



# Boy v. man: The role of perception and the attribution of blame in court proceedings

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## ARTICLE INFO

### Keywords:

Jury  
Implicit bias  
In-group  
System behavior  
Black male  
Adultification

## ABSTRACT

Juries are a core component of the criminal justice system. Although marked with a history of prejudice, segmentation, and discrimination, the framework of the 6th Amendment calls for impartiality among a jury of peers who are selected for the pursuit of justice. Influencing jury decision-making is the perception of witnesses, defendants, and victims. Specific to this work, the characterization of the victim is often a function of in-group bias in which the jury, operating collectively, decides if it is to cognitively distance itself from the victim based on assigned attributes. The group's agreement with the assignment of negative attributes is especially apparent when the victim is a Black male. In the case of this analysis, teenage murder victim Jordan Davis was described as a man and characterized as an adult aggressor and deserving of blame. The analysis is integrative and considers this case to elaborate on the cognitive theories, system behavior, and cultural norms that frame the perceptive process of jurors. Also reflected are the implications of biased decision-making processes, as well as suggestions for ways to mitigate them.

## 1. Introduction

The 6th Amendment of the Constitution outlines that defendants have the right to “a speedy and public trial, by an impartial jury”. This notion of an impartial “jury of your peers” has had a long history of exclusion and one-sidedness, based on race and gender, limiting jury service to White males. Black people, considered morally and physically inferior and treated like property, were denied the right to serve on a jury, struck with systematic barriers such as poll taxes and literacy tests, even after the ratifying of the Fifteenth Amendment [1]. As a superficial step toward the application equality, The Civil Rights Act of 1875 [2] outlawed discrimination based on race, but Black people were still excluded, and juries were overtly racist [3], sanctioning Black defendants with little to no evidence and judging harshly for both major and minor “offenses” [4]. The courts have since evolved to be more diverse, representative, and fair, in some instances on paper rather than in practice [5,6].

Using challenges for cause as an initial determination of fairness, the voir dire process involves filtering through the jury pool to rid overt biases or the potential of unfairness, foreknowledge or prejudice. Preemptory challenges, on the other hand, sometimes hinge on intuition and give attorneys the discretion to dismiss potential jurors for rationales that do not need to be explicitly expressed [7,8]. Connotated throughout is the notion that the selection process is unbiased and that both parties of attorneys, albeit striving to prevail, are seeking jurors who are neutral. On record, however, the use of challenges has been done unjustly, resulting in the same one-sidedness of juries that the Civil Rights Act of 1875 [2] sought to remove. *Strauder v. Virginia* (1879) [9] and subsequent cases,

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<https://doi.org/10.1016/j.heliyon.2023.e18116>

Received 21 July 2022; Received in revised form 13 June 2023; Accepted 7 July 2023

Available online 11 July 2023

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including *Batson v.*

Kentucky and *J.E.B v. Alabama* [10,11], changed the overtly discriminatory exclusion and covert racist practices regarding the use of preemptory challenges that formerly excluded citizens from jury service based on race and gender.

“Innocent until proven guilty”, the cornerstone of criminal law, hinges on impartial jurors who must be willing to decide based on evidence, rather than impression, stereotype, and emotion. As representers of the process, juries are assembled to collectively embody ideologies of fairness, impartiality, and fact-finding, conjuring up the vision of the scales of justice. While these representations make up the idealized foundation of the courts, it has been widely documented that the courts have been systemically partial and implicitly biased based on race, ethnicity and socioeconomic status [2,12,13] and decision-making has been impacted by questionable uses of discretion [14,15], both resulting in disparities in determinations of liability.

The fact-finding, guilt-innocent duality of the court system puts a great deal of focus on juries and their decision-making process. The fact that juries are tasked with coming to a majority decision speaks to the need for them to attribute, negate, or shift blame. This measurement of blame is not always independently directed toward the defendant, but is often measured against the blameworthiness of the victim. Victim blame attribution centers around assumptions of liability based on victim characteristics, criminal and mental health history, and social affiliation. Research has widely cited this regarding rape victims [16,17]. While this area of research is important and widens the knowledge base regarding jury processing, the attention given to Black male homicide victims and perceptual differences in court proceedings is not as spanning.

