

# Combatting Rape Myth Acceptance in United States' Criminal Justice System with Behavioral Economics

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## ABSTRACT

Using behavioral economics, this paper aims to analyze how rape myth acceptance presents itself in the form of numerous heuristics and biases throughout various stages of the United States' criminal justice process that a sexual assault case must progress through. Due to the availability heuristic, inaccurate representation of sexual assault in the media promotes rape myth acceptance (RMA) among the general public, including potential jurors and law enforcement officers. Resultantly, police officers' decision-making processes while investigating sexual assault reports implicitly discriminate female victims as officers struggle with the downstream orientation phenomenon. In the trial stage, jurors utilize the representativeness heuristic to process complex case information by comparing the rape victim to a mental prototype shaped by rape myths. This hinders the jurors' human information processing capabilities. Solutions to rape myth acceptance in the United States' criminal justice system will be described in order to battle the high attrition rate of sexual assault cases.

## **Introduction**

### Sexual Assault Case Attrition

Over 463,000 people in America become victims of rape or sexual assault annually. RAINN or Rape, Abuse & Incest National Network, the United States' largest anti-sexual violence organization, has found that a mere 28 cases out of every 1,000 sexual assaults result in conviction (RAINN), which means that roughly 450,000 cases in a year alone end with victims failing to get justice served. Sexual assault victims seem to disproportionately struggle with high case attrition rates, because when compared to the trial outcomes of other equally violent crimes such as murder, aggravated assault, or armed robbery, rape trials have a disproportionately low number of successful outcomes for the victims. For example, assault and battery crime reports lead to arrest 4.5 times more than sexual assault reports. Such statistics underline the importance of bringing attention to the United States' criminal justice system's treatment towards sexual assault cases. By analyzing the judicial decisions made at various stages of the justice system through a behavioral economics lens, this paper will showcase the biases and heuristics that have contributed to numerous sexual offenders walking free as well as feasible policy changes to improve the sexual assault victims' experiences with the justice system.

In the US criminal justice system, a sexual assault case must progress through the investigative stage before a criminal court trial can take place (Shaw, 2016). Upon receiving an accusation, police officers investigate for material proof such as forensic evidence, physical injury, and weapon use for the purpose of compiling a case file (Venema et al., 2019). Law enforcement agencies can send sexual assault kits or SAKs to medical professionals for DNA analysis with the aim of suspect identification (Sacco and James, 2022). Officers and investigators make judgments of these evidentiary factors as well as extralegal variables, or variables outside the law, including the victim's willingness to prosecute, compliance with the investigative process, promptness

of reporting, etc. to establish the victim's credibility and decide whether to refer the case to a prosecutor (Alderden and Ullman, 2012). Unfortunately, 73-93% of reported sexual assault cases fail to be prosecuted due to officers preventing the case from proceeding to the prosecution stage. This is sheer evidence of the need for reforming how law enforcement operates in the criminal justice system.

For instance, if the officers find the event doesn't constitute a criminal sexual assault based on state statute or they perceive the victim's complaint with skepticism, the case will be coded as "unfounded" meaning that a thorough investigation has shown the claim to be baseless due to a lack of incriminating evidence. Although a case can only be deemed unfounded after law enforcement agencies have fully completed investigative steps, police officers often do not follow through with all procedures. A census conducted by the Detroit Sexual Assault Kit Action Research Project at a remote property storage facility unveiled that 8,717 out of 11, 219 SAKs in police property had not been submitted for testing, and the officers' justifications for choosing not to submit the kits were primarily based on extralegal factors (Campbell, 2011). One ridiculous factor highlighted by a study of Campbell's uncovered that officers were less likely to submit SAKs if the victim showered after their assault due to the misconception that the evidence was compromised (Patterson and Campbell, 2012).

The subsequent criminal proceedings include an arrest, an arraignment, a preliminary hearing, and then trial. The prosecution and defense have opportunities to examine the victim and suspect as well as introduce witness testimonies, images, recordings, and other exhibits. For example, offenders frequently call upon character witnesses who will present them as a benevolent individual since jurors are prone to believing displays of benevolence can't coexist with capability for violence. When both sides have rested their case, all twelve jurors must unanimously reach a verdict of guilty or not guilty in order for a punishment to be determined.

