toilet plunger handle in the station house. Amadou Diallo, while being questioned about a rape in his New York City neighborhood, died after being shot 41 times while reaching for his wallet (which police mistakenly took for a gun) in 1999. Nathaniel Jones died in 2003 after being clubbed repeatedly by Cincinnati officers—an incident occurring less than three years after the Ohio city was racked by race riots over alleged incidents of police brutality against African Americans. All three individuals were black.

Here we focus on the different ways whites and blacks perceive these day-to-day police-civilian confrontations, an enterprise we believe to be important precisely because of the racial polarization the confrontations generate. No empirical study is necessary to document the magnitude of this race gap; for decades the polarized reactions to such incidents have been clear. What has *not* been clear is how these interpretative disagreements are fueled by more fundamental divisions in the way the races perceive the general fairness of the Criminal Justice System (CJS). We argue that blacks and whites interpret everyday interactions in the justice system in a way that is consistent with their general judgments of system fairness. Quite simply, most whites believe the CJS is fundamentally fair, and most African Americans do not. We will demonstrate that these dissimilar judgments of CJS fairness strongly affect how both races interpret the same phenomena (i.e., police-civilian interactions) so differently. Expressed another way, this is a study of how whites and African Americans differentially perceive daily police-civilian confrontations and, more fundamentally, an explanation of *why* these perceptions are so discrepant. Because whites and blacks do not often understand the reaction of the other race to a particular outcome, interracial tensions are exacerbated. And in a nation as clearly polarized as the United States, it is essential to understand this cycle of differential interpretations of the CJS.

The assumption that the races have quite different beliefs about fairness is not new. To the contrary, it is reminiscent of studies of the race gap in the economic realm: in their study of racial economic inequality, Sigelman and Welch argue, "It is hardly an overstatement to say that blacks and whites inhabit two different perceptual worlds. Whites do not acknowledge the persisting prejudice and discrimination that are so obvious to blacks" (1991, 65). Reduced to the core, whites see an economic system that is fair, and blacks do not.

It is surprising that political scientists have essentially ignored the intersection of public opinion, race, and crime. While there is an immense literature on public opinion and race in political science, most of it focuses almost exclusively on the attitudes of whites (e.g., Sniderman and Carmines 1997) or of African Americans (e.g., Dawson 1994), prohibiting interracial comparisons. While several studies contrast black-white differences (e.g., Kinder and Sanders 1996), their main focus is on economic issues (e.g., welfare, affirmative action, and beliefs about economic inequality), with only scant attention paid to other policy domains (however, see e.g., Gilliam and Iyengar 2000).

While the reasons for spotlighting economic concerns are fully legitimate, it is unfortunate to ignore another concern that has played every bit as important a role in fueling rage and racial resentment—i.e., criminal justice. The studies that address public opinion toward the justice system, mostly from the criminology and sociology literatures (e.g., McFate 1996), focus on the topic of African-American cynicism toward the system, again prohibiting interracial comparisons. In short, while we are in no way critical of these works, we do find them limited in terms of what they can tell us about how blacks and whites differ in their judgments of fairness, much less the consequences of these judgments.

But why focus on the CJS? First, attitudes about the fairness of the justice system are likely to color citizens' views of much of the rest of the political system. Lind and Tyler (1988) have demonstrated that people who believe the justice system to be unfair tend to evaluate the entire political system as less legitimate. The justice system is as close as many come to the government; thus, low levels of confidence in the CJS can clearly undermine support for the broader system.

The consequences of cynicism toward the CJS, however, are more pernicious than a sour taste toward the broader system. Tyler (1990) has found citizens to be more likely to comply with the law when they believe legal authorities to be fair, comparable to the finding of citizen compliance with legislative decisions perceived to be fair (Hibbing and Theiss-Morse 2001). Thus, for those who judge the justice system to be grossly unfair, the potential for disobedience is high. Not surprisingly, civil disobedience is often located in areas pervaded by feelings of injustice (Bobo et al. 1994), and among those most cynical about the CJS (Sears and McConahay 1981).

In sum, we argue that interracial differences in fairness judgments are as consequential in the justice domain as in the economic domain. As we focus on views of the CJS, we must also adopt a different working definition of fairness: unlike much of the fairness literature that appropriately underscores *distributive justice* in the economic realm (e.g., Hochschild 1995; Kluegel and Smith 1986), we instead focus on *procedural justice*. We know that when individuals evaluate the justice system, their perceptions of the *process*, rather than the *outcome*, matter. For example, Tyler and Folger (1980) found that when citizens are stopped for traffic violations, their evaluations of the interaction with the officer were influenced more by the perceived fairness with which they were treated than by the outcome itself (i.e., whether they were issued a traffic citation). Thus, while *outcomes* may largely determine citizen evaluations of the economic system, *procedures* appear to predominate in evaluations of the CJS.

In the heart of this analysis, we explore beliefs about the procedural fairness of the U.S. justice system, focusing on three related concerns. First, we examine the degree to which blacks and whites differ in their perceptions of the general fairness of the CJS. Second, we explore the *consequences* of procedural justice judgments, examining how general fairness beliefs affect citizens' interpretations of events unfolding within the CJS that are both common and potentially incendiary—events such as racial profiling and police brutality. And third, we investigate potential interracial differences in the consequences of general procedural fairness beliefs.

We were both prepared and unprepared for our findings. We fully expected to find African Americans more cynical about the CJS, both at the general level (i.e., seeing the system as fundamentally unfair) and in their interpretations of confrontations between the police and civilians. We were, however, wholly unprepared for the extraordinary level of naiveté of white respondents, who are both far more likely to see the CJS as fair and to ignore differences between black and

white civilians in their encounters with the police. Furthermore, we find that, not only do the races diverge sharply in the *content* of their beliefs about general fairness, but that these beliefs influence the interpretation of police-civilian confrontations quite differently for blacks and whites, suggesting that “fairness” often takes on a radically different meaning for the races.

In our explorations of the consequences of fairness beliefs, we introduce data from a national survey where both blacks and whites respond to survey experiments describing police-civilian interactions in instances of racial profiling and police brutality, where we randomly vary the race of the civilian. With such leverage, we can examine not only whether overall judgments of the fairness of the CJS influence interpretations of such events, but also the circumstances under which fairness beliefs influence the interpretation of potentially racially charged interactions.