This research focuses on victim perception and serves to identify, explore, and synthesize the connecting theoretical content that explains the nature of blame attribution as it relates to the perceptions of Black male homicide victims. While juror sentiment in felony criminal cases, regardless of demographics, is an important area of exploration, Black males are at the center of this research, grounded in their higher rate of homicide victimization [18]. The victimization rate, along with the implicit bias that lends to negative attributions within the courts, necessitate further research in the interest of impartial juries and fair court proceedings [19]. With some similarities to scoping, this work is not a systematic review, but rather seeks to be a conceptual framework of literature, expressing gaps in the existing research and suggestions toward future research [20,21]. It is an integrative, qualitative approach, which is “worth paying attention to” due to its collection of intertwined theory and concepts which are explanatory and flexible, allowing growth and future research [22]. It is important to note that this work does not overview every article but is a combination of interlaced concepts and theories that are imperative in setting a solid foundation. Additionally this work is not about jury racism, but rather the perceptions of Black men that lend to victim blaming and negative attributions, augmenting the possibility of unbiased decision making. It is posed that the use of stereotypically charged attributions are not a product of individual bias but grows from system behavior that exists throughout the courts. As a product of group-think, there is the shifting and misplacement of responsibility which can ultimately decrease defendant liability and reduce the legitimacy of the courts, misaligning it with the ethical, fair, and just tenets of the justice system. This work adds to the intersecting fields of psychology and the courts through synthesizing cognition and decision-making theories and applying them to a court proceeding.

## 2. Methods

This research is integrative, with the goal of synthesizing the existing theories and acting as a conceptual foundation. The work is directed to qualitative and quantitative social scientists, legal scholars, and legal professionals. The reasoning behind this is two-fold: to serve as a baseline for systematic research and to inform courtroom professionals, especially judges, who are responsible for maintaining the integrity of the court.

At the beginning stages of this work, the researcher considered the main theme of blame attribution. The terms used to search within social science and legal databases were organized around concepts and themes that explain the expression of blame in decision making based on preexisting and prompted perception. Keywords used were “court proceedings”, “victim blaming”, “victim race”, “blame attribution” and “perception”. Branching off throughout the research, the terms “implicit bias” and “cognitive self-experiential theory” were used, revealing surface patterns in the literature. These themes and theoretical influences were generated after delving into the existing research using EBSCO, JSTOR, Science Direct, and PsycArticles. databases. The theories used were organized around perception, the roots of bias, and the resulting decision-making processes. The social science methods were used to compliment the legal methods in furtherance of the research on blame attribution.

The 2012 murder of Jordan Davis by Michael Dunn, which presented overt perceptual attributions disseminated by the prosecution and defense, was selected to express how perception and victim blaming can play out in the courtroom. This case obviously does not represent the range of Black male inculcation but does act as a lens into how contrasting labels are deliberately used in proceedings. Although important, this researcher does not consider the ultimate jury decision because it is outside of the scope of this research. The purpose of this work is to instead identify the presence of attributional differences and identify the research that explains its usage and potential impact. This integrative approach is used over systematic methods because the latter is too narrow for this emerging area.

### 2.1. System behavior and role of perception in decision-making

As a substantive piece of civic engagement, jurors are decision makers, tasked with coming to a uniform, legally guided decision, based on the conglomeration of the evidence and testimonies. The deliberation process itself and the requirement of a unanimous verdict speaks to the collective nature of juries [23], although comprised of individuals who may have their own conceptions. Impacted by the sensorial elements in the courtroom, including statements, testimony, and visual discernment, the process is a dance of persuasion and power dynamics of sorts to avoid a hung jury. Clients who are deemed “attractive”, for example, are judged more

leniently that those who are not seen as such [24,25]. Key in this is the physical and verbal grooming and framing of defendants, victims, and witnesses, as to increase their trustworthiness [26].