## Rape Myth Acceptance

Psychologist Gerd Bohner defines rape myths as "descriptive or prescriptive beliefs about rape (i.e. about its causes, context, consequences, perpetrators, victims, and their interaction) that serve to deny, downplay, or justify sexual violence that men commit against women" (2013). Bohner identifies four general categories of rape myths: the victim is blameworthy, claims of rape should be met with disbelief, the perpetrator should be exonerated, and only certain types of women are raped. The endorsement of rape beliefs is referred to as rape myth acceptance (RMA) which serves as a cognitive schema that poses as a hindrance to female sexual assault victims getting justice. Schemas are unconscious cognitive structures that allow for large amounts of information to be organized and interpreted efficiently through excluding pieces of information that contradict prior or existing held beliefs. These "templates of knowledge" are used to categorize specific examples of people into broader categories (Kang, 2009). As such, humans instinctively assign people to different social categories based on accessible traits such as their gender. Underlying cognitions give rise to stereotypes, attributes that become associated with different social categories, as well as attitudes, overall positive or negative emotions towards a category (Gove, 2011). Thus, discriminatory behaviors against women can be attributed to these shorthand schemas that give rise to sexist stereotypes and negative attitudes.

Unsettling results from measures of RMA have showcased that the general public's schemas for perceiving women are disturbingly aligned with the schemas of rapists (Feild, 1978). Hubert S. Feild developed the *Attitudes Toward Rape Scale* (ATR) scale to measure RMA among four respondent groups (rape crisis counselors, patrol police officers, citizens of a community, and rapists). The ATR has 32 items of half positively phrased and half negatively phrased statements that characterize the respondent's attitudes towards the (a) act of rape, (b) the rape victim, and (c) the rapist. Examples include statements like "a woman can be raped against her will" or "most women secretly desire to be raped" that the respondent will respond to using a six-point Likert scale ranging from strongly agree to strongly disagree.

Table 3  
Summary of Means, Univariate–Multivariate Analyses of Variance, and Discriminant Analysis with Rape Attitudes as Dependent Variables for Respondent Groups

Rape attitude	Mean standardized factor scores for respondent groups				Univariate <i>F</i> ( <i>df</i> = 3, 1444)	$\omega^2$	Standardized weights on discriminant functions		
	Citizens ( <i>n</i> = 1,056)	Rapists ( <i>n</i> = 20)	Patrol police officers ( <i>n</i> = 254)	Rape crisis counselors ( <i>n</i> = 118)			1	2	3
Woman's responsibility in rape prevention	.03 <sup>a</sup>	.69 <sup>b</sup>	.14 <sup>a</sup>	-.73 <sup>e</sup>	26.81**	.06	.35	.05	.49
Sex as motivation for rape	.14 <sup>a</sup>	.27 <sup>a</sup>	.03 <sup>a</sup>	-1.35 <sup>d</sup>	94.36**	.16	.62	.29	-.17
Severe punishment for rape	-.13 <sup>a</sup>	-.92 <sup>b</sup>	.57 <sup>e</sup>	.10 <sup>d</sup>	42.57**	.08	.01	-.84	.01
Victim precipitation of rape	.01 <sup>a</sup>	-.48 <sup>b</sup>	.49 <sup>e</sup>	-1.07 <sup>d</sup>	77.71**	.14	.54	-.44	-.10
Normality of rapists	-.07 <sup>a</sup>	.06 <sup>a</sup>	-.04 <sup>a</sup>	.72 <sup>b</sup>	23.08**	.05	-.33	-.10	.22
Power as motivation for rape	-.06 <sup>a</sup>	.04 <sup>a</sup>	-.04 <sup>a</sup>	.61 <sup>b</sup>	16.67**	.03	-.28	-.08	.17
Favorable perception of a woman after rape	.01 <sup>a</sup>	-.60 <sup>b</sup>	-.12 <sup>a,b</sup>	.28 <sup>e</sup>	6.58**	.01	-.14	.04	-.54
Resistance as woman's role during rape	.01 <sup>a</sup>	-.75 <sup>b</sup>	-.02 <sup>a</sup>	.11 <sup>a</sup>	3.75*	.01	-.06	-.07	-.59
Multivariate <i>F</i> ( <i>df</i> = 24, 4159)					44.30**				

Note. For a specific dimension of rape attitudes, respondent groups which do not have a common superscript are significantly ( $p < .05$ ) different. Each of the discriminant functions was significant at  $p < .0001$ .

