

**RACIAL POLARIZATION ON CRIMINAL JUSTICE ISSUES:  
SOURCES AND POLITICAL CONSEQUENCES OF FAIRNESS JUDGMENTS**

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## ABSTRACT

Our investigation of the antecedents and consequences of citizens' beliefs about the fairness of the criminal justice system among blacks and whites is motivated by three related concerns: 1) research showing that beliefs about procedural fairness (even more than assessments of outcomes) play a crucial role in shaping political attitudes and behavior, 2) the apparent widespread lack of confidence in the justice system expressed by both races, and 3) the historically high levels of perceived injustice and unfairness among African Americans. We report the results of a specially-commissioned national survey of whites and blacks that focuses on the chasm that exists between the races in their assessments of the criminal justice system. Three principal findings emerge from our study of the perceived fairness of the CJS: 1) race is the dominant fault line in evaluations of the CJS, with African Americans being much less likely to view the justice system (i.e., the police, the courts and the system in general) as fair than whites; 2) blacks who report being treated unfairly by the police in traffic incidents are substantially more likely to rate the justice system as unfair; and 3) based on our analysis of survey experiments where we manipulated the race of the victim in a police brutality case and the race of the suspects in a police drug search, fairness judgments play a powerful role in shaping interpretations of police behavior, particularly *when blacks are the possible target of discrimination*.

On April 29, 1992, a mainly white jury in Simi Valley, California voted to acquit four white police officers charged with the beating of Rodney King, an African-American. The response in nearby Los Angeles was both swift and intense, as massive rioting broke out in the north-central section of the city, resulting in hundreds of injuries and millions of dollars of property damage. One of the casualties was Reginald Denny, a white truck driver who was pulled from his vehicle by angry rioters and severely beaten. On October 18, a mostly African-American jury acquitted the two blacks accused of beating Denny on virtually all counts. Racial divisions over this verdict were stark: a *Los Angeles Times* poll found whites almost twice as likely to disagree with the verdict as blacks (67 to 38 percent), with whites more than twice as likely to express “anger” over the outcome (48 to 19 percent).

These differential racial responses should have, but did not, adequately prepare the nation for the extraordinary responses to the 1995 O.J. Simpson jury decision, in which a jury composed predominantly of African-Americans acquitted the defendant of two counts of homicide. News coverage that evening inevitably consisted of contrasts between reactions of mainly joyous blacks and mainly appalled whites—the former believing the system to have (finally) served justice, with the latter perceiving a system unable to handle racial disputes in a fair fashion.

These incidents served to expose an enormous inter-racial chasm in responses toward the U.S. criminal justice system (CJS)—a chasm that dwarfs the divisions typically uncovered in the analysis of public opinion data. The historical origins of this “race gap” are long-standing, clearly predating our ability to measure it. Undeniably, African-Americans have had fundamentally different experiences with the justice system during the entirety of their existence in the United States, having to submit to the brutalities of slavery and to witness the “blind eye of the law” to white-on-black vigilantism and lynchings (Kennedy 1997). In more recent years, discrimination against racial minorities has continued, with African-Americans being far more likely to be apprehended, incarcerated, subjected to vehicular stops, and more.

At the heart of this “race gap” lays a profound distrust of the CJS among many African-Americans, who far too often have been led to the conclusion that it is unfair. While rare in the political science literature, discussions and documentation of heightened levels of black cynicism toward the system are prevalent in the criminal justice and sociology literatures (e.g., Curran 1977; Hagen and Albonetti 1982; Hawkins 1986; McFate 1996; Peek, et al 1981).<sup>1</sup> It is substantially more difficult, however, to find studies exploring the antecedents and consequences of this gap of distrust—the topics of the present analysis.

This paper opens with a discussion of the importance of perceptions of legal fairness—not only why these perceptions matter theoretically, but also why they matter politically. Using data obtained from the 2000-2001 Race and Crime Survey, we subsequently focus on the antecedents of distrust, demonstrating that much of it stems from sources that are both predictable and, in a sense, quite logical. But most importantly, we then examine its consequences, arguing that a perception that the justice system is unfair exerts a considerable influence on the way that actors and actions associated with the system are interpreted. That is, those with the most cynical perspectives (largely, though not exclusively, from the African-American community) are substantially more likely to believe that a given police officer is brutal or that a given judge is prejudicial. Because these beliefs then cycle back to reinforce the initial

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<sup>1</sup> In large measure, African American antipathy toward the CJS stems from contacts with the police, which are typically more common, less voluntary, and more adversarial than are contacts between whites and the police. See, for example, Scaglion and Condon 1980; Parker, et al 1995.

sense of unfairness, cynicism toward the justice system doubtless becomes a self-fulfilling prophecy.