The Role of Fairness Judgments

Tyler (e.g., 2000) has repeatedly demonstrated that perceptions of the process, not the outcome, shape judgments of the legal system. An enormous literature exists documenting substantial *de facto* procedural discrimination in our legal system. Countless studies show a *race-of-victim* effect, particularly in the disproportionate use of the death penalty on assailants who murder whites (e.g., Keil and Vito 1995). Crimes with white victims generate significantly faster police response times (Bachman 1996), higher probabilities of arrest (e.g., Williams and Ferrell 1990) and prosecution (Myers and Hagan 1979), and more “vigilant” investigative strategies (Bynum, Cordner and Greene 1982). There is also a substantial bias due to the race of the *suspect* (Jackson 1989), with officers more likely to use more force (e.g., Jacobs and O’Brien 1998), arrest (e.g., Liska and Chamlin 1984), and traffic profiling (e.g., Johns 1992) with black than white suspects.

Discrimination even infiltrates the law itself, the best known example being the notorious 100:1 provision of the Federal Crack Cocaine Law of 1986 (21 U.S.C. 841), which mandates the same five-year prison sentence for one hundred grams of powder cocaine (used primarily by whites) as for one gram of crack cocaine (used primarily by African Americans), despite the gram-for-gram pharmacological equivalence (Stuntz 1998).

Whatever the reason, whether due to procedural biases or to higher levels of criminal behavior among African Americans, the disproportionalities are staggering: while African Americans accounted for 13% of the American population, in 1996 they accounted for 46% of all felony convictions and 48% of the prison population, and 41% of those sentenced to death between 1976 and 1997 (Bureau of Justice Statistics 1999). Such disproportionalities are likely to constitute *prima facie* evidence to many blacks that racial bias exists in virtually all nooks and crannies of the CJS. These same disproportionalities are likely to be viewed by many whites as evidence of the greater criminality of African Americans rather

than a bias of the CJS. Such perceptions are doubtless reinforced by news coverage, which tends to portray blacks as perpetrators of violent crimes (e.g., Gilliam and Iyengar 2000).

This literature is clear with regard to our first stated purpose (i.e., identifying interracial differences in the content of general fairness beliefs), leading us to predict large differences between whites and African Americans in their evaluations of the CJS. Experiences of blacks, as a group, have been far more involuntary and contentious in their interactions with the justice system. For this reason, we expect to find the average black respondent to be far more critical of the procedural fairness of the CJS than the average white respondent (Hypothesis₁).

The Consequences of Fairness Judgments

Second, and more importantly, we posit that, once formed, fairness judgments are consequential, playing a major role in guiding citizens' interpretations of the actions of legal authorities (e.g., police). Beliefs about fairness, doubtless, serve the same cognitive function as any other type of general beliefs—i.e., they guide the interpretation of novel or ambiguous stimuli. In the same way that partisan stereotypes shape perceptions of candidates (e.g., Rahn 1993) or that beliefs about the “American Dream” shape judgments of economic misfortunes (e.g., Hochschild 1995; Schlozman and Verba 1979), beliefs about fairness should guide perceptions of representatives of the justice system. We therefore expect those who believe the justice system is grossly unfair to be more skeptical of the behavior of the police under a variety of circumstances (H₂), including charges of racial profiling and police brutality.

Our third concern is to determine whether general beliefs influence the interpretation of events similarly for blacks and whites. Toward this purpose, we examine the verisimilitude of two explanations, the first of which focuses on the sentiments towards one's own racial group. On the one hand, according to the *ingroup favoritism hypothesis* (H_{3a}), blacks and whites may react chiefly to the race of the civilian in confrontations with the police by employing a simple ingroup favoritism bias (e.g., Brewer and Brown 1998), with blacks being more sympathetic to black civilians (while disparaging white civilians) and whites being more sympathetic to white than to black civilians. Importantly, this model maintains that both races will respond in a similar way to show greater sympathy for the ingroup than the outgroup.

As an extension to the ingroup favoritism hypothesis, we expect individuals to be more likely to disparage a member of the outgroup when they hold more negative stereotypes of that group (H_{3b}). Several studies have found that whites with more negative stereotypes of African Americans—viewing them as lazy or violent—evaluate black criminal suspects or welfare recipients more negatively than white targets (e.g., Gilliam and Iyengar 2000). While there has been less

attention to the impact of racial stereotypes on blacks' judgments, it is likely that African Americans who view whites more negatively are more prone to sympathize with black civilians in their confrontations with police. In short, ingroup favoritism, or the degree to which one's sympathies toward the civilian are affected by the civilian's race, should be affected by one's stereotypes of the outgroup.

In contrast to the ingroup favoritism hypothesis, the *perceived discrimination hypothesis* (H_4) turns on the differential views of the CJS held by the races. Given the history of racial bias in the system, African Americans should be more vigilant to signs of discrimination in encounters between police and black civilians. Brutality and profiling are so familiar to many African Americans that they constitute chronically accessible "scripts" that are frequently primed and likely to guide interpretations of ambiguous events.² Indeed, in an earlier study of the antecedents of fairness beliefs (Hurwitz and Peffley 2001), nearly a third (29.6%) of all African-American respondents reported being treated unfairly by the police *because of their race*, and such experiences were associated with a more critical view of the justice system overall. Thus, blacks as a group are likely to view confrontations between police and black civilians as yet another instance of police discrimination. Moreover, it stands to reason that many African Americans will base their beliefs about the fairness of the justice system on how it is seen to treat blacks, for a system that is believed to be heavily tilted against one's own group is unlikely to be viewed as fair and impartial overall.

As such, while blacks may perceive police confrontations with *white* civilians relatively neutrally, confrontations with *black* civilians should heighten their suspicions: they should be simultaneously more sympathetic to the black civilian *and* concerned about his unfair treatment from the police. We expect (H_{4a}), therefore, that fairness judgments should interact with the race of the target, such that blacks who see the CJS as generally unfair should be especially suspicious of the police in confrontations with black civilians. Yet, because "fairness" has fewer racial connotations for whites, who naively believe the CJS to be essentially "color-blind," fairness and civilian race are less likely to interact when interpreting such confrontations (H_{4b}).