Unavoidable, perception seeps into the functioning of the court through assumptions of reliability, credibility, and blameworthiness, resulting in decisions regarding whether to investigate or believe, and the degree of or absence of sanction [27,28]. Roberts asserts that the ability to judge and decide is, in essence, an invitation to engage in stratification [29]. The stratification built into the formation of group schemas is developed from organized information about social positions and dictate social interactions, leading to the creation of boundaries [30]. While the boundaries within the courts are fluid, the alterity of the group functions to categorize objects, people, space, practices, and time [31,32]. The culture and power dynamics of the group dictate the differential distribution of perception, with attorneys as the principal dictators.

The court system itself acts as a boundary and means of “othering”. By its formation and strive for unanimity, the prosecution and defense understand and utilize the social and psychological mechanisms that impact decision making [25]. These methods center on socially constructed symbols, providing meaning and reinforcing the expectations of both the “in-group” and “out-group”. The cognition process is patterned, often unconscious and automatic. A simplistic, familiar, low-effort process, people naturally categorize others based on distinguishable characteristics, social status, and other environmental cues to expedite decision-making [33,34]. The group culture’s social identity allows individuals to determine his or her “home group” based on social and personal factors, much of which is perceptual and unchecked [35]. When individuals who are members of a group accept the group think of the larger group and identify with their views, decision making becomes uniform. The uniformity of judgement is characterized as unintentional, but the significance of agreement, in the case of juries, is not.

Social identity theory, favorability of in-group members while treating non-like people as others [35], is expressed as similarity-lenience bias [36]. Increased distance from the victim, for the sake of the defendant, results in lenience toward the defendant. Connectivity to this in-group makes the “other” unfavorable, parallel to the antidrug and the black -sheep profile [37], hence, decreasing social stigma.

Social stigma by way of attribution bias impacts the way in which the court system behaves. Juries are comprised of individuals but operate collectively, influencing each other and transferring experiences and changing discernment. The assignment of traits and characteristics to defendants based on assumptions about the roots of their action or inaction, ultimately impact the ways in which jury systems respond and decision-make. In this instance, the attribution bias comes from the culture of the wider society, linking attributes to race, fostering in-group preferences and the othering of out-groups. Black men, for example, are regarded as more aggressive, criminally responsible, and reckless, attributed to a character flaw, rather than situational or experiential factors [38]. Implicit bias studies, including those conducted utilizing the Implicit Association Test (IAT), posit that participants are more likely to pair negative characteristics and criminality with Black, and positive, safe attributes with White, like the doll experiment of the 1940s [39]. This implicit bias subsequently serves to create expectations of behavior.

Relatedly, expectations are a product of attribution, with assumptions changing as social stigma is attached. These responses are typically implicit and unconscious in nature and without the activation of a stereotype [40]. The assignment of blame, and stigmatizing othering is a function of the larger court system’s behavior. This behavior is evident in studies of trial and sentencing phases, with Black defendants sentenced to longer terms [41]. Death penalty proceedings result in similar outcomes, influenced by the race of the defendant and victim.

Black defendants, for instance, are more likely to be sentenced to death when the victim is White [26,42]. Additionally, it has been found that Black defendants with face structures and complexions that are deemed characteristically Black were seen as more liable and “deathworthy” than Black defendants who were perceived differently [43]. In mock court proceedings, with participants reading vignettes of a looting, Black people were judged as able to control their actions and more likely to reoffend. In other words, there was the difference in assumptions of the locus of control, with Black people considered as internally flawed, rather than situationally responsive [44].

It is not only the perception of the defendant that influences decision-making, but also opinions of the victim. One of the most-documented areas of research regards rape victims and the impact of perception on the outcome. Specifically, when female victims are assigned with negative attributes that signal “blameworthiness” such as past behavior, defendants were assigned less liability [16, 45], speaking to the assignment of value, respectability, and credibility. The explanation of the wide depreciation and unbelievability of rape victims is complex, involving empathy, relatability, moral distancing, and rape myths [46], shifting blame and leaning toward heuristic-based decisions [47,48,49].