## THE IMPORTANCE OF FAIRNESS

We begin this discussion where most papers end—by addressing the “so what” question. Why, in other words, does it matter whether individuals believe the justice system to be fair, and, more specifically, what are the consequences of beliefs that are sharply divided across race?

It is something of a mystery that political scientists have paid so little attention to attitudes about crime and the CJS. Carmines and Stimson (1980) would classify the attitudes as “easy” in the sense that the topic is easy to comprehend and constantly on the agenda. As such, these attitudes should be, and are, unusually crystallized and salient in the minds of the mass public (Roberts and Stalans 1997). In an August, 2000 Gallup survey, sixty percent of respondents described crime as either a “very” or “extremely” important problem—a finding that is fully typical of other years.

Given that beliefs about crime and punishment are “real,” why have they been essentially ignored? On one level, these attitudes are inconsequential in that they are seldom determinants of the most overt form of political behavior—the vote choice. Almost by definition, crime is a valence issue (i.e., everyone opposes it), making it unlikely that candidates will diverge in their platforms. But this is an exceedingly narrow definition of “consequence,” if for no other reason than that candidates *do* differ in the emphasis that they place on law and order, as evidenced during the 1988 presidential campaign when Democratic candidate Michael Dukakis was constantly criticized for a stance that some felt was insufficiently “tough” on crime.

Since the late 1960s, there seems to have been something approaching a crisis of confidence in the justice system, or at least policy makers have assumed this to be the case. As expressions of public fears began to escalate into the 1980s and 1990s, the federal government (along with many state governments) responded with enormous increases in prison construction expenditures and ever more punitive approaches to law violation—e.g., three strikes laws, the restoration of prison chain gangs, far more punitive sentencing guidelines, and more. The prison population, in consequence, has tripled over the past twenty years, even while *actual* crime rates were decreasing (Caplow and Simon 1999). While it is impossible to determine whether policy makers responded to public opinion or vice versa, it is highly suggestive that polls showed very strong support for the more punitive approaches that were being taken (Johnson 2001). And polls also charted widespread support for mandatory sentencing, as if the public were openly expressing its lack of faith in judges to mete out justice. In sum, even if crime-related attitudes cannot often be linked to the vote choice, it seems quite clear that public opinion in this domain “counts” as a major influence over public policy.

But our concern with individuals’ judgments of the CJS extends beyond our assumption that such attitudes are salient and potentially consequential to the political process. More broadly, we argue that attitudes about the justice system, particularly whether it is fair, color citizens’ views of much of the rest of the political system. A good deal of research demonstrates that people who believe the justice system to be unfair tend to evaluate the government more harshly, are less likely to comply with the law, and are more likely to judge the entire system to be illegitimate (Lind and Tyler 1988). One need only recall the overtly political role played by the U.S. Supreme Court in helping to determine the outcome of the 2000 presidential election, and the resultant (for many) disgust with the broader electoral process, to appreciate the

importance of the judiciary to our view of the broader system. Simply put, the justice system, as perhaps represented by the neighborhood cop or a summons to jury duty, is as close as many individuals come to an experience with the government; thus, low levels of confidence in the justice system clearly have the potential to generate a more negative view of the broader government.

The consequences of cynicism toward the CJS, however, are more pernicious than a sour taste toward the U.S. political system. For those (particularly the majority of African-Americans) who judge the justice system to be grossly unfair, the potential for disaffection and disobedience is high. And according to Tyler (2000; 1990; Tyler and Folger 1980), it is the *process*, rather than the *outcome*, that has the capacity to shape these judgments of the system. In one study (Tyler and Folger 1980), for example, the authors found that when citizens are stopped by police officers or call the police for assistance, it is their perception of the fairness with which they were treated, rather than the outcome (i.e., whether the police cited the citizen or solved the problem about which the citizen called), that determined individuals' sense of satisfaction with the encounter. Perceived fairness of process, in other words, can serve as a buffer against unpopular outcomes.