Thus, in contrast to the ingroup favoritism hypothesis, the perceived discrimination hypothesis predicts that the race of the target matters more to blacks than to whites, and for quite different reasons. Rather than underscoring the natural and inevitable tendency of people to favor those of their own group, the perceived

²This hypothesis is compatible with research in social psychology showing that because of their more frequent encounters with prejudice, members of low status groups (e.g., blacks, women) tend to be more vigilant than members of high status groups to signs of prejudice and discrimination in their social encounters (see Feldman-Barrett and Swim 1998), in part because prejudice tends to be more central and accessible for members of such groups than it is for other individuals (Inman and Baron 1996).

discrimination hypothesis instead highlights the concerns of African Americans (but not whites) with the likelihood of discriminatory treatment at the hands of the CJS. This hypothesis holds that black respondents will be more sympathetic toward blacks, therefore, *not* simply because the target is a member of the ingroup, but instead because he serves to remind the respondent of the worst aspects of the discriminatory character of the justice system.

Testing these hypotheses requires an experimental design that manipulates the race of the civilian. In the analysis to follow, we present respondents with scenarios involving police-civilian interactions; in one instance, an officer is accused of brutalizing a man described as either white or black, and in the other the police search men (again, either white or black) for drugs. While the details of the two experiments differ, in both respondents are essentially asked whether they are more sympathetic to the police or the civilian side of the confrontation—confrontations designed to reflect salient and incendiary issues such as police brutality and racial profiling. While we might instead have asked respondents to reveal their sympathies in “real life” events such as the Amadou Diallo case, the weakness of such methods is that they do not enable the analyst to experimentally and randomly manipulate the race of the civilian, thus making it impossible to determine whether the race, or some other characteristic of the civilian, affects the responses.

Analysis

Data

The data for the analysis are from the National Race and Crime Survey (NRCS), a nationwide random-digit telephone survey administered by the Survey Research Center (SRC) at the University of Pittsburgh. Between October 19, 2000 and March 1, 2001, the SRC interviewed 603 (non-Hispanic) whites and 579 African Americans. White respondents were selected with a variant of random digit dialing and an oversample of black respondents was randomly selected using stratified sampling techniques. The number of completed interviews was 1,182 for an overall response rate (RR3) of 48.64% (<http://www.aapor.org>). The interviews, which averaged approximately 35 minutes, were conducted using Computer Assisted Telephone Interviewing (CATI) facilities, enabling the interviewers to randomize respondents into experimental treatment groups in an almost infinite number of configurations. Details on the sample are available from the authors on request.³

³For most respondents (90%), the race of the interviewer was matched to that of the respondent in an effort to minimize social desirability bias from race of interviewer effects (e.g., Davis 1997). The survey instrument was subject to extensive pretesting, consisting of in-depth, face-to-face “cognitive interviews” with a small number of African-American respondents and telephone interviews with 25 white and 25 black respondents.

Measuring Beliefs about the Fairness of the Criminal Justice System

We begin by briefly examining citizens' beliefs about the fairness of the U.S. justice system, focusing initially on our expectation that blacks should be far more negative in their evaluations of the CJS. To investigate this hypothesis, respondents in the NRCS were asked two questions (which we combine into a General Fairness Index), both asking about the extent to which respondents agree with the statements: "The justice system in this country treats people fairly and equally," and "The courts in your area can be trusted to give everyone a fair trial."⁴

Across both items a similar story unfolds—i.e., there is a wide chasm between the races in their evaluations of the justice system, with an average of 67.5% of African Americans, but only 35.2% of whites, disagreeing (strongly or not) with the two statements. More specifically, while 74.0% of blacks do not agree that the justice system treats people fairly and equally, only 44.3% of whites express similar sentiments. And differences are even sharper for the other question, with 61% and 26% of blacks and whites, respectively, who do not trust the courts to give a fair trial. Not surprisingly, the dominant finding in the analysis of these responses is that there are clearly diverging perceptions when blacks and whites evaluate the CJS, in keeping with H_1 .

The Consequences of Fairness Judgments

Having established the divide between whites and African Americans in their general beliefs about the justice system, we turn to the central questions motivating our analysis: how do general fairness beliefs help to explain differences in the way people react to scenarios designed to reflect incendiary issues such as police brutality and racial profiling? And how, if at all, does this effect differ interracially? As explained earlier, we created two survey experiments where respondents hear about a recent incident involving confrontations between police and civilians where the race of the civilian is randomly manipulated. Respondents are then asked a series of questions designed to probe whether their sympathies align with the police or the civilian in the confrontations; in one instance, an officer is accused of brutalizing a man described as either white or black, and in the other, the police search men (again, either white or black) for drugs.

POLICE BRUTALITY EXPERIMENT. Allegations of police brutality have often been linked to the outbreak of racial disturbances in U.S. cities. Accordingly, in our

⁴Response categories include "strongly (dis)agree" and "(dis)agree." We note that the general fairness items were asked later in the survey, several questions after the survey experiments. We find no evidence that the experimental treatment for the Brutality experiment, which asks whether the police will conduct a *fair* investigation, affected responses to the more global questions about fairness of the CJS, judging from the tiny and statistically insignificant correlations between the Race of Motorist variable and the two fairness items, for white and black respondents, respectively: justice system (-.01, .02), courts (.02, .03).

first experiment, respondents were read the following scenario: “There was a recent incident in Chicago in which a police officer was accused of brutally beating a [white/black] motorist who had been stopped for questioning. The police department promised to investigate the incident.” By randomly varying the race of the motorist in the scenario, we are able to determine whether and how the race of the target influences respondents’ answers to two subsequent survey questions: (A) “How likely do you think it is that the police department will conduct a fair and thorough investigation of the policeman’s behavior? (1 = very likely, 4 = very unlikely);” and (B) “If he is found guilty of beating the motorist, how should the policeman be punished—should he be suspended (1), fired (2), sentenced to one year in prison (3), or sentenced to two or more years in prison (4)?”