As a parallel, the disparities in blame and culpability frequently include race as a correlate [50]. In a 2019 study on youth with mental health concerns, Black juveniles with antisocial behavior were assigned more blame than Hispanic juveniles [51]. The assumption of threat that is associated with Black people, both explicitly and implicitly, amount to attributions of blame, and ultimately measures of guilt and innocence. It was found that when participants were faced with ambiguous evidence, they were likely to vote guilt toward Black participants rather than White. There was in-group bias and preference based on race, with identity influencing bias and varying judgements of blame, causality, and responsibility, which ultimately colors cognitive perceptions [30,52,53]. Also differentiated was explicit versus implicit bias, finding that while White participants may have expressed positive attitudes toward Black people, their implicit bias was still apparent [54].

## 2.2. *The interaction between implicit bias and stereotypes*

There is the negative overrepresentation of racial minorities in the media, often blanketed with bias and public hostility [51]. As a collective institution, mainstream society is influenced, promoting a belief system and outlook based on groupings [52], perpetuating

stereotypes, and creating false semblances. This impact is not novel or brief, shaping implicit bias and disproportion [53]. The bias that persists is not always overt and the depiction is not always formally racist, rather a disparate impact rooted in cultural, organizational norms. As an example, “shooter bias” is the propensity of law enforcement to shoot Black perpetrators quicker than those that are White. It is correlated to expectations of criminality and threat and the need for lesser certainty in decision-making. Relatedly, Black defendants are more likely to be assumed to be guilty due to such assumptions [55].

Traits and attributes are often promulgated through media coverage, such as social outlets like Twitter. A 2018 study considered the victim blaming of Eric Garner and Michael Brown, two unarmed Black males who were killed at the hands of law enforcement. Researchers found that the discourse centered on the blaming of the victims and assigning negative attributes, rather than dialogues concerning on policy, social discontent, injustices, and legality. Further, they found that emotion framed blameworthiness, with the victims described as criminal and implied as deserving of their death based on past actions, lifestyle, physical features, neighborhood, and race and class [53,56,57]. Increased social distance was a signal for negative frameworks. Not isolated to only high-profile media representations, Black people are less likely to be depicted as victims, altering perceptions of reality, while normalizing this White victim-Black non-victim archetype [38,51,58], especially prominent when the Black person is victimized by a White individual. Their beings are framed by their past or current behavior, demeanor, physical composition, social culture, and appearance. The victim is in essence blamed for his or her own death [38,53], blame which is comprised within alterity. This “otherness” is a function of historically and perpetually flawed and biased social structures and supremacy, which is expressed in legal and social system behavior [59,60,61].

The belief sets, values, and norms within the court’s working environment, are meant to facilitate alterity. Beyond the structural components and argumentative sides, labels are used to categorize, depict, and prompt collective feelings and behavior. In a study on sexual offenders, people were more punitive toward defendants who were labeled with familiar terms such as “predator” as opposed to unfamiliar cues such as “paraphilia”. This is an instance of juristic cues, where members are intrinsically, drawn to things that are familiar, creating a “normal” experience [62]. These “controlling images” are reflections of wider society notions, leading to differentiation of the outside group, and judgements based on perception. Similarly, racial stereotypes, even in the absence of overt bias, impact decision-making, eliciting emotive responses. Feelings of sympathy, for example, are more apparent when Black victims are framed with counterstereotype characteristics, such as the absence of aggressiveness. Connectedly, when Black victims were described stereotypically, the defendant was judged with sympathy. One of the key indicators occurred when the crime was interracial, with sympathy elicited for White defendants with a Black victim, and vice versa. The violence enacted toward the defendant was deemed as justified and deserved [38].

### 2.3. Attribution bias and blame assignment

Attribution refers to the attachment of characteristics to individuals or groups based on the experience of the perceiver, as displayed in Fig. 1. These attributes can be positive or negative, accurate or inaccurate, implicit or explicit, blaming or mitigating. Blame assignment alters perceptions of harm and the responsibility of victimization is seen as a function of situation-specific variables and real or perceived characteristics of the victim. The partitioning of blame and bearing of responsibility regularly hinges on considerations of what the person could have done to avoid victimization and how much we think the person was able to control the events. This “belief in a just world” [63,64,65] influences individual’s need to be able to explain negative occurrences in the world.