And given Tyler's (1990) conclusion that citizens are substantially more likely to comply with the law when they believe legal authorities to be fair and legitimate, it is therefore not surprising to find that civil disobedience is often located in areas plagued by widespread feelings of injustice. In their careful analysis of public opinion both before and after the Los Angeles riots of 1992, Bobo, et al (1994) find that 56 percent of blacks (compared to 21 percent of whites) expressed "not much" confidence in the L.A. police, and that eighty percent of blacks agreed with the statement that "blacks usually don't get fair treatment in the courts and criminal justice system," (compared to 39 percent of whites). While the Bobo, et al. methodology cannot attribute these cynical sentiments disproportionately to African-Americans who participated in the rioting, a study of an earlier Los Angeles riot (McConahay and Sears 1982) can: black participants in the Watts riots of 1965 were found to be far more likely than black nonparticipants to hold grievances against the police because of perceived brutality (Ch. 6). While legitimate explanations of civil disobedience are manifestly complex, it is clear that the distrust found among many African-Americans of the CJS is at least an important contributor.

The exasperation felt by many minorities is compounded by what some (e.g., McFate 1996; Meares 1997) have labeled the "joint frustration hypothesis": African-Americans, who are far more often the victims of crime, are simultaneously the most dependent upon, *and* the most distrustful of, the justice system. Perceptions of unfairness, therefore, can easily become magnified in the minds of many who look to the CJS for protection rather than mistreatment.

But high levels of distrust do more than merely alter the behavior of the individual; in addition, they may well be responsible for some fundamental changes in our legal institutions and procedures. For example, a growing number of attorneys defending black defendants are encouraging the practice of race-based jury nullification, whereby black jurors use their powers to correct perceived social injustices, despite compelling evidence implicating defendants of the same color (see Butler 1995, 1997 for the intellectual justification for this movement). In the past decade, at least twenty-five state legislatures have debated Fully Informed Jury Acts, which would require judges to inform juries in criminal cases of their right to nullify the law (St. John 1997). Although none of the states has, to date, enacted the FIJA, and although it is impossible to determine the frequency with which black jurors are exercising their powers of nullification, it

seems clear that “a growing number of jurors are coming to trial with at least some awareness of their power to nullify” (Dilworth 1996, 12).

There are other consequences of distrust that have been injurious to the legal system. It is likely, in fact, that perceptions of injustice among African-Americans have even served to worsen crime problems. At a minimum, we know that blacks are significantly less likely to testify in court, provide information to the police, or even report crimes against them, largely because of a pervasive distrust of the system (Neville and Pugh 1997). Without such information, authorities are at a disadvantage to investigate crimes and/or prosecute criminals.

We believe, therefore, that in addition to the widespread lack of confidence in the justice system expressed by many of both races, the levels of perceived injustice and unfairness are particularly heightened among African-Americans, with the aforementioned consequences. Moreover, this cynical posture serves as the catalyst for even greater levels of discontent in a downward spiral, for citizen evaluations of the CJS color how individuals interpret virtually everything associated with it. Do police try hard enough to solve cases in which the victims are African-American? In confrontations between minority citizens and police, whom do we believe? We contend the answers to these, and many other questions to be largely determined by the initial beliefs that we have. Thus, those who see the system as unfair will interpret how we perceive the agents of the system behave in any given situation that, in turn, serves to reinforce our initial suspiciousness.

For these reasons, it is crucial to understand citizen perceptions and evaluations of the CJS, focusing particularly on African-Americans and the consequences of perceptions of unfairness. Prior to this analysis, however, we focus on the factors that seemingly generate these perceptions.

## **THE ANTECEDENTS OF FAIRNESS JUDGMENTS**

Perhaps the richest literature examining procedural justice and fairness has been developed by Tyler and his associates. In studies that are particularly relevant to an understanding of inter-group differences in perceptions of fairness (Lind, et al 1997; Tyler, et al 1996), Tyler has based his arguments on a *group values model*, which proposes that fair procedures are crucial because they convey several symbolic messages to group members, namely that an individual is a respected member of his/her group and that s/he can feel pride in the group as a whole. For these messages to be communicated, according to Tyler, the procedure must be marked by “neutrality, trustworthiness, and status recognition.” When the CJS is perceived as unfair, untrustworthy, or as failing to respect an individual’s group membership, therefore, the judicial process will be seen as both inadequate and violative of the rights of the group to which an individual belongs.