For each of the two judgments, the following equation was estimated separately for black and white respondents using ordered probit procedures:

$$\begin{aligned} \text{Judgment} = & \text{Race of Motorist} + \text{Fairness of CJS} + \text{Anti-Black Stereotype} \\ & + \text{Race of Motorist} * \text{Fairness} + \text{Race of Motorist} * \text{Stereotype} \end{aligned}$$

where the variables in the equation are measured in the following manner. The first dependent variable, Fair-Investigation-Unlikely, is a four-point scale ranging from “very likely” (point 1 on the scale) to “very unlikely” (4) that the police department will conduct a fair investigation. The second dependent variable, Punish-Guilty-Officer, ranges from the minimum punishment of suspending the officer (at point 1) to the maximum punishment of two or more years in prison (4).

Race of Motorist is a dummy variable coded 0 when the motorist is black and 1 when the motorist is white. Fairness of CJS consists of the two item General Fairness Index ($r = .59$) described earlier, coded from -3 to $+3$, with higher values reflecting agreement that the justice system is fair. The *first* interaction term is the product of Race of Motorist and Fairness.

Anti-Black Stereotypes is a measure of the degree to which individuals view blacks more negatively than whites and is created by subtracting ratings of “most whites” from those of “most blacks” on a series of traits, such as lazy, violent, and dishonest.⁵ Higher scores reflect more negative stereotypes of African Americans. Because the impact of racial stereotypes should vary depending on whether the target is black or white, an interaction term, Race of Motorist * Stereotypes, was added to the equation.⁶

⁵ Respondents were asked: “On a scale from 1 to 7, where 1 means that it is a very poor description and 7 means that I is a very accurate description, how well do you think [. . .] describes most whites/most blacks?: (1) lazy; (2) prone to violence; (3) prefer to live on welfare; (4) hostile; and (5) dishonest. Individual trait items were reverse-coded so that higher values indicate more negative ratings. The Anti-Black Stereotype scale has a theoretical range from -30 (respondent rates blacks *far* more positively relative to whites on all five items) to $+30$ (rates blacks *far* more negatively on all five items).

⁶ The equations in Tables 1 and 2 were also reestimated with a range of control variables, including education, gender, income, South, partisanship, and liberal-conservative self-placement. In no

To recapitulate our remaining hypotheses (H_2 to H_4), we predict, first, that regardless of race, individuals who believe the system is unfair should be more skeptical of the police in confrontations with civilians (H_2). The remaining hypotheses predict divergent reactions from blacks and whites. The ingroup favoritism hypothesis, for example, predicts that respondents will be more sympathetic to targets of their own race in confrontations with the police (H_{3a}). We also expect individuals to be less sympathetic to targets who are members of the outgroup if they hold more negative stereotypes of the group (H_{3b}). The perceived discrimination hypothesis, on the other hand, predicts that African Americans, particularly those who perceive the CJS as fundamentally unfair, should be more vigilant to unfair treatment of black civilians by the police than whites, who are more likely to naively view the system as fair and “color-blind” (H_4).

The first four columns of Table 1A display the ordered probit results for the Fair Investigation Experiment. We note that the coefficients for the substantive variables (Race, Fairness, and Stereotypes) are conditional effects indicating the impact of the predictor when the variable(s) with which it interacts equal(s) 0 (Jaccard, Turrisi, and Wan 1990). Given the coding of the variables, Race is assessed at the midpoint of the fairness scale (point 0 on the scale; 0 happens to be the approximate mean of the Stereotype scale). The coefficients for Fairness and Stereotypes indicate the effect of these variables for the black motorist only (the 0 point on the Race scale). However, coefficients at other values of the interacting variables can be easily computed.

Judging from the coefficients for the Race of the Motorist variable (first row), blacks' judgments of the investigation appear to be significantly influenced by the race of the victim in the brutality incident (first row of coefficients); they are much less likely to think a fair investigation will occur when the motorist is black. By contrast, this coefficient is insignificant for whites.

Closer scrutiny of the remaining variables alters our conclusions about the ingroup favoritism model. As indicated in the third row of coefficients, Anti-Black Stereotypes is significant only for whites—an effect that is consistent with H_{3b} —at least for white respondents. When a black motorist is brutalized, whites who view blacks negatively are more likely to have faith that the police investigation will proceed fairly ($b = -.03$). In addition, the interaction between Race-of-Motorist and Stereotypes is significant for whites ($b = .4$), indicating that, also as expected, Anti-Black Stereotypes significantly bias whites' views of the investigation, but only when the motorist is black (b for the white motorist is $.01 [-0.03 + .04]$, $p > .05$). Thus, race matters to whites—in particular, those who stereotype blacks as violent and lazy. For individuals of both races, we find evidence that is consistent with the ingroup favoritism model. African Americans

case were the results substantially different from those reported below. Following the advice of an anonymous reviewer, we report the results without controls, since our main interest concerns the impact of the randomly assigned treatment variable and including too many (or the wrong) controls can bias estimates of theoretically specified variables (e.g., Achen 1992).

TABLE 1
Predicting Responses to the Experiments

TABLE 1A
Police Brutality Experiment

Independent Variables	Fair Investigation Unlikely?		Punish Guilty Officer?	
	Blacks	Whites	Blacks	Whites
Race of Motorist (0 = black)	-.49** (.11)	-.15 (.09)	-.10 (.11)	-.32** (.09)
CJS Fairness	-.16** (.04)	-.26** (.04)	-.16** (.04)	-.05 (.04)
Anti-Black Stereotypes	-.004 (.01)	-.03* (.01)	-.01 (.01)	-.03* (.01)
Race X Fairness	.12* (.05)	-.03 (.06)	.14* (.06)	-.03 (.10)
Race X Stereotype	.01 (.01)	.04* (.02)	-.01 (.02)	.04* (.02)
Cutpoint 1	-1.06 (.09)	-1.00 (.08)	-1.39 (.10)	-1.50 (.09)
Cutpoint 2	-.22 (.08)	-.24 (.07)	-.40 (.09)	-.46 (.08)
Cutpoint 3	-.45 (.08)	.95 (.08)	-.10 (.08)	-.01 (.07)
N	559	570	554	565