“Under circumstances of uncertainty and unfamiliarity that exists in the courtroom, jurors become very sensitive to social comparison information” [8]. These peripheral, top-down assessments include mainstream cultures’ indication of the appropriateness of behavior, and attitudes and determinations of what is socially acceptable. In the case of juries, they are tasked with coming to a decision and rationalizing the facts to come to a just, logical conclusion. The more blame assigned to the victim and the shifting of the locus of control results in lesser liability of the defendant. It works to make the victim less than and deserving of victimization. It also acts to create an “other”, separating the jury member from the victim and drawing emotions, which are sometimes anger-ridden.

The pairing of emotion and decision making is often subconscious, influencing the direction of judgements, which is sometimes a product preconceived stereotypes or prosecution/defense emotional activation [66,67]. In fact, the intuitive nature of decision making

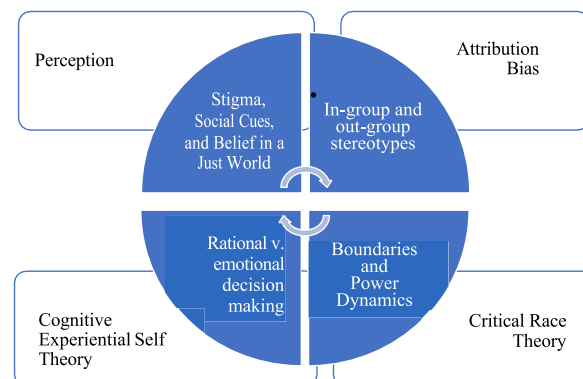


Fig. 1. Blame attribution.

has been observed neurologically with scan patterns showing differently based on the amount of disgust that the participant felt toward the defendant or victim. Through the manipulation of the emotive collectivism of juries, decision-making systems become deeply flawed, producing implicit and systematic bias [24,62]. While it is easy to reduce the cognitive load by leaning on familiarity, the decision-making process of rationality is a preferred, truth-driven approach.

Cognitive experiential self-theory (CEST) is the two-way mechanism in which individuals process information through experiential or rational means [68]. The reduction of emotion-based processing makes decision-making more bottom-up and systematic. Relatedly, affect valence and appraisal structures, which frame values and judgments, result in categorization on a spectrum of good or bad and informs decision making over and beyond moral reasoning [49,57,69].

#### 2.4. *The adultification and blame of Jordan Davis*

On November 23, 2012, 17-year-old teenager Jordan Davis, was murdered by 45-year-old Michael Dunn in the parking lot of a gas station in Jacksonville, Florida. Dunn, returning from a wedding was parked parallel to a Dodge Durango occupied by Davis and his three teenage friends. Dunn fired 10 shots into the SUV that Davis and his three friends were in after Dunn had a verbal altercation with the teens over the volume of their rap music. Jordan Davis was hit three times. Dunn claimed that he feared for his life and acted out of self-defense. The prosecution on the other hand, cited that Dunn felt disrespected and was enraged by the “thug” music and the verbal responses given by Davis and his friends. It was also inferred that Dunn’s response and so-called feelings of fear were functions of his existing bias and held stereotypes. During the four-day trial, in which Dunn was ultimately found guilty and sentenced to life without the possibility of parole, jurors heard testimony from law enforcement, witnesses, the surviving victims, Michael Dunn’s fiancé, and the defendant. Although the testimony was important in allowing jurors to track the timeline and assess Dunn’s culpability, there was a great amount of intentional adjective-play by the prosecution and defense that was arguably done to shape the perception of Jordan Davis.

In both the prosecution and defense opening statements, Dunn was briefly characterized, with his motivations outlined. Most of the defining labels, however, were used to characterize the victim, Jordan Davis. Dubbed “the thug music murder trial”, the emphasis of the courts was on the victim, the suggested stimulus that prompted Dunn to respond, and queries of what could the victim have done to make a law-aiding citizen shoot. Michael Dunn claimed that his actions were based on self-defense, citing throughout that he saw a weapon in the vehicle and that Davis was aggressive. Dunn commented “I saw two young men with menacing expressions” [70].

According to Florida’s statute on the justifiable use of Force (776.012) [71],

“A person is justified in using or threatening to use deadly force if he or she reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony. A person who uses or threatens to use deadly force in accordance with this subsection does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be”.