It is essential, therefore, to begin any discussion of the antecedents of perceived racial injustice in the CJS by focusing on the degree to which the judicial process is, in fact, neutral, trustworthy, and fair with respect to racial groupings. There is, by now, an enormous literature examining the racial bias in the CJS—a literature that, despite its inherent controversies, generally documents at least pockets of discrimination. According to Lauritsen and Sampson (1998), the earliest research beginning in the 1930s demonstrated significant biases against minorities in, for example, sentencing decisions. More recent studies from the 1970s and 1980s, however, concluded that the earlier findings were due largely to the association between race and various legally relevant factors such as prior criminal record and that, when controlling for

variables such as prior record, the impact of race is eliminated (e.g., Hagen 1974; Kleck 1981), leading to the so-called Non-Discrimination Thesis (NDT). But as Lauritsen and Sampson conclude, scholars have by now shifted away from the NDT to the idea “that there is some discrimination, some of the time, in some places” (73).

Some of these “times” and “places” are subtle and beyond the radar of most citizens. In her remarks at a press conference of the Congressional Black Caucus (July 19, 2000), Eleanor Holmes Norton, the nonvoting representative from Washington, D.C. in the House of Representatives, chastised the Senate Judiciary Committee for the speed with which it was confirming (or refusing to confirm) minority appointments to the federal bench. According to her statistics, which were researched by The Citizens for Independent Courts’ Task Force, during the 105<sup>th</sup> Congress “minorities and women nominees took significantly longer to gain Senate consideration than white male nominees: 60 days longer for non-whites than whites, and 65 days longer for women than men.”

But other allegations of racial bias in the CJS receive far broader attention, beginning with capital punishment. Despite the assumption of many, there is no consistent evidence that the death penalty is administered disproportionately to African-Americans, as the proportion of African-Americans who have been found guilty of a capital offense who are executed does not exceed that of whites (Lauritsen and Sampson 1998; Pasternoster 1991). It is, however, quite well established that assailants who murder whites are significantly more likely to be executed than those who murder blacks or other minorities (Baldus, et al 1983; Gross and Mauro 1989; Keil and Vito 1995; Lewis 1979; Pasternoster 1991; Radelet and Pierce 1985).

Equally compelling is the literature examining police-citizen interactions, which also finds evidence of a race-of-victim effect. Relative to crimes involving African-American victims, white victim crimes have been found to feature significantly faster police response times (Bachman 1996), significantly higher probabilities of arrest (Smith, et al 1984; Williams and Ferrell 1990) and prosecution (Myers and Hagen 1979), and more “vigilant” investigative strategies (Bynam 1992).

But the literature on police-citizen encounters has also found a substantial degree of bias due to the race of the suspect (Jackson 1989). More specifically, when interacting with African-Americans (relative to whites), police officers have been found to use force both more frequently and more severely (Geller 1982; Jacobs and O’Brien 1998; Smith 1986), and more often aided by police dogs (Campbell, et al 1998). Further, they are significantly more likely to arrest African-American suspects (Danefer and Schutt 1982; Hepburn 1978; Liska and Chamlin 1984; Hindleand 1978).

The most high profile allegations of police bias concern the so-called “driving while black” cases of racial profiling, in which police officers make decisions about which vehicles to stop according to the race of the driver. Inasmuch as racial profiling is standard policy for police departments in the vast majority of metropolitan areas, there can be little doubt that African-American motorists face far higher probabilities of being stopped and questioned than do whites (Georges-Abeyie 1984; Johns 1992; Wilkins 1985). A recent report commissioned by the American Civil Liberties Union (Harris 1999) studied discretionary vehicular stops nationally. Just one example from this study conveys the magnitude of the bias: when spotlighting a section of Interstate 95, the authors documented that even though 75 percent of both motorists and traffic violators were white, 73 percent of those searched were African-American (33). It is important to note that these racial discrepancies persist even after location, suspect demeanor, and the seriousness of offense are controlled (Cf. MacDonald 2001).