TABLE 1B
Stop and Search Experiment

Independent Variables	Not Reasonable Search?		Believe Police or Men?	
	Blacks	Whites	Blacks	Whites
Race of Men (0 = black)	-.11 (.11)	-.17 (.10)	-.53** (.16)	-.20 (.24)
CJS Fairness	-.16** (.04)	-.08* (.04)	-.08* (.04)	-.14** (.04)
Anti-Black Stereotypes	.002 (.01)	.01 (.01)	-.01 (.01)	-.01 (.02)
Race X Fairness	.10* (.05)	.003 (.05)	.08 (.06)	-.018 (.07)
Race X Stereotype	-.01 (.01)	-.03 (.02)	.02 (.02)	.02 (.02)
Cutpoint 1	-.79 (.09)	-1.02 (.15)	-1.09 (.10)	-.25 (.07)
Cutpoint 2	-.13 (.08)	.21 (.07)	-.01 (.09)	1.10 (.09)
Cutpoint 3	.81 (.09)	.90 (.08)	.96 (.10)	1.82 (.13)
N	551	576	444	505

Note: Entries are ordered probit regression coefficients with standard errors in parentheses. Higher values on the above dependent variables indicate: fair investigation unlikely, more severe punishment of guilty officer, judging the police search as unreasonable, and believing the men versus the police. Higher values on independent variables indicate: white motorist/victim of police brutality, white men, believing the justice system is fair, and more negative stereotypes of blacks than whites.

p* < .05, *p* < .01.

appear substantially less sympathetic to civilians of the other race (but see below), as are whites—at least those whites who negatively stereotype blacks.

We also find strong support for the perceived discrimination hypothesis (H₄). The race*fairness coefficient (row 4) is statistically significant for blacks (b = -.12), but not for whites (b = .03), indicating that: (a) whites are not particularly

affected by the race of the civilian, even if they see the CJS as essentially unfair; and (b) the race of the brutalized motorist has a greater impact on judgments of the investigation among black respondents who believe the justice system is unfair than among those who perceive the CJS more favorably.

To better understand the nature of the interaction between fairness and race of the civilian, Figure 1A displays a graph of the predicted probability that respondents think a fair investigation is likely (combining “very” and “somewhat likely”), broken down by race-of-motorist and race-of-respondent, and arrayed across the perceived fairness index.⁷ The judgments for black respondents are depicted by solid lines, with dotted lines used for whites. One is struck, first, by the large impact of the race of the motorist among African-American respondents who think the justice system is unfair (i.e., the left-hand side of the fairness scale). Blacks who think the system is very unfair (at -3 of the fairness scale) are more than twice as likely to think the police investigation will be fair when the motorist is white (55%) than when he is black (24%). In other words, blacks who are cynical about the CJS are extremely pessimistic about a black victim of brutality receiving justice at the hands of the police, compared to a white victim. On the other hand, blacks who believe the system is very fair (on the right side of the scale) think a fair investigation into the officer’s conduct is about as likely for a black motorist (60%) as for a white motorist (65%).

The figure also neatly captures what is perhaps the largest single difference in the way the races responded to the scenario: among African-American respondents, general fairness beliefs are much more important in shaping their evaluation of the incident when the brutality victim is black than when he is white. Among white respondents, however, the probability estimates are nearly identical, regardless of the race of the victim. The results cleanly document that general fairness beliefs do not play the same role for blacks as they do for whites. Whites (who tend to assume that the system is color-blind) apply their fairness beliefs as if the race of the victim has no bearing on whether the police would conduct a fair investigation. Blacks are quite suspicious about the police primarily when an African American is an alleged victim of police brutality—particularly blacks who think the system is unfair. Thus, if blacks are “biased” toward black victims, it is because they believe the justice system is extremely unfair to begin with.⁸ Thus, we do not find a consistent tendency for African Americans to habitually support members of their own group (contrary to H_{3a}). Rather, any apparent “bias” toward black victims is evidenced only among those who see the CJS as fundamentally unfair.

⁷ Predicted probabilities were generated based on the ordered probit results in Table 1.A using the *Spost* program (Long and Freese 2003) for Stata 8.0. Predicted probabilities are generated for a likely (very + somewhat likely) response, varying Race of Motorist, Fairness, and their interaction, while holding other variables at their mean.

⁸ To place these judgments in context, we note that about two-thirds of the black sample falls at the three most “unfair” points along the fairness scale (with only about 7% at the two most fair points of the scale), while about two-thirds of whites fall at the most “fair” points along the scale.

FIGURE 1

Predicted Probabilities Depicting Interactions between Race-of-Target and Fairness on Scenario Judgments

FIGURE 1A

Predicted Probability of Judging Fair Investigation Likely across Fairness, Race of Motorist, and Race of Respondent

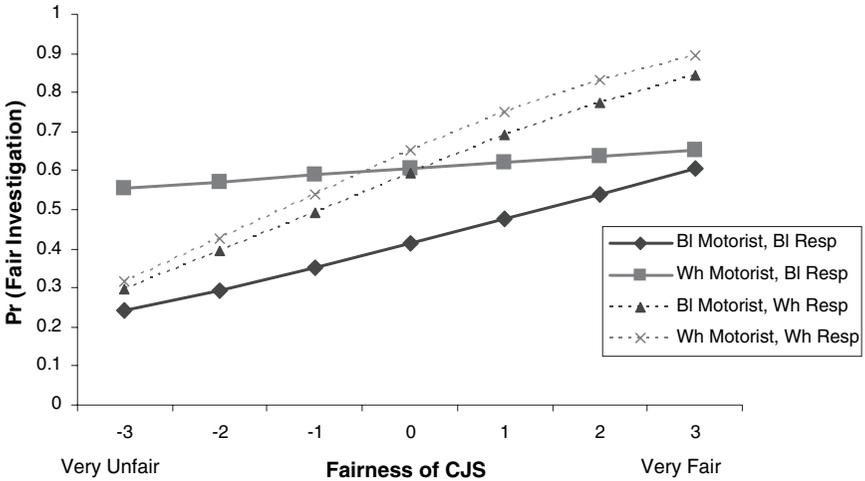


FIGURE 1B

Predicted Probability of Max. Sentence for Guilty Officer across Fairness, Race of Motorist, and Race of Respondent