While it was proven that there was no such weapon, the constant association of Davis and his ‘friends as threatening was used throughout by the defense. The defense sought to make this feeling of threat plausible so that any reasonable person would believe it to be the impetus of Dunn’s action. The “threatening Black man” paradigm is commonly depicted in the news and shows through victim blame and the justification of violence against Black men [72]. The question was not if Dunn killed Jordan Davis, but that of culpability. The prime way that the defense attempted to shift the blame to Jordan Davis was by adultifying him and painting him as an aggressive Black man.

Adults are characterized as more responsible and rational than juveniles, hence separate sanctioning systems and the consideration of mitigating circumstances based on age. Juveniles usually garner a lesser punishment than adults and are assumed to have the potential for rehabilitation, which marked by the opportunity for adult-sanctioned juveniles to be granted the possibility of parole [73]. They are characterized as malleable, impressionable, random, short-sighted, and impulsive. Adults, on the other hand, are assumed to be responsible, rational, and understanding of consequence. When juveniles are adultified, their accountability is magnified, and they are regarded as more blameworthy.

The attention given to the characterization and illustration of Jordan Davis was apparent and deliberate. Shown in opening statements, the prosecution calls the teenagers by name, humanizing them, speaking of their value and characterizing Dunn as “a man fueled by anger”. Attempting to draw attention to the anger of Dunn, the prosecutor notes that Dunn hated “thug music” and commented “you’re not gonna talk to me like that”. In contrast, Davis’ and his friends’ behavior was characterized by the defense as assaultive and angry and they were constantly labeled as “gentlemen” or “men”, commenting that one of the surviving teens was called “shotgun”. Dunn’s testimony reiterated this attempt to blame the victim and label him as an attacker: “It appeared he was a full-grown man ... When he said he was going to kill me .... That’s not a child”.

Part of the call of the prosecution and defense attorney is to offer explanations of behavior. These reasons can be depicted as internal or external, with internal causes suggesting that behaviors are uncontrollable and static and those that are external are situational and dynamic. This process of causal attribution is not always correct. In the case of Jordan Davis, the defense’s characterization of him as a Black man suggests that if he would have been compliant with the requests of Michael Dunn, he would have been alive. He was characterized as aggressive, threatening, defiant, and criminal, compared to the prosecution’s realistic depiction of Davis: as an unarmed, typical teenager.

Laced within the testimonies and statements was the use of microaggressions: commentary and exchanges that include elements of racism and stereotypes, which are usually implicit, but inciteful [74]. Marked as “everyday racism” [75], microaggressions are reinforced by familiarity. In the characterizations of Jordan Davis, the expressions were subtle, but impactful, creating an “other” and



delegitimizing and criminalizing him, in essence creating boundaries with the intention of establishing doubt within the jury [74,76]. Examples of these microaggressions included the defense terms “thug music”, “menacing”, “man”, “loud”, “violent”, with the defendant citing “I didn’t know he was seventeen. I thought he was a full-grown man”, and at another instance, the defendant “threatened my life like a man”.

To this end, Davis was adjectivized and his character was used as a separator to suggest that he was responsible for his own murder. Using language to convey separation such as the “us” versus “them” dynamics is not new within the courts or research. Evaluative bias rests on the use of names, titles, pronouns, and epithets create a power dynamic [35,77]. In essence, it consists of conditioning and the association of words to active and inactive stimuli [35]. The vague, coded language such as “thug”, and “threat” [78], and associations of Black men with criminality, is rooted in the history of ethnocentrism [35,78].

Historically, there has been the unconscious, implicit practice of criminalizing and demonizing black males, presenting them as dangerous, making actions of violence against them and the transference of negative characteristics easier and more accepted [53]. Black males, specifically, have historically been framed as savage, brute, and hypermasculine. The ascription of threat has been recoded through tags of criminality and demonization [57,79,80]. Ascriptions are sometimes vaguely assigned and covert, as racism has become less socially desirable [81] which is a mental shortcut, coupled with emotion [82].

The perception of Black children as adults and more bearing of liability and harm is equally evident in the way that the media and mainstream society portrays children. They are seen as resilient, pain tolerant, and deserving of trauma, degradation, and brutality [83–86]. This perception of Black children leads to them being treated and perceived as less vulnerable and more liable [87,88,89].