Studies of decisions to imprison are also replete with evidence of a race effect (though this bias does not appear to extend to sentencing decisions). Not only are African-Americans sentenced disproportionately to prison terms (Blumstein 1982; Crutchfield, et al 1994; Perry 1980), they are also substantially less likely to receive alternative forms of detention such as psychiatric hospitalization (Thomas and Stubbe 1996).

One of the reasons why perceptions of bias are so pervasive among many blacks is that differential (mis)treatment begins very early, even in the sense that black students are more often victims of corporal punishment relative to white children (Gregory 1995). More significantly, once individuals have contact with the juvenile justice system, widespread discrimination appears to be omnipresent (Lieber and Stairs 1999). African-American youths face more punitive “control” at virtually every phase of the juvenile system: they are more likely to be detained by the police (Bridges, et al 1995; Conley 1994; Wordes and Bynum 1995), more likely to be subjects of juvenile court intake (Bridges and Steen 1998; Conley 1994; Frazier and Bishop 1995; Wordes and Bynum 1995), more likely to be held for preliminary detention (Conley 1994; Wordes, et al 1994; Wordes and Bynum 1995), and more likely to be sentenced to a juvenile detention center (Austin 1995; Frazier and Bishop 1995). Wordes and Bynum (1995), moreover, argue that racial bias becomes worse as juveniles are processed deeper into the system: in one department examined, they found African-Americans to comprise 35 percent of the city youths, 55 percent of youths in police records, 57 percent of youths referred to court, and 77 percent of those brought to secure detention. In other words, discrimination becomes more pronounced as the stakes become higher (Cf. Leonard and Songheimer 1995).

Racial bias in the CJS does not appear to be limited to discriminatory treatment from agents in the system; it can also be argued that discrimination infiltrates the law itself. The best known example is the notorious 100:1 provision of the Federal Crack Cocaine Law of 1986 (21 U.S.C. 841), which mandates the same five year prison sentence for one hundred grams of powder cocaine (used primarily by whites) as for one gram of crack cocaine (used primarily by African-Americans), despite the gram-for-gram pharmacological equivalence of the two drugs (Stuntz 1998). But courts have also upheld other laws that affect minorities disproportionately, such as gang loitering laws (*Chicago v. Morales* 687 NE2d 53 [Ill. 1997]) and public housing authority mass building search laws (*Pratt v. Chicago Housing Authority*, 848 F. Supp. 792 [N.D. Ill. 1994]).

It is, of course, possible to overstate the magnitude of racial bias in the CJS, as much of the earliest research tended to do. In their review, Lauritsen and Sampson (1998, 75) conclude that “When restricted to index crimes, most individual level studies have shown that a simple *direct* influence of race on pretrial release, plea bargaining, conviction, sentence length, and the death penalty is small to nonexistent, once legally relevant variables (e.g., prior record) are controlled. . . .” And in support of this claim, a substantial body of research confirms an absence of race bias in jury decisions (Petersilia 1983; Wilbanks 1987),<sup>2</sup> parole decisions (Feder 1994),<sup>3</sup> and sentencing decisions (Chiricos and Crawford 1995;<sup>4</sup> Dixon 1995;<sup>5</sup> Klein, et al 1990; Langan 1994; Lichtenstein 1982; Myers and Talarico 1987).

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<sup>2</sup> Some laboratory simulation studies, however, have produced race effects. Harsher sentences were meted out for African American defendants in studies by DeSantis and Kayson 1997; Mazella and Feingold 1994), and mock jurists were found to be more likely hand down guilty verdicts for African American defendants in research by Pfeiffer and Ogloff (1991) and Rector, et al (1993).

<sup>3</sup> Cf. Johnson and Jones 1998.

<sup>4</sup> The exception in this study was for drug offenses.

Many of what were once thought to be race effects, in other words, disappeared when controlling for things like the severity of the crime, prior convictions, or suspect demeanor. Yet, for our purposes, these findings are almost irrelevant, for few individuals are likely to “control” these factors in their minds. Rather, it is *perception* that matters, and perception is likely to be driven by parsimoniousness. What most citizens are likely to notice is that, while African-Americans accounted for 13 percent of the American population, they accounted for 46 percent of all felony convictions in 1996, 48 percent of the prison population in 1996, and 41 percent of those sentenced to death between 1976 and 1997 (Bureau of Justice Statistics, 1999). These disproportionalities are not likely to be tempered by an understanding of other characteristics with which race is often correlated. The bottom line, therefore, is that there is plenty of room for African-Americans to perceive bias in virtually all nooks and crannies of the CJS, and such perceptions must inevitably contribute in large measure to the racial divide in judgments of fairness.