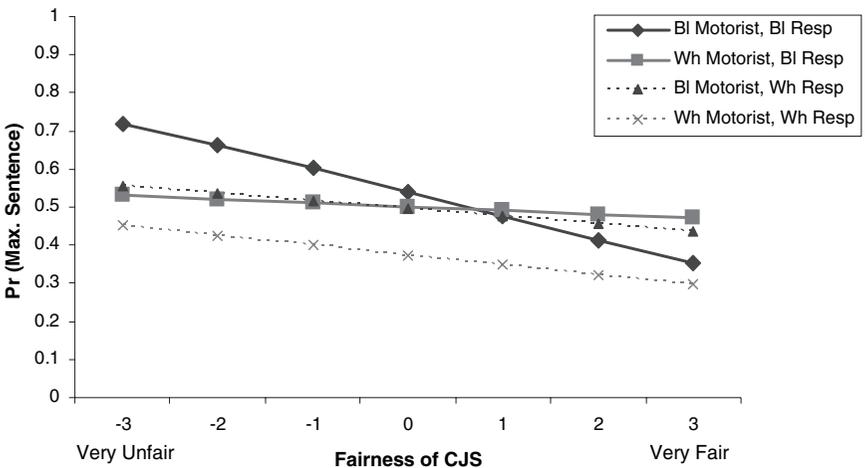


FIGURE 1C

Predicted Probability of Judging Search Unreasonable across Fairness, Race of Men, and Race of Respondent

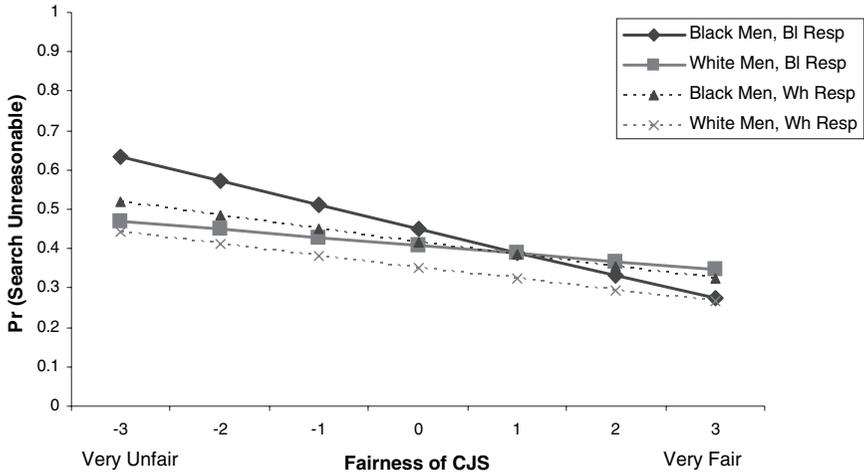
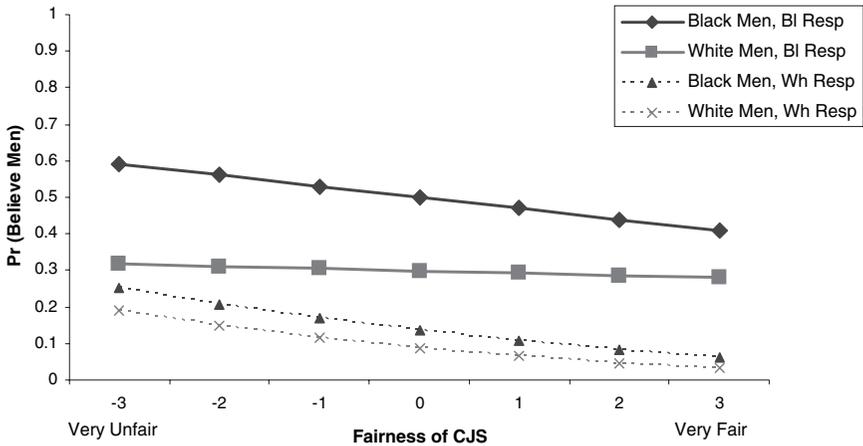


FIGURE 1D

Predicted Probability of Believing Men vs. Police across Fairness, Race of Men, and Race of Respondent



In many respects, then, the results for African Americans are consistent with the perceived discrimination hypothesis. At the same time, however, the impact of stereotypes among whites clearly conforms to the ingroup favoritism hypothesis. Although whites apply their general beliefs about fairness as though oblivious to the race of the victim, those who hold negative stereotypes of African Americans tend to have greater confidence in the police when the victim is black.

The second question in the Police Brutality Experiment, which asks respondents how the officer should be punished if he is found guilty of attacking the motorist, yields a different pattern (particularly for white respondents) as reflected in the coefficients in the right-hand panel of Table 1A (the Punish Guilty Officer model). Whites' judgments in this case turn less on their general fairness beliefs than on the Race of the Motorist, the coefficient for which is larger for white than for black respondents. Although most whites appear to assume that the justice system is "color-blind," when they are confronted with a clear case of an officer brutalizing a black motorist (inasmuch as the question specifically informs them of the officer's guilt), they, even more so than black respondents, recommend a stiffer punishment for the officer who beats the African-American motorist. These results run counter to the ingroup favoritism hypothesis, which predicts a Race of Motorist coefficient of the opposite sign for whites.

However, close inspection of the stereotype and race*stereotype interaction indicates that, as before, whites' judgments are also more strongly colored by Anti-Black Stereotypes (row 3), but only when the motorist is black (row 5). Whites with more negative stereotypes of African Americans recommend a lighter punishment for the officer found guilty of beating the black motorist, despite the officer's clear guilt ($b = -.03, p < .05$; $b = .01$ for the white motorist, $p > .05$). Overall, then, among whites, we see mixed support for the ingroup favoritism model. While whites on average are sensitive to the race of the motorist being brutalized when it is clear the officer is guilty, whites who negatively stereotype blacks are significantly more sympathetic to the guilty officer when meting out punishment for the brutality incident.