Describing Black boys as men and the attachment of threat to Black men is common, with adultification and biased characterizations normalized. Michael Brown, the 18-year-old who was killed by Officer Darren Wilson in 2014 in Ferguson, Missouri was characterized as threatening by way of appearance: “This man was bigger than me” [90]. Tamir Rice, 12-year-old victim of a police shooting in Cleveland, Ohio in 2014 was treated with the same harshness. Although a witness caller indicated that “he’s probably a juvenile”, the dispatcher did not convey this information. The officer on call described this child as “a ‘black male ... maybe 20”. An associated detective cited that he “had trouble believing that Tamir was 12 years old”. “He’s menacing. He’s 5-feet, 191 pounds. He wasn’t that little kid you’re seeing in pictures. He’s a twelve-year-old in an adult body” [91]. The same held true in the depiction of Trayvon Martin who was shot by George Zimmerman in 2012. Martin was described as “an unarmed 17-year-old black man”, with the media calling for more “honest” pictures to be put out by the family [72].

When the blaming and othering of the victim are used by the defense, psychological distance between the victim and the juror is created and the jury is urged to think that they would have made a different decision, warranting a different fate [44]. In the case of Michael Dunn, the defense, by way of labeling, aimed to forge a boundary. The prosecution and defense sought a verdict in their favor by directing the jury to believe an explanation of behavior and attribute blame. The belief in justice incited the need to separate from the out-group and treat the victim like the negative other. In the trial of Michael Dunn, the defense, either consciously or subconsciously used characterizations to stir up emotions of sympathy for Michael Dunn, a “law-abiding citizen” who was returning from his son’s wedding and politely asked Jordan Davis and his friends to turn their music down. Jordan Davis and his friends were characterized as threatening men who were playing loud “thug” music and acting belligerently. While the outcome of the trial was the conviction and sentencing of Michael Dunn to life in prison without the possibility of parole, the mischaracterization of victims has implications for future processes.

## 2.5. Strengths and limitations

The research’s goal was to synthesize the theories surrounding blame attribution and to offer contrasting attributions of the victim, Jordan Davis, as an example. The explained theories work to fill a gap in the current literature which loosely examine system behavior, victim blame attribution, and decision making, although leaving out Black homicide victims. This integrative approach is of value because of its flexibility, with future research set to benefit from this foundation. Although systematic reviews and meta-analyses are important, integrative approaches bring meaning to the field by surveying and expanding upon existing theories, combining perspectives, and identifying knowledge gaps [92,93].

The necessity of qualitative research is evident in law school trends toward empiricism [94]. The law often operates, at least in theory, in black and white, with rulings that are generally definitive. Social sciences operate oppositely with flexibility and correlative relationships [95]. The fuzziness can be seen as a limitation, but there is no question legal empirical methods allow for the social sciences to adapt to their needs. This work is not to replace their methods, but to act as a supplement and offer social explanations to legal system behavior. A weakness of such an approach is that it does not possess the same rigor as systematic methods and the methods are not as refined [93]. This integrative research, however, does add to an understanding of the nature, incidence, impact, and extent of the social phenomenon of blame attribution.

## 2.6. Implications and future directions

The decision process of juries is complex, with their collective action based on individual background, court agent and external influences, and cognitive processes. Judges, who are to operate as the neutral party, inform the jury of their instructions and highlight that emotion should not account for their decision. Jurors, on the other hand, are ultimately not neutral, screened to have a blank state, but selected with the expectation of choosing a side. Unconscious bias seeps into their perception by way of descriptors, impacting their cognition [78]. The bias has detrimental consequences, including reducing the legitimacy of the courts, influencing disproportion in conviction and sentencing, as well, furthering misperceptions and advancing implicit bias.