## **EXPECTED ANTECEDENTS AND CONSEQUENCES OF FAIRNESS JUDGMENTS**

### The Antecedents of Fairness Judgments

The extant literature, quite clearly, leads us to predict large differences between whites and African-Americans in their judgments of the CJS. It is unmistakable that the experiences of blacks, as a group, have been far more involuntary and contentious than those of whites in their interactions with the justice system. For this reason alone, then, we would expect to find black respondents expressing far less confidence in the system to mete out justice in an even-handed manner.

Beyond the *collective* experiences shared by African-Americans, however, we also anticipate finding differences within the African-American community that are related to any *personal* experiences with the CJS that they have endured. Admittedly, a number of studies in the economic realm provide a cautionary note about the ability of personal experiences to shape broader beliefs. Kay Lehman Schlozman and Sidney Verba (1979), for example, found that even though the unemployed experience numerous economic hardships that appear to run contrary to the beliefs associated with the “American Dream” (e.g., that economic opportunities are plentiful and available to everyone), rarely did personal economic hardships affect support for these more general beliefs. In fact, a large body of evidence (e.g., Feldman 1982) finds that personal economic discontents of all sorts are rarely politicized, in the sense that such experiences often fail to influence either political attitudes or behaviors such as the vote choice.

On the other hand, personal experiences do have the capacity to influence individuals’ predictions and expectancies—a finding that is pervasive in the psychology and sociology literatures. For examples, those affected by the 1994 Northridge, CA earthquake were found to be less optimistic about injury in future earthquakes (Helweg-Larsen 1999), patients with unsuccessful organ transplants were found to give lower estimates of population success rates for transplantation (McCauley, et al. 1985), and survivors of Hurricane Hugo estimated higher levels of damage from Hurricane Andrew than those who did not experience Hugo personally (Sattler, et al. 1995).

Thus, we believe it is during these personal encounters with the legal system that many individuals formulate their broader beliefs about the CJS, inasmuch as their experiences

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<sup>5</sup> According to Dixon’s study, sentencing guidelines have largely eliminated racial disparities in sentencing decisions.

influence their judgments and expectations about future encounters. Those who experience conflicts with legal authorities that are perceived as unfair, coercive, or involuntary will, according to the work of Tyler and associates previously cited, generalize these negative encounters to the broader justice system, assuming that the character of these encounters will continue to be negative.

### The Consequences of Fairness Judgments

Of equal importance, we posit that these fairness judgments are consequential in the sense that they guide citizens' interpretations of specific scenarios or events associated with the justice system. Given the history of racial discrimination in the CJS, we are particularly interested in citizens' reactions to scenarios where, first, the credibility or fairness of law enforcement is in question and, second, where possible discrimination against an African American target is at issue. Most generally, we expect those who, overall, perceive the CJS to be unfair to exhibit tendencies to interpret these scenarios in the most negative fashion. They will be the ones who express little faith that the police, in a given situation, will thoroughly investigate charges of police brutality, or the ones who, in a given situation, perceive police procedures to be unfair.

Second, because African-Americans are likely to have more unfavorable general impressions of the justice system, they should also be more likely to interpret these specific scenarios in a cynical fashion than whites. Relative to whites, in other words, blacks should be less expectant of a thorough investigation into brutality charges or proper and fair police procedures.

Third, individuals (blacks, in particular) should be less likely to interpret police behavior sympathetically when the targets of the police interactions are African-American. As detailed above, acts of discrimination against African-Americans in the CJS are almost impossible to ignore. In all probability, the vast majority of citizens are aware, at least to some degree, of such acts. When, in a specific situation, a police officer is charged with acts of brutality by a black motorist, or the officer is accused of improprieties with a black pedestrian, more cynical views of the officers are almost inevitable. When the same charges are leveled in police encounters with whites, on the other hand, the playing field is seen as more level and, consequently, such cynicism is likely to be attenuated.