Once again, the interaction between Race of Motorist and Fairness is significant, but only for black respondents, again consistent with the perceived discrimination hypothesis. To better understand the nature of these effects, we return to Figure 1 (1B) where the predicted probability of recommending the maximum punishment for the offending officer (point 4 of the Officer Punishment scale, the modal category for both races) is plotted by the race of the respondent and the race of the motorist across the fairness scale. As before, the effect of Race is much stronger for African-American respondents who think the justice system is very unfair, where the percentage of blacks recommending a stiff prison sentence for the guilty officer is much greater when the victim is black (72%) than white (53%). By contrast, the effect of race is much smaller (and even reversed) among the small number of blacks who rate the system as very fair (on the right side of the figure). Thus, once again, the tendency for black respondents to express more sympathy for the African-American target is particularly strong among blacks

who feel the system is unfair, and race plays little if any role among African Americans who see the CJS as fair.

In sum, we find impressive similarities across the two questions in the police brutality experiment. In both instances, we find that either white respondents are no less likely to predict a fair investigation against a white (rather than black) motorist, or they are actually more punitive against the officer who brutalizes a black civilian than an officer who brutalizes a white civilian. In both instances, the results are contrary to the simple ingroup favoritism model (H_{3a}). However, closer inspection suggests that whites who negatively stereotype African Americans are more likely to exhibit an ingroup bias (H_{3b}) across both questions. In addition, blacks, while initially seeming to exhibit an ingroup bias, appear not to react chronically in a manner demonstrative of an ingroup bias. To the contrary, this greater suspiciousness of the police is found primarily among African Americans who are most cynical of the justice system.

STOP AND SEARCH EXPERIMENT. To gain greater confidence in the results above, we attempt replication using the Stop and Search Experiment. Both experiments utilize scenarios in which the common element is the potentially explosive, and quite common, police-civilian interaction. For our purposes, they differ in two important respects. First, because the search experiment makes no reference to physical force used by the officer, it affords us an opportunity to examine responses to an issue that is somewhat less incendiary than police brutality. More important, however, the Stop and Search Experiment places the civilian in a more compromising position. As noted below, the civilians are seen walking “near a house where the police know drugs are being sold,” suggesting a potentially dangerous neighborhood. Such a context may be interpreted by some to imply the guilt of the civilians, while for others it may suggest the familiar scenario of racial profiling.

The question posed was: “In another incident, the police see two young [African American/white] men about 20 years old. They are walking very near a house where the police know drugs are being sold. The police search the two men and arrest them for carrying drugs.”

- A) Do you think this is definitely a reasonable search (coded 1), probably a reasonable search (2), probably not a reasonable search (3), or definitely not a reasonable search (4)?;
- B) Who are you more likely to believe in this case—the police, who claim the two men were carrying drugs (1 = very likely to believe the police, 2 = somewhat likely to believe the police), or the two men, who claim the police planted the drugs on them (3 = somewhat likely to believe the men, 4 = very likely to believe the men)?

By varying the race of the suspect, we aim to determine the degree to which respondents’ judgments of the search (Was it reasonable?), and the judged credibility of the police versus the men (Did the police plant the evidence?) are affected by fairness beliefs and racial stereotypes, as well as the suspects’ race.

Table 1B displays the ordered probit results obtained from estimating equations very similar to those in the Police Brutality Experiment. Results for the first

(Unreasonable Search?) and second (Believe Men?) questions are presented in Table 1B. For both questions, as indicated in the second rows, when the men are black, evaluations of the search by both African-American and white respondents are significantly shaped by general fairness beliefs, consistent with H_2 : those rating the CJS as unfair are both more likely to see the search as unreasonable and to believe the black civilians rather than the officer. Another notable similarity across questions is that racial stereotypes play virtually no role in the judgments of respondents of either race.

The most important difference across questions is that, although the race*fairness coefficient is never even remotely significant (or close in magnitude to that for black respondents) for white respondents, it *is* statistically significant in the first, but not the second, equation for African-American respondents. In other words, African Americans who are initially cynical about the CJS become particularly critical of the police in the case of black drug suspects.

The interaction for the reasonable search question, as revealed in a predicted probability plot at the bottom of Figure 1 (1C), demonstrates a familiar pattern: black respondents are not indiscriminately biased toward black targets. Rather, those who think the system is very unfair are much more critical of the search when it is directed against the African-American men (63% think it is unreasonable) than against white men (47%). But for black respondents who perceive the CJS as fair, the only bias (though modest) is in favor of white civilians.

Although the coefficient is not significant (column 3, row 4, Table 1B), the same pattern is at work for the second question and displayed in Figure 1D, which depicts the predicted probabilities for believing the men (very and somewhat) versus the police. Blacks at every point along the fairness scale are much more likely to side with the civilians over the police than are whites (whose predicted probability of believing the men approaches 0!), and this is particularly true if the suspects are African American and the respondent holds cynical views of the CJS.

All told, the results from the Stop and Search experiment are most consistent with the perceived discrimination model (H_4). White respondents do not appear to be more sympathetic toward the police (with either question) when the suspect is of the other race (even when they negatively stereotype blacks); African-American respondents exhibit an aggregate tendency to distrust the police, particularly when they generally distrust the CJS.

Conclusions

Our study of racial polarization in the CJS began by targeting three related goals, the first of which was to assess the magnitude of interracial differences in judgments of procedural fairness. The differences, by any criterion, are enormous: while whites see a justice system that is essentially egalitarian, African Americans do not. The *consequences* of these judgments, however, are of more interest. Overall, procedural fairness beliefs exert a dramatic impact on both

racers' interpretations of events unfolding within the CJS, such that individuals with more cynical beliefs are far more skeptical of, and punitive toward, the police in all four experiments.

Still more important is the question of whether black and white respondents translate these beliefs in different ways when interpreting encounters between the police and civilians. We initially proffered two competing theories of how individuals interpret these interactions: the ingroup favoritism model (which holds that blacks and whites are both more sympathetic to targets of their own race, particularly when they negatively stereotype the outgroup) and the perceived discrimination model (which assumes that many blacks, being far more sensitized to discrimination, should base their interpretations on civilian race [especially when they see the CJS as inherently unfair], relative to whites, who are far less attentive to the biases of the system).