\*  $p < .01$ .  
\*\*  $p < .0001$ .

HUBERT S. FEILD

Figure 1. Table summarizing rape attitudes of various respondent groups using the results of Feild's ATR scale

The results unexpectedly found that the views of patrol police officers and citizens were closer to the rapists' views than to the counselors' views. Rapists were more likely to support beliefs that women are responsible for rape prevention, rape punishments shouldn't be severe, victims are prone to instigating rape through behavior or appearance, rape isn't motivated by power cravings, raped women become less desirable, women shouldn't resist rape, and more. Endorsement of these beliefs are indicators of high RMA among rapists, so in light of the similarities shown between these three subgroups, officers and citizens are by extension also likely to endorse rape myths. Feild suggests that the counselors possessed particularly lower RMA levels than the officers and citizens due to their sex composition being 100% female as sex of respondents proved to be a predictor of rape perceptions. Another plausible explanation is that the counselors were the sole respondent subgroup possessing thorough psychological knowledge of rape victims, thus they're less prone to RMA. Therefore, this study has emphasized the high levels of RMA widespread across the general public, especially among law enforcement officers and citizens who are potential jurors, therefore rendering both subgroups prone to rape myths influencing their judicial decision-making processes.

## System 1 System 2

In his book *Thinking Fast and Slow*, Daniel Kahneman describes there to be two systems prevalent in the mind: System 1 and System 2. System 1 acts automatically and rapidly with little to no effort or control, whereas System 2 applies control and concentration to the effortful mental tasks that demand it. Some examples of automatic activities attributed to System 1 include answering basic arithmetic like  $3 + 5$ , detecting emotions in a voice, recognizing that a description resembles a stereotype such as "meek and tidy soul with a passion for detail", and more (Kahneman 23). Such actions are involuntary and don't require mental focus unlike the operations of System 2. Examples of the latter include focusing on one person in a crowd, maintaining a faster walking speed than is natural, evaluating the validity of someone's logical reasoning, etc.

Tasks that demand the effort of System 2 require self-control, and sizable exertion of self-control can result in System 2 becoming busy and depleted. This phenomenon is referred to as ego depletion which Baumeister theorizes to be a result of the limited pool of cognitive resources available to humans to engage in self-regulation activities such as suppression of thoughts, emotions, behavioral impulses, etc. (Reinhard et al., 2012). People who are cognitively depleted from one task are more likely to have weakened self-control with

their other tasks. This has been demonstrated by the Bertrand and Mullainathan resume task where cognitively depleted participants were less able to control the influence of racial biases on their decision-making (Bertrand et al., 2003). The participants acted as screeners who had to tackle multiple administrative responsibilities while separating a stack of resumes into a 'yes' or 'no' pile. The participants' System 2 was activated as they had to make effortful choices under time constraints while experiencing ambiguity from being uncertain on the best metric by which to judge the applicants. Under these conditions, the applications with African-American names received fewer callbacks because the participants' System 1 was making automatic, quick decisions lacking self-control over their partialities. The experiences of police officers and jurors in the justice system, which shall be further elaborated in later sections, parallel the cognitively demanding conditions presented to the participants in the resume task, therefore their actions are considerably influenced by the heuristics and biases employed by System 1.

## Availability

Amos Tversky and Daniel Kahneman define availability as a heuristic where an individual "evaluates the frequency of classes or the probability of events by availability i.e. by the ease with which relevant instances come to mind" (1973). Instances are more easily retrievable when it's a salient event, such as scandals among celebrities or politicians, a dramatic event that garnered disproportionate media coverage, like acts of terrorism, or personal experiences which will feel more relevant than statistics that describe the experiences of others. However, easy retrieval of instances doesn't serve as valid reasoning about an event's true frequency or probability.

