

The Influence of Race and Type of Neurodevelopmental Disorder on Juror Decision-making in a Child Sexual Abuse Trial

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Abstract

Previous studies have investigated the credibility of children with intellectual disability (ID) and the effects of victim race on juror decision-making, but they have not compared both variables to find differences between juror decisions based on an alleged victim's race and ID in a child sexual abuse (CSA) trial. Furthermore, these studies have not broadened the variables of interest to include neurodevelopmental disorders (ND) such as attention-deficit/hyperactivity disorder (ADHD) or autism spectrum disorder (ASD). Thus, the purpose of this study was to investigate the influence of these variables on juror attitudes and decision-making using a 2 (Victim Race: African American, Hispanic) x 2 (ND: ADHD, ASD) between-participant design. Adult community participants (62% female and 38% male) read a brief trial summary involving the alleged CSA of a female victim and completed a questionnaire including guilt ratings, verdict, witnesses' credibility, and attitudes toward children with ND. A main effect of race and a main effect of ND were predicted. The hypotheses were partially supported. The findings from this study highlighted biased juror attitudes toward minority CSA victims, especially those with a ND.

Keywords: Race, Intellectual Disability, Neurodevelopmental Disorder, Juror Decision-Making

1. Introduction

The prevalence of reported child sexual abuse in the United States ranges from 8 – 20.1% for males and females, respectively.⁸ Moreover, up to 32% of children with an intellectual disability (ID) will experience sexual exploitation by the age of adulthood when compared to children who are typically developing.^{2,4} Intellectual developmental disorder (formerly referred to as mental retardation) is a diagnosis characterized by deficits in adaptive functioning apparent before the age of 18. Specifically, children with mild or less detectable levels of ID are reported to be sexually abused more often (45%) than those with more severe or incapacitating levels of ID (7%).^{1,6,9} Once reports of sexual abuse are made, the incidents are investigated and many of these cases result in criminal charges which are prosecuted in courts. Unfortunately, these cases often lack corroborating evidence, so jurors may base their decisions largely on the believability of the alleged victim. Therefore, it is important to understand how jurors perceive child witnesses and what factors may influence their decision-making.

Research has shown that jurors' perceptions and decision-making can be influenced by certain individual characteristics of the child testifying about the alleged abuse they have experienced.⁷ For example, a child victim of sexual abuse who does not readily cooperate or exhibits uncontrollable signs of emotional distress is less likely to be believed by the jurors deliberating the guilt or innocence of the defendant.⁵ Child alleged victims who do not fit the stereotypical behaviors that jurors may expect are less likely to be believed and as such, the jurors are more likely to acquit the defendant.

However, such behaviors could be the result of an intellectual disability (ID) or any other neurodevelopmental disorder, as these may affect functions in language, visual-spatial, and motor coordination. Children with autism spectrum disorder (ASD), a neurodevelopmental disorder (ND), may have intellectual delays accompanied with a prominent delay in areas of social reciprocity and interest.⁹ These children may have poor eye contact, limited interest

in social interactions (i.e. testifying in court), and restricted repetitive interest that seem odd to others. Those diagnosed with attention-deficit/hyperactivity disorder (ADHD), another neurodevelopmental disorder, could have difficulty remaining attentive and controlling their chronic overactivity, evident through obsessive fidgeting, excessive talkativeness, and interrupting of others.⁹ A study by Peled et. al. (2004) noted that jurors consider a victim with ID less credible as a witness than those who are intellectually typical. As such, it is possible that evidence of a ND could result in an uninformed juror misinterpreting a child's symptomatic behaviors as deception which could ultimately influence their final decision.¹¹

Other factors that could influence juror decision-making in a child sexual abuse trial include victim demographics, such as race.⁷ In general, African Americans and Hispanic Americans are perceived to be more sexually promiscuous than other races.³ These types of racially biased beliefs could influence jurors to perceive even child victims as being knowledgeable of their involvement and more responsible for the alleged abuse.¹² With stereotypical views such as these being so prevalent, jurors may consider a report of sexual abuse from a child of a racial minority as less reliable than a child of a non-minority race. However, it is also important to understand how minorities may be viewed differently by jurors.

The goal of the present study was to examine the influence of different minorities (African American versus Hispanic Americans) and neurodevelopmental disorders (ASD versus ADHD) on juror decision-making in a child sexual abuse trial. It was hypothesized that there would be a main effect of race and a main effect of ND on verdict, guilt rating, witness credibility, and influence. Moreover, an interaction effect was predicted, such that participants in the Hispanic child condition with ASD would produce more pro-victim ratings and more guilty verdicts than an African American child alleged victim with ADHD. These goals and hypotheses were revised from the original abstract, but prior to analyses, when there were unforeseen data collection issues that did not allow the collection of the White or typically developing conditions.