Fourth, and perhaps most importantly, we expect that for many African Americans, because their more general judgments of the fairness of the CJS have strong racial undertones, these beliefs should be particularly important in shaping individuals' interpretations of specific scenarios *when blacks are the possible target of discrimination*. That is, when police officers are entangled with white motorists or pedestrians, blacks' general perceptions of unfairness are less likely to be engaged in evaluating police behavior in the specific situation. On the other hand, when agents of the justice system *do* interact with the aggrieved targets (i.e., African-Americans), more general perceptions of unfairness should become particularly salient and consequential in guiding interpretations of police conduct in the given context.

An examination of these expectations requires an experimental approach, the benefits of which will become apparent below.

## ANALYSIS

### Data and Measures

The data for the analysis are drawn from the National Race and Crime Survey, a nationwide random-digit telephone survey administered by the Survey Research Center (SRC) at the University of Pittsburgh. Between October 19, 2000 and March 1, 2001, the SRC interviewed 603 (non-Hispanic) whites and 579 African-Americans. White respondents were selected with a variant of random digit dialing and an over-sample of black respondents was randomly selected with a variant of stratified sampling techniques. The number of completed interviews was 1,182, with an overall response rate of 34.7 percent. The interviews, which lasted approximately 35 minutes on average, were conducted using Computer Assisted Telephone Interviewing (CATI) facilities, enabling the interviewers to randomize respondents into various experimental treatment groups in an almost infinite number of configurations. Further details on the sample are available from the authors on request.<sup>6</sup>

### Beliefs about the Fairness of the Criminal Justice System

Because of the importance of fairness judgments, we believe it necessary to begin with an exploration of both inter- and intra-racial differences in citizens' beliefs about the U.S. justice system. Respondents were asked a number of questions designed to elicit their beliefs about this topic, with one battery asking about the *Racial* Fairness of the justice system, and another battery asking about the *General* Fairness of the system, without making reference to race. The four Racial Fairness questions all pertain, in one way or another, to the topic of whether the police or the courts "in your community" treat blacks less fairly than they treat whites (see Appendix items 1-4). The two questions that tap General Fairness, on the other hand, simply ask about the extent to which respondents agree with the statements, "The justice system in this country treats people fairly and equally," and "The courts in your area can be trusted to give everyone a fair trial" (Appendix items 5 and 6).

--Figure 1 about here--

Figure 1 displays the percentage of blacks and whites who perceive a lack of fairness for each of the questions. Across all six items a similar story unfolds—i.e., there exists a wide chasm between the races in their evaluation of the U.S. justice system: the average gap between whites and blacks across all items is approximately 43 percent. If we restrict our attention to the racial fairness items (the first four in the figure), the gap widens to almost 49 percent; narrowing to about 32 percent if we consider more general assessments of fairness (the last two items).

--Figure 2 about here--

It should be noted that the actual degree of racial polarization on many of the items is muted in the figure because response categories were collapsed for ease of presentation. Figure 2 displays responses by race for the full 7-point scales for the first three racial fairness items, where respondents were asked to rate the seriousness of possible problems (all racial disparities

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<sup>6</sup> The survey instrument was subject to extensive pretesting, with in-depth, face-to-face "cognitive interviews" with a small number of African American respondents and a telephone interview with 25 white and 25 black respondents.

in the CJS) in their community on a scale that ranges from “not a problem” (at point 1) to a “serious problem” (at point 7). On all three items, the ratings of whites and African-Americans resemble mirror images of one another, with a plurality of blacks rating the problem as serious, and a plurality of whites viewing it as “not a problem.”

This is not to say that whites collectively fail to recognize some degree of unfairness in the CJS. Forty-one percent of whites acknowledge that “African-Americans are treated less fairly than whites in dealing with the police” (compared to 80 percent of blacks). And 44 percent of whites reject the idea that the “[U.S.] justice system treats everyone fairly and equally.” Yet, perceiving racial unfairness is clearly a minority view among whites, whereas among blacks the overwhelming majority feels this way. And although many whites perceive racial discrimination in the justice system, a much smaller number perceives it to be a significant problem. For example, in Figure 1, 41.5 percent of whites recognize that “African-Americans are treated less fairly than whites in dealing with police” in their community, but when asked to rate the seriousness of the problem of “police stopping and questioning blacks more than whites,” a mere 24 percent position themselves on the “serious” end of the scale (rating 5, 6, or 7). In short, most African-Americans believe that racial injustice and a more general lack of fairness pervade the justice system, while most whites view the justice system as equitable, if not completely color-blind.