When System 2 is prompted to answer difficult questions, such as making judgments of probability, System 1 comes up with a related but easier question with a readily available answer to act as a proxy for the target question. Answering one's own heuristic question to simplify the target question given to them is an act of substitution. One example of this substitution is asking "What is my mood right now?" to evaluate the more complex target question, "How happy am I with my life these days?" This substitution requires less cognitive effort from System 2 and is therefore more appealing to the human brain because our mental frameworks subscribe to the "law of least effort". This is an evolutionary adaptation as conserving cognitive effort for it to be allotted to the gravest threats was essential for early human survival. However, relying on heuristics, or mental shortcuts for efficient decision-making, results in flawed judgment and decision-making.

This is particularly applicable to RMA in the criminal justice system where police officers and jurors experience cognitive ease by substituting target questions regarding evidentiary factors, like the convictability of a sexual assault case's suspect, with heuristic questions about extralegal factors, such as the victim's credibility according to rape mythologies. The flaw in judgment occurs when the brain takes a strong liking to the heuristic answer and will not hesitate to endorse this answer whether or not the demands of the target question are met. Behavioral scientist Melvin Lerner has studied various cognitive motives for judging sexual assault cases utilizing extralegal factors that rape myths claim to be relevant (Hayes et al., 2013). One hypothesis is the just world fallacy where someone who witnesses injustice, like a sexual assault, will seek to believe that blame must be attributable to the victim of said injustice as supposedly no act of wrongdoing could occur unprovoked (Lerner, 1980). Resultantly, victim blaming rape myths that corroborate this fallacy bring cognitive ease to those who believe they reside in a just world where a woman wouldn't be sexually assaulted without instigating the incident in some shape or form. Therefore, if a victim possessed certain extralegal traits that rape myths consider to be worthy of blame attribution, such as engagement with substances or a provocative appearance, an individual who accepts the just world fallacy will consider their perception of the victim as blameworthy to be sufficient proof that the victim's report would fail to result in conviction. However, the demands of the target question about convictability can only be logically assessed through analysis of evidentiary variables rather than extralegal details, thus showing the erred conclusions that arise from the availability heuristic.

As previously stated, media coverage has been proven to influence decision-making through the availability heuristic. For instance, when participants in a jury simulation were exposed to negative pretrial publicity that portrayed the plaintiff in a bad manner, they perceived the defendant to be less negligible (Stebly, 1999). In light of this responsibility they hold, mainstream media outlets have been critiqued for encouraging RMA through disproportionately covering the uncommon assault cases that fit rape myth descriptors, because it equips the general public with easy retrieval of instances of sexual violence that support detrimental misconceptions. As stated earlier, the rape myths recognized by Bohner aim to attribute blame to the inherently unreliable and likely conniving victim in order to acquit the guiltless perpetrator. Therefore, the notion has formed that women can only be “genuine victims” of “real rape” if the perpetrator fits under certain guidelines that render him undoubtedly at fault and the victim undeniably innocent (Venema, 2014). Otherwise, even the slightest benevolence displayed by an alleged perpetrator, or the slightest untrustworthiness observed in a victim, will lead an individual with considerable RMA levels to the conclusion that the victim is a false accuser.

A content analysis of the *New York Times* reveals that their representation of sexual assault significantly corroborates rape mythologies (Layman, 2020). In this analysis, 78% of the NYT’s articles about sexual violence recounted cases of stranger rapes, however only 19.5% of total sexual assaults cases have a stranger as the perpetrator. This aligns with rape myths that find a woman’s accusation more plausible if the assailant was a stranger. It’s assumed that a woman who accuses an acquaintance of rape is someone who chose to make a false accusation simply because she regretted engaging in sexual activity with them. Additionally, 61.5% of articles mentioned weapon use when, in reality, only 11% of attacks have a weapon present. It’s more difficult to attribute blame to the victim rather than the assaulter when there was use of a weapon, which places the perpetrator in an unarguably aggressive light, so rape myths assert that a victim is considered more believable when the perpetrator carried a weapon. Thus, overrepresentation of cases involving strangers and weapons will make such incidents more salient to the general public, so they will overestimate the frequency of assaults of that manner occurring. Additionally, when considering female victims’ reports that include acquaintances without weapons, people will overestimate the probability that those women are false accusers because they contradict the indicators of a genuine victim as per rape myths.