2. Method

2.1 Participants

Eighty-four adults (62% female; 38% male) from a community sample served as participants for the current study. The sample was ethnically diverse (79% Caucasian, 9% African American, 1% Hispanic, and 11% Other) and jury eligible ($M_{\text{age}} = 40.43$ years; $SD = 15.04$). All participants gave informed consent before their participation. The study was approved by our institution's ethics review board.

2.2 Materials

2.2.1 trial summary

A five-page summary described a child sexual abuse case. In the case, a 6-year-old girl claimed to have been sexually assaulted by her mother's male significant other. Specifically, she alleged that the significant other would touch her privates and force her to touch his private when the mother was not present. There were 4 different versions of this basic trial summary to accommodate variations of victim race (African American versus Hispanic American) and victim ND (ASD versus ADHD). The defendant race was not labeled. The victims' and defendant's names were ethnically plausible. Specifically, the defendant was named "Brandon Miller." The African American and Hispanic American victims were named "Kesha Smith" and "Esperanza Santos," respectively. The victim's ND was consistently described by the mother as "a mild form of (attention-deficit/hyperactivity disorder or autism spectrum disorder). She added that ever since her daughter was 2 years of age, she noticed that she struggled to maintain focus, exhibited a lack of control, fidgeted regularly, and was uncooperative with authority figures." The mother added, "that while there are noticeable differences in her child's behavior, she still had a normal life." The physician who examined the child also commented on the characteristics of the ND. A brief summary of witnesses' testimony was provided. The witnesses included the child alleged victim, her mother, an examining physician, the police detective, the defendant, and a friend of the defendant.

2.2.2 questionnaire

Several questions assessed information about guilt ratings, verdict, sentencing, and ratings of attitudes towards witnesses. Separate rating scales measured participants' judgements of the defendant's guilt from 1 (*not at all guilty*) to 10 (*completely guilty*). Their confidence in their verdict was measured on a 10-point scale ranging from 1 (*not at all confident*) to 10 (*very confident*). A 10-point scale also assessed the victim's perceived responsibility for her sexual abuse, ranging from 1 (*not at all responsible*) to 10 (*completely responsible*). To assess victim's credibility for their alleged abuse, jurors were asked about perceived memory accuracy, report fabrication (lying), and believability of the victim. Answers ranged on a 10-point scale. Influence of each witnesses' testimony were assessed similarly.

2.3 Procedures

Adult, community participants were recruited by Qualtrics using quota sampling. Those who were over 18 years of age and jury-eligible who met demographic representativeness were invited by Qualtrics to participate in the panel. They were paid a small incentive to participate. After consenting, participants were randomly assigned to one of the trial summary conditions. Participants were asked to carefully read the trial summary and respond thoughtfully to the questionnaire. Those who failed more than one manipulation or attention check were excluded from analyses. After they completed the study, debriefing information was provided.

3. Results

Data were analyzed in SPSS 25. A 2 (Race of Minority: African American vs. Hispanic) x 2 (Type of ND: ADHD vs. ASD) between-subjects design used descriptive statistics and two-way ANOVAs to analyze the dependent measures, except for verdict (categorical).

3.1 Race

There was a significant main effect of race on victim responsibility. As predicted, jurors in the African American child condition rated the child as being more responsible for their sexual abuse than the Hispanic child, $F(1, 43) = 2.91, p = .09$ (See Figure 1). Although there was no significant difference for verdict, participants were less confident in their verdict in the African American child condition than the Hispanic child condition, $F(1, 80) = 9.99, p = .002$ (See Figure 1) and more influenced by the testimony of the Hispanic child than testimony of the African American child, $F(1, 80) = 3.51, p = .07$ (See Figure 1). Also, the defendant's testimony was more influential with the African American child than with the Hispanic child, $F(1, 79) = 2.86, p = .09$ (See Figure 1). Specifically, participants believed the defendant's testimony more with the African American child than with the Hispanic child, $F(1, 79) = 5.23, p = .03$ (See Figure 3). There were no significant differences in the following dependent measures: believability and influence of the child's mother, physician, detective, and defendant's friend on verdict.