This research will hopefully act as a foundation of future research on blame attribution, specifically that which is posed toward Black male homicide victims. Future research should begin with scoping or a systematic review, scrutinizing cases using qualitative and quantitative findings. It is suggested that they use narrow, systematic methods to zero in on the extent of blame attribution and its impact on court impartiality. The extension of the current research should include the coding and analysis of cases, leading to a greater understanding of system behavior and possible implications toward the goal of impartiality. The connected theories and the anticipated furthering of the knowledge base will optimistically influence jury instructions and the admissibility of prosecutor and defense commentary. It is understood that attorneys use varying methods to frame or characterize their client. This research is not aimed at curbing their speech. On the contrary, it is meant to inform how the judge tailors jury instructions toward impartiality, rationale, and evidence.

### 3. Conclusion

Juries are one of the few areas in which citizens directly impact the criminal justice system. Their decisions determine whether to prosecute, in the case of grand juries, and in criminal cases whether to sentence or release, and to live or to die. Further, impartial jury decisions collectively impact citizens' belief in the court system.

Attorneys have long used varying skills from psychology, negotiation, and communication to prove their case or influence credibility. Prompting segmentation, their goal is to pursue justice and bring the jury to a decision [25,96]. Aside from core evidence and witness testimony, character depictions of witnesses, victims, and defendants are used as a mechanism by both prosecution and defense attorneys. They frame the victim and defendant to elicit a response and feeling that is favorable to their client. The favor is not to be biased, but speaks to how we categorize blame and liability.

The profession itself, especially in trial proceedings, hinges on communication, persuasion, and the elicitation of emotion, along with ethics and decision-making [96], all of which were apparent in the case of Michael Dunn. It is almost certain that the descriptors used to address the victims and their characterization as defiant, aggressive, and criminally responsible was intentional with forethought. Their use of excluding and adultifying pronouns was to promote negative inclinations and bind the victims to these characterizations.

Trait and characterizations that are easily retrieved in memory are those that are familiar, often stereotypical, and influential. People are conditioned to mentally shortcut to these labels and to link them to affect [97]. Familiarity comes through as congruent in the association of race to specific crimes, such as the association of robbery, assault and carjacking with Black and monetary crimes and arson with White [98,99]. In cases in which there is a lack of congruence between what is expected and reality, people are more likely to be lenient and attribute criminality to external, situational factors.

Perception is not a mirror image of reality. It is shaped by environmental factors, stereotypes, biases, expectations, and predispositions [96]. While it seems obvious, juries who are tasked with focusing on the elements of the case are assumingly not considering this at the time of their decision-making due to its unconscious, implicit nature. It is suggested that juries be made aware of this possibility through the judges' parameters of jury instructions. Jurors should be prompted to engage in active deliberation rather than relying on intuition, and automatic responses. These directives generally ask that jurors stick to the elements of the case. Since characterizations are subliminal and mesh into their cognition, highlighting that emotion and attributions should not cloud judgement is an important area of emphasis, especially since the use of constructing labels are done with intention.

Judges are also shaped by implicit bias but have mechanisms to regulate their perceptions. Leaning on evidence and best practices, judges generally can screen out emotion, replacing it with rationality [15]. Using rationality and logic rather than experiential cognition, judges have the increased ability to separate perception from experience, assisting in the process of jury deliberations and buffering the impact of suggestive labels [62,77]. Optimistically, jurors can benefit from using rationality. Once the potential for judgment flaws is recognized, they can self-correct and resort to evidence-based reasoning. For this flexible correction to occur, participants must be cognizant and understand the influence of potential bias and must be avoid overcorrection which may result in overcompensation and further misjudgment in the opposite direction [100,101].

Elements of racism are not always apparent as the prompt toward bias. People are more adapt at recognizing racism and overt stereotypes than implicit bias. The awareness and acknowledgement of implicit bias's subconscious nature and its role in decision-making is important to consider. There are ways that court participants can isolate emotion from evidence. The harnessing of this ability by way of jury instruction and pre-screening amounts to the principles of fairness and impartiality which are the very foundation of the courts.

### Author contribution statement

LaNina Cooke: Conceived and designed the experiments; Performed the experiments; Analyzed and interpreted the data; Contributed reagents, materials, analysis tools or data; Wrote the paper.

### Funding statement

This research did not receive any specific grant from funding agencies in the public, commercial, or not-for-profit sectors.

## Data availability statement

No data was used for the research described in the article.

## Declaration of competing interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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