Furthermore, journalists utilize semantic framing to depict victims and perpetrators in a manner aligning with rape myth characterization. The framing effect in behavioral economics refers to how human decision-making processes are affected based on how information is presented or phrased, so equivalent information can be perceived as either more or less favorable depending on what details are emphasized or excluded. Semantic framing, in particular, is the simple alternative phrasing of terms often utilized in journalism (Hallahan, 1999). Examples of semantic framing that support RMA includes using passive sentences that remove blame from the perpetrator entirely (ex: ‘she was raped’ or ‘the assault happened’), euphemisms that minimize the crime’s severity (‘non-consensual sex’ versus ‘rape’), or verbs associated with consent that diminish the abusiveness of the assault (‘caressed’ or ‘touched’). One especially relevant example is the utilization of “accuser” versus “victim”. Referring to a woman reporting a sexual assault as an accuser evokes greater blame attribution from readers than if she were called a victim. The term “accuser” frames the woman as someone who wasn’t hurt by the accused, but rather made the accused a victim of an allegation. This directs greater blame towards the victims thereby absolving the perpetrator of scrutiny, and effectively endorsing rape myths that encourage victim blaming. Replacement of “victim” with “accuser” has increased over time in *The New York Times* articles, and this switch only occurred in cases where the alleged perpetrator didn’t match rapist stereotypes. Hence, semantic framing that encourages RMA, specifically victim blaming attitudes, influences how the availability heuristic manifests among the general public. Instances of blameworthy victims, false accusers, or perpetrators worthy of acquittal become easier to retrieve in comparison to instances of genuine victims, honest accusers, and blameworthy perpetrators despite the fact that the latter, in reality, applies to the majority of sexual assault cases. To conclude, it’s been established that the availability heuristic explains the presence of high levels of RMA in society, and so measures can be implemented to minimize negative future impacts due to the availability bias.

To counteract the perpetuation of rape myth acceptance, policies built upon activating System 2 should be incorporated. Prompting System 2 minimizes the effects of the availability bias as it causes the individual to reassess the validity of their initial perceptions or choices. This can be encouraged among individuals, especially current adolescents whom media exposure holds paramount influence over, through incorporating media literacy curricula into educational settings to embed people with media skepticism. Studies have showcased that participants who received media literacy training in experiments possess greater ability to identify myths online regarding sexual assault compared to control groups. Tests like the Message Interpretation Process Model found that participants' augmented logical reasoning skills and skeptical outlook reduced the effect that rape mythologies had on their decisions (Pinkleton, 2013). Therefore, it's evident that digital literacy classes in schools or universities can minimize the misguided conclusions brought on by the availability heuristic because individuals condition themselves to endorse information with caution rather than accept the most easily retrievable pieces of knowledge. Raising a generation to reject the temptations of the availability heuristic is the pathway to diminishing the presence of rape myth acceptance in society with the goal of eventually decreasing the attrition rates for sexual assault cases.

## Implicit Discrimination

Anti-discrimination laws in the justice system have long utilized explicit discrimination as a foundation for policy making, however recent research has started to investigate the role of implicit cognition in discrimination where people don't have conscious or intentional control over their social perceptions and judgements that subsequently motivate their decision-making. Although a large portion of the research available on implicit discrimination has been focused on racial biases, using similar logical reasoning and evidence will showcase that implicit biases can be applied to gender discrimination, especially RMA which is an implicit cognitive framework. Kang's definition of implicit bias is "the automatic and unconscious process of assigning a stereotype and/or linking negative or positive attitudes to a particular group, or to an individual associated with a group" (Kang, 2009). Implicit attitudes towards a social group can be expressed through favorable or unfavorable actions towards said group. The attitudes motivating these actions are activated unconsciously by subliminal stimuli which an individual would be unable to report, and this activation occurs faster than conscious activity would be able to mediate (Greenwald and Banaji, 1995). Thus, a predicament that arises from the speed of implicit biases is that attitudes activated by one source are often attributed incorrectly to another source, thus resulting in the phenomenon known as misattribution.