3.2 Type of Neurodevelopmental Disorder

Victim responsibility did not produce a main effect for neurodevelopmental disorder, but there was a significant interaction, $F(1,43) = 5.78, p = .02$. The African American child diagnosed with autism spectrum disorder was viewed as most responsible for her own abuse; whereas the Hispanic child diagnosed with attention deficit hyperactivity disorder was rated as being more responsible for their sexual abuse (See Figure 2). Also, recommendation for sentencing did not produce a significant difference, $F(1,43) = 0.83, p = .37$, but longer sentences were recommended by participants in the ADHD condition than those in the ASD condition. However, there was a significant difference on ratings of accuracy in victim's memory. Children diagnosed with attention deficit hyperactivity disorder were perceived as having a more accurate memory than children diagnosed with autism spectrum disorder $F(1,80) = 5.58, p = .02$. There were no significant differences on the other dependent measures.

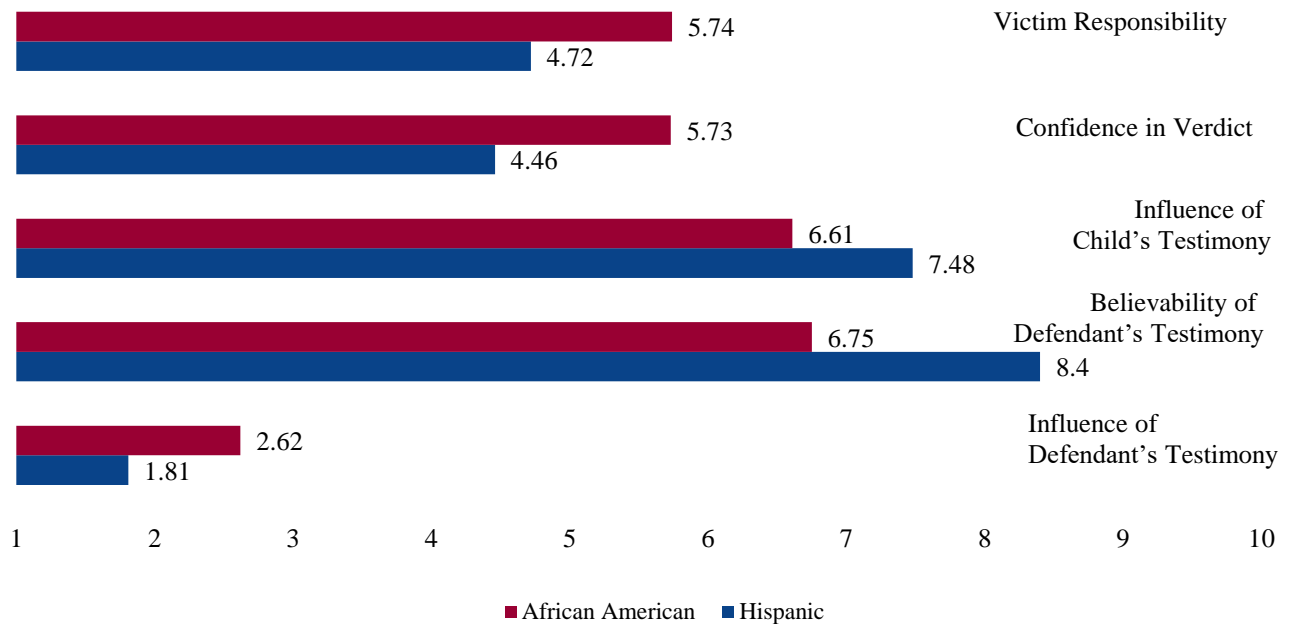


Figure 1. Mean level of agreement on dependent measures of race

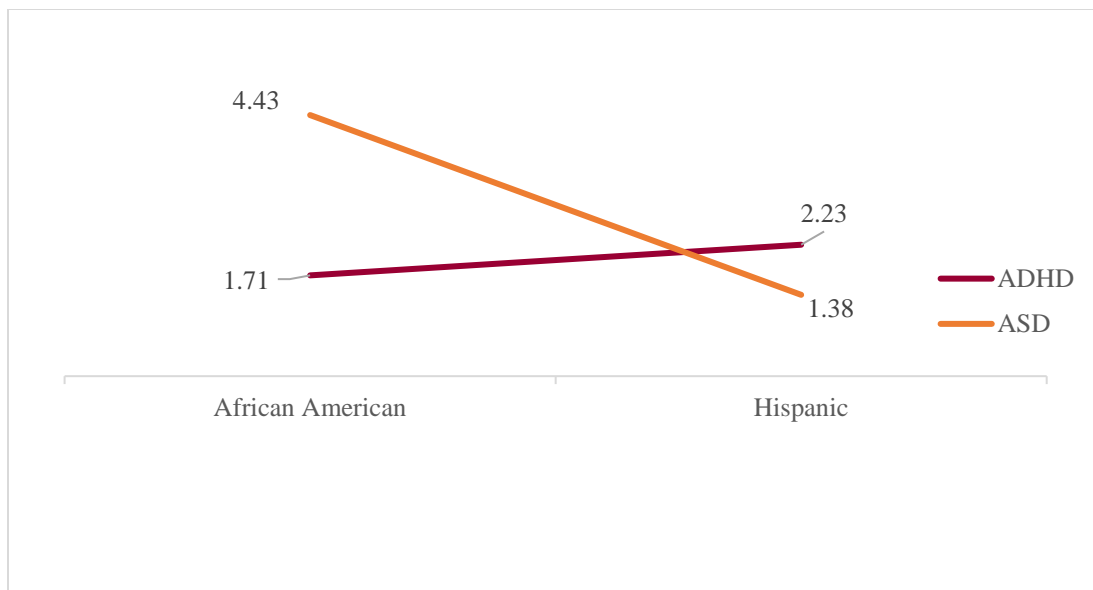


Figure 2. Interaction effect by race and ND on victim responsibility

4. Conclusion

The goal of this study was to examine the influence of minority race (African American vs. Hispanic American) and type of neurodevelopmental disorder (attention-deficit/hyperactivity disorder vs. autism spectrum disorder) on juror decision-making in a child sexual abuse case. It was hypothesized that a difference in dependent measures would be present between racial minorities and type of disorder. Partially supporting the hypotheses, participants generally

showed some negative bias when an African American child victim was depicted compared to when a Hispanic American child victim. Notably, minority race did not impact verdict, but there was less confidence in their verdict. Additionally, differences in victim responsibility, and influence of the victim and defendant testimonies were also found for race. Moreover, we found that participants only somewhat differed based on the type of neurodevelopmental disorder depicted. That is, there were notable findings for victim responsibility and the accuracy of the child's memory based on the ND condition. The African American child with ASD was believed to be the most responsible for the crime perpetrated against her and the Hispanic child with ASD was the least responsible. Similarly, the child with ADHD was deemed to have a more accurate memory of the event than the child with ASD, but that did not influence guilt ratings or verdict. However, most of the dependent measures did not show any significant differences based on the type of disorder depicted.