Overall, our results were more consistent with the perceived discrimination model, though we did find important, though limited, support for the ingroup favoritism model. In the police brutality experiment (but not the search experiment), when the brutalized motorist was black, whites who negatively stereotype African Americans were more likely to side with the police. Such a result is consistent with a variety of other studies finding that whites' judgments of black targets are often biased by their views of blacks as violent and lazy (e.g., Hurwitz and Peffley 1997). However, even in the brutality experiment, whites' stereotypes were not the dominant force driving responses to the scenario.⁹ One reason, we conjecture, that stereotypes were not as important here as elsewhere (e.g., Peffley, Hurwitz and Sniderman 1997) is that we focus more on judgments about authorities (i.e., police) than civilians (brutality victim or search suspects).

On balance, support for the perceived discrimination model is far stronger. While it is initially tempting to conclude that the ingroup favoritism model is characteristic of African-American respondents, closer inspection of our results tells a different story. Blacks do not habitually favor civilians of their own race; rather, they tend to be more sympathetic toward black civilians *only if they believe the CJS to be chronically unfair*—the response predicted by the perceived discrimination hypothesis (H₄). In fact, while not vast in numbers, blacks who are relatively trusting of the justice system demonstrate no particular bias toward own-race civilians.

Nor do whites conform to a simple rendition of the ingroup favoritism model (H_{3a}). In only one instance does the race of the civilian affect whites' judgments overall, and the direction of the bias in this case is contrary to expectation—*viz.*

⁹ If we compare estimated changes in predicted probabilities obtained by fixing all variables at their means and then shifting the value of a single predictor from one standard deviation below its mean to one standard deviation above its mean (i.e., "low" and "high" values), we find that the change obtained for Anti-Black Stereotypes (for the black civilian condition) for the two questions of the Brutality experiment for whites (Table 1.A) is about one-third as large as that for fairness beliefs for the Police Investigation question (.10 versus .31) and about two-thirds the size of the Race of Motorist for the Punish Guilty Officer question (.10 versus .15).

they are substantially *more* likely to punish severely the officer for brutalizing the black man than the white man. Why does the race of the brutality victim matter more to whites in this case? Under “normal” circumstances, whites appear oblivious to the possibility of police discrimination against African Americans and, therefore, apply their beliefs about CJS fairness similarly to black and white targets. But when they are “hit between the eyes” with a case of almost certain racial discrimination by a police officer, whites react against the offending officer. Thus, unlike African Americans, who need no such prompting to remind them they are targets of discrimination, whites typically regard the playing field as level. This finding is reminiscent of the Sigelman and Welch (1991) conclusion with which we began this discussion—i.e., that blacks and whites inhabit different perceptual worlds, with whites failing to appreciate the magnitude of prejudice that is so readily apparent to African Americans.

As further evidence of diverging racial perceptions, fairness beliefs are much less determinative of African-Americans’ responses to scenarios featuring white targets. In each of the graphs in Figure 1, fairness beliefs clearly matter when blacks are asked about black targets, as the line slopes steeply upward; but when the focus shifts to white targets, the lines flatten. Thus, when African Americans are asked about their general assessments of the CJS, even though no mention is made of race, they are much more likely to interpret such questions as an evaluation of whether the system is fair and equal *to African Americans*. Whites, however, naively process the fairness items in a racial vacuum, suggesting that interracial differences in response to the scenarios diverge, in part, because the actual meaning of fairness beliefs varies across the races.

An important implication of our findings is that both races appear susceptible to biases in their interpretations of events. While many whites adhere steadfastly to a “color-blind” perspective in their reactions to the scenarios, many blacks seem quick to assume the worst motives by the police. While whites may naively discount evidence of unfairness, many African Americans assume the system is biased against them—a belief confirmed when they see an example of potential racial bias. While we have no direct evidence on this score, such reactions are likely to contribute to misperceptions and interracial tensions, if, for example, blacks see whites as racially insensitive and whites see blacks as responding to a simple ingroup favoritism bias.

Is it possible to reinterpret our findings as a consequence of social desirability bias—i.e., that whites do everything possible to ignore color barriers when responding to black vs. white targets? While we concede this possibility, we regard it as extremely unlikely. We have taken all possible precautions, the most important being an experimental design in which respondents are randomly asked about *either* black or white targets, but *not* both—i.e., they are not asked to make side-by-side comparisons that encourage identical responses for both races. And second, nearly all respondents (90%) were interviewed by an individual of the same race in an effort to minimize race of interviewer effects (Davis and Silver 2003).

We therefore believe that the responses of whites in our study are not artificial. Rather, we are struck by the failure of many whites to appreciate what is painfully obvious to African Americans—i.e., that races are treated differently in the halls of justice. We see little prospect for the racial polarization in criminal justice attitudes to diminish in the foreseeable future. Among African Americans, a continuing downward spiral of cynicism is likely. Although we are limited in our conclusions because of the correlational nature of our data, the following scenario seems entirely plausible to us. African Americans, far more often than whites, are the subject of unfair and discriminatory treatment from law enforcement officers. Because so much of one's general sense of whether the CJS is fair is experientially determined, these encounters (whether experienced personally or vicariously) contribute heavily in creating in much of the African-American community a profound understanding that the justice system is inherently biased against them. And we know that these beliefs—far more prevalent among blacks—encourage a suspicious interpretation of police encounters with black civilians. And finally, these interpretations “loop back” to reinforce and intensify one's initial generalized judgment that the CJS is inherently unfair, in much the same way that stereotypes (or other fundamental beliefs) bias perceptions and thus maintain or reinforce themselves (Hamilton and Sherman 1994).

One can imagine that in order to break this spiral, several policy changes at the national and local levels would have to be implemented, such as restrictions on racial profiling, more community oriented policing in predominantly black communities, and the like. However, such policies are unlikely to be adopted on a broad scale without the support of a many whites, and we have seen that most whites do not see racial unfairness as a pervasive feature of the CJS.

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