This is illustrated by participants who completed the Affect Misattribution Procedure (AMP) where they were shown either Black or White faces which act as primes, and then subsequently asked to evaluate other unrelated stimuli (Payne et al., 2005). The other stimulus is in the form of a random pictograph that briefly flashes so the participant can't inspect the image for long, and then subjects provide a response often using a Likert-type scale or binary response scales. Their responses to the other stimuli were more negative after being primed with Black faces thus demonstrating that implicit attitudes that are activated and stir negative cognitions or emotions towards a social group can be misdirected towards irrelevant objects without the individual having any awareness that their evaluations were misguided. Therefore, misattribution of negative attitudes during police investigation is a valid concern. The officers' negative implicit attitudes towards female sexual assault accusers may prime them to have more pessimistic evaluations of their case such as the likelihood of the accusation being genuine or probability of successful case outcomes for the victim. Such probabilistic evaluations significantly impact the decision-making processes of police officers due to the downstream orientation phenomenon.

The decision-making processes of the police are influenced by downstream orientation which describes how "criminal justice actors become concerned with potential outcomes at later stages of case processing—in other words, outcomes that are 'downstream'". Downstream orientation begins with the officers

who aim to maximize system efficiency by referring only the most promising cases to the prosecutors and abandoning cases where conviction or even arrest appears unlikely (Pattavina et al. 2016). Therefore, officers are under pressure to filter out all of the weak cases that would waste a prosecutor's limited time and resources. To accomplish this, officers anticipate or predict the reaction a prosecutor would have to a sexual assault report they've received, and officers may even evaluate reports using prosecutorial standards even though those criteria largely exceed the requirements of the pre-arrest stage. Once an officer believes that those "downstream", meaning prosecutors, the jury, or judge, will perceive a report to be legitimate, the officer is more likely to respond to the victim with immediacy and treat their accusation with greater legitimacy.

Although the practice of allocating resources to the strongest cases appears to promote efficiency among the criminal justice system agents, the downstream orientation phenomenon brings greater opportunity for implicit biases to affect police decision-making. The task of making probabilistic statements regarding prosecutors' and judges' reactions towards a case possesses the same ambiguity that was present in the Bertrand and Mullainathan resume task, thus police officers are subject to ego depletion which renders them susceptible to reliance on implicit biases (Bertrand et al., 2004). In fact, stress symptoms that mirror indicators of ego depletion have been significantly observed among police officers such as excessive worrying, showing inability to have willpower over emotions, erratic work habits, inability to exercise productive willpower, and struggles to maintain a train of thought, or inability to effectively apply willpower to thinking processes (Territo and Vetter, 1981). All these symptoms pose significant obstacles to logically and impartially evaluating the probabilities related to a sexual assault case report.

When police officers' negative attitudes towards female assault victims are activated, they misattribute their skepticism and suspicions of them and believe the source to be that the women are false accusers, when in reality, the true source is their sizable levels of RMA that fosters inaccurate perceptions of sexual assault for them. As explained earlier in the availability section, widespread rape myths can result in overestimations of the proportion of sexual assault allegations that are false claims, and officers similarly have skewed perceptions of the relevance and frequency of false accusations. A research project assessed 10 police officers from the Great Lakes region to dissect police attitudes towards rape, and without any questions prompting this, most of the officers brought up the topic of false complaints which highlights its perceived prevalence to them. One officer recalled, "I would say definitely over a third, probably approaching you know 40 or 45%...have very serious questions of the veracity" and are thus believed to be false (Venema, 2019). This is exceptionally unsound seeing as roughly 2 - 10% of sexual assault reports are false, and false accusations are essentially anomalies (National Sexual Violence Research Center, 2012).

When presented with victims that officers believe to be dishonest, they often exercise less investigative effort and will skip procedural steps such as submitting SAKs as described earlier. They surmise the results will showcase nothing incriminating because they're overconfident in their ability to detect dishonesty or lack of victim credibility, and this overconfidence is often observed among people who've had a long history with their profession. Ironically, such seasoned people resultantly end up creating more errors because they have overreliance on their intuition and fail to seek for potential faults in their judgements.