In conclusion, this research provides additional evidence of jurors' racial bias in child sexual abuse trials. The effect of a child victim's race on jurors' perception of their responsibility for the abuse was the most intriguing finding. These findings on differences between racial minorities warrant further investigation. Understanding how minority children are perceived in courtrooms is important to better serve justice. Such research could lead to a better educated legal system that is more aware of potential implicit and explicit biases and how to avoid them. Awareness of bias is the first step. Conclusions regarding the influence of type of ND (ADHD vs. ASD) are premature due to methodological limitations.

4.1 Limitations

There were some limitations that constrain the generalizability of the findings. The most notable limitation was the inability to include a White child victim and a typically developing child as control variables. This limited our ability to make comparisons between White and minority children as victims and those with and without neurodevelopmental disorder. A second limitation would be the small sample size due to the removal of participants who did not meet the experiment's data integrity standards. These participants failed several of the experiment's manipulation or attention checks and were excluded from the sample. Another drawback would be the participants' inability to deliberate before reaching a decision. Discussions as a group could allow jurors' implicit biases to publicly surface and either subside or strengthen. In addition, participants were limited to a summary of the case only. In an actual trial, jurors would be able to view the child victim who is testifying, which could have strengthened some of the findings as participants would have been able to see the child's behaviors in person. Finally, the strength of the ND manipulation may have been limited. The depiction of the symptoms of the disorder were the same for each child. The only difference was the labeling of the disorder. Overlapping behaviors appropriate for both conditions were depicted but may not have been typical or believed to be most common for each disorder. As such, it may not have produced the expected results. However, this does not mean that bias between these types of disorders do not exist.

4.2 Future Research

Future research should extend this investigation by varying defendant race to examine cross-race and same-race effects among victims and defendants, participant gender, and additional neurodevelopmental disorders with varying levels of severity. In addition, researchers should include a White child condition and a typically developing condition as controls. Likewise, the depiction of the ND should differ based on the most typical child behaviors. Finally, bias among other individuals in the legal system, such as police officers, lawyers, and judges should be investigated further.

5. Acknowledgements

The present investigation was supported by Kennesaw State University Department of Psychological Science and the College of Humanities and Social Sciences. The author wishes to express their appreciation to the faculty advisor on this research, Dr. Dorothy Marsil, for her guidance and encouragement to make this project possible.

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