Thus, it's recommendable that law enforcement agencies administer a unique compound program combining elements of resilience training programs as well as rape myth interventions. The former will counteract the detrimental effects of ego depletion on law enforcement officers, and the latter will tackle discriminatory decision-making processes stemming from officers' high RMA levels. Starting with building resilience, officers would reap positive benefits from the Coherence Advantage training program, researched by the Institute of HeartMath, where officers undergo a series of simulations that educate them on emotional, psychological, and physiological self-regulation techniques (McCraty and Atkinson, 2012). Honing their self-regulating abilities, which includes repressing unfavorable behavioral instincts or impulses, will minimize their reliance on prejudiced cognitive schemas like rape myth acceptance. Officers will be able to suppress their initial urges

to perceive sexual assault victims with the negative attitudes and stereotypes they've developed, thus allowing them to impartially analyze the case details and interpret victim testimonies.

Results of experimental studies have corroborated this expectation as participants who underwent Coherence Advantage training were found to have increased work performance, such as acting calmly when facing ambiguity or uncertainty, more patience during interactions in both work and family settings, and other observations that indicate that self-regulation capabilities were successfully heightened; ergo, the impacts of ego depletion were diminished. Resultantly, certain investigative procedures won't be sacrificed as frequently and the effort devoted to sexual assault cases won't be as compromised. Rather than feeling frustrated or fatigued from, and then subsequently abandoning, ambiguous sexual assault cases, stronger will of the officers' against ego depletion will decrease the quantity of SAKs that remain untested or the cases that are unfairly categorized as unfounded. Other agency reforms could contribute to decreasing ego depletion such as increasing staff so that each officer isn't delegated with excessive amounts of work, and each officer can examine cases with softer time constraints thus decreasing the likelihood of officers making instinctive judgements based on implicit biases. All in all, these implementations are necessary courses of action to make the interactions between sexual assault victims and law enforcement officers more fruitful.

## Representativeness

Kahneman explains the representativeness as a heuristic according to which the "subjective probability of an event is determined by the degree to which it: (i) is similar in essential characteristics to its parent population; and (ii) reflects the salient features of the process by which it is generated" (1972). Using this cognitive shorthand, the representativeness heuristic evaluates the likelihood that event A causes or is associated with event B based on the extent to which A resembles B. The human brain finds this to be a logical line of reasoning as it's inferred that two objects that bear resemblance to one another are connected probabilistically<sup>1</sup>. However, people who make probability judgements based on similarity often fail to incorporate other relevant pieces of information into their reasoning as illustrated by a thought experiment created by Kahneman.

Kahneman fabricates the individual 'Tom W.' who initially is only known to be a graduate student specialized in one out of nine fields, and participants must evaluate, with minimal given information, which specialization Tom has most likely chosen. Participants' instinct is to assess the probability of Tom's chosen specialty based on the fields' enrollment sizes. This would be considered base rate information, and the absence of specific information led the participants to prioritize it. However, upon being given a description of Tom that characterizes him as 'of high intelligence', 'lacking in true creativity', etc., participants found him to be representative of students in computer science or engineering courses (Kahneman 145). Therefore, they concluded that the probability of Tom's enrollment in those courses is higher than the likelihood he's specializing in social science or humanities. Supplying case-specific information caused participants to ignore base rate information regarding the enrollment size, and this error is referred to as base rate neglect.

Jurors are presented with complex information during sexual assault trials as they're expected to have awareness of the relevant laws and regulations regarding sexual assault, interpret the direct and cross examinations of the victim and suspect, as well as examine the validity of submitted evidence. In order to ease their cognitive load, jurors rely on the representativeness heuristic and compare the victim on trial to their mental prototype of a sexual assault victim. Per the definition of the representativeness heuristic, jurors assess the victim on trial by identifying the essential characteristics they share with the parent population which are stereotypical female victims of sexual assault who exude qualities corroborating rape myths' descriptions of a genuine victim of real rape.

Due to the RMA also possessed by jurors, if the victim doesn't mirror their mental prototype of the average victim based on rape mythologies, then the jurors are more likely to find the defendant not guilty (Feild, 1978). This mental prototype possesses both victim and gender stereotypicality. The former is distinguished as



a woman who resisted her assailant, cooperated with the police during the investigative stage, etc, while the latter refers to a woman who devotes her energy to domestic duties, practices abstinence of substances and sexual activity, and more. Another expectation of the victim is that she appears to be visibly emotionally disturbed in the aftermath of the assault as sentimentality is congruent with female stereotypes. A juror simulation examined the effects of a victim's post-assault emotional demeanor on judgements, and participants perceived the victim's claim of sexual assault with greater validity when the victim was portrayed as tearful/upset rather than calm/controlled. A woman whose demeanor is calm and collected or even numb evokes suspicion in the jurors as they're incongruent with both victim and gender stereotypicality (Schuller, 2010).

Combatting the effects of juror's RMA on their verdict decision-making can be achieved through strategic expert witness testimonies. An experimental study exposed mock jurors to one of four date rape cases and subsequently exposed them to direct and cross examination of an expert's witness testimony regarding rape myth acceptance. Results found that 56% of juries exposed to the direct examination found the defendant to be guilty, whereas 22% of the control group voted guilty (Spanos et al., 1991) However, cross examination of the witness reversed this effect, and another experimental study recorded a similar phenomenon. The latter experimenters theorize that jurors utilized the expert testimony in their judgements after immediate exposure, however as time elapsed, jurors returned to perceiving the case and victim through their preconceived notions of sexual assault and resultantly gave verdicts less influenced by expert testimony (Brekke and Borgida, 1988). This highlights a fault in the delivery of expert witness' testimonies, and understanding behavioral economics concepts may make the impact of their testimonies more long lasting.

Investigative research has unveiled that judges feel that expert testimonies often lack comprehensibility and that jurors don't grasp all aspects of the information supplied to them from an expert (Gianvanni and Sharman, 2017). One component of this fragmented comprehension is attributable to base rate neglect which is to be expected from the jurors' non-expert cognitive instincts. Employing the aid of statisticians will allow for experts to communicate their complex analytics in a more digestible manner, because statisticians will especially be able to simply explain the data science skills needed to accurately interpret probabilistic information. This would be particularly relevant in elucidating jurors on the small, yet largely overestimated, proportion of cases that are false accusations, the variety of emotional attitudes victims can exude after their assault, and other data. These would be statistics that jurors would otherwise neglect because they pertain to the general reality of sexual assault cases rather than the particular case they are providing a verdict on.

In addition to improving how expert testimonies are conveyed, rape myth interventions can be implemented to educate jurors similarly to what was prescribed for the police force. Intervention programs, like the Sexual Assault Intervention Training (SAIT) program can be delivered in the form of workshops, videos, courses, etc. in order to raise the jury's awareness of common rape myths as this has shown to result in greater allocation of blame towards the defendant rather than complainant and less fixation on irrelevant, illogical extralegal factors instead of the significant legal details (Pang et al., 2022). Experiments have also compared the immediate versus long term effects, and it's been illustrated by many studies that the most powerful impact on juror RMA is during the trial when the judge is providing instructions. Therefore, a judge's instructions to the jurors prior to their deliberation must not only highlight the necessary burdens of proof to judge the defendant by, or other significant legal information, but must call attention to the beliefs or assumptions that are fueled by rape mythologies. Heightened awareness will lower their endorsement, and should successfully lead to fewer non-guilty verdicts in sexual assault trials.

## Conclusion

The prevalence of rape myth acceptance is attributable to the long-held existence of gender biases among people. In modern times, the availability heuristic explains how the media's mechanisms continues to perpetuate rape myths among the general public and criminal justice actors. Police officers hold implicit biases informed

by rape myths that hinder their ability to provide sexual assault victims with an impartial investigation, and jurors make misguided judgements of victims on trial due to their mental prototypes of sexual assault survivors that align with indicators of a genuine victim. Combatting these heuristics calls for the employment of training and education to minimize the misconceptions that criminal justice actors hold regarding the quintessential sexual assault victim.

## Acknowledgments

I would like to thank my advisor for the valuable insight provided to me on this topic.

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