To be sure, blacks’ views on the fairness of the CJS do not constitute an undifferentiated, monolithic block, either. On each of the items in Figure 1, a nontrivial portion of African-Americans (from 20 to 39 percent) reject the idea, first, that racial disparities in the justice system are a serious problem, and second, that the justice system (more generally speaking) is unfair.

In conclusion, substantial variation in beliefs about the fairness of the justice system can be found both intra-racially and, to an even greater degree, inter-racially. We now turn to an analysis of the antecedents of these variations.

### Antecedents of Fairness Beliefs

We begin with an analysis of inter-racial differences in perceptions of fairness. One immediate question arises in considering the race gap in Figure 1: to what extent are such beliefs due to race versus other factors, such as socioeconomic characteristics and various political and social attitudes? Our primary objective in examining inter-racial differences is to demonstrate the robustness of the effects of race. As our results (below) make plain, try as we might to account for other sources of variation in fairness beliefs, race remains the dominant source of division on such views.

After examining inter-racial differences in fairness beliefs, we turn to an investigation of the sources of such views among whites and black—in other words, the antecedents of *intra*-racial differences. As we will see, the impact of various determinants of these views varies in theoretically explicable ways across the races.

### Dependent Measures

*Beliefs about the Fairness of the Justice System.* In our examination of inter- and intra-racial differences in citizens’ beliefs about fairness, we rely on a common set of dependent and independent measures. To simplify portions of the analysis, we combined appropriate indicators from Figure 1 to create two dependent variables: Racial Fairness and General Fairness. The index of Racial Fairness was created by adding responses to the first and the fourth items listed

in Figure 1 (Police Treat Blacks Unfairly, Courts Racially Biased a Problem,  $r = .42$ ).<sup>7</sup> The General Fairness index was assessed by summing responses to the last two items listed in the figure (Justice System Fair, Courts Fair,  $r = .59$ ).

### Independent Measures

*Personal Experiences with the Justice System.* We have argued above that, to a great extent, much of the cynicism toward the CJS is a function of group and personal experience—i.e., those whose contact with the system has been largely adversarial and contentious should be more likely to regard it as unfair. Because the collective or aggregate experiences of African-Americans in the justice system have been far more negative, it is highly likely that, relative to whites, blacks should regard the system more cynically. Further, personal experiences should also play an important role in magnifying judgments of unfairness. While personal encounters should be an important determinant for all individuals, because substantially more African-Americans have had conflictual personal interactions with the CJS, it is likely that the impact of these experiences should be more pronounced for blacks than for whites.

Our measure of personal experiences with the justice system focuses on negative encounters citizens have with the police in traffic incidents, for two reasons. In the first place, encounters with police are likely to be more frequent and pervasive than encounters with the courts or other agents. More importantly, vehicular stops determined by racial profiling are extremely controversial and salient events today. We are, therefore particularly interested in whether the frequency of such incidents among African-Americans is associated with more negative beliefs about the fairness of the justice system. To measure Personal Experience, respondents were asked the following question:

Was there any time in the last five years or so when you felt you were treated unfairly in dealing with police, such as being stopped or followed while driving [because you were African-American]? Did this happen once, two or three times, or more?

Only African-American respondents were asked the bracketed portion of the question, to enable them to identify incidents in which they felt they were treated unfairly by police *because they were African-American*.

Responses to the Personal Experience item are displayed in Table 1 below. Although most citizens report no incidents of being treated unfairly by police in the last five years, more than twice as many blacks (about 30 percent) as whites (about 13 percent) report such occurrences, despite the question defining such events more broadly for white respondents. The fact that more than three of every ten African-Americans report being treated unfairly by the police because of their race is high by any standard.<sup>8</sup> Measured in this way, the Personal Experience scale ranges from 0 (no incidents) to 4 (four or more incidents).

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<sup>7</sup> To create the most general racial fairness measure possible, and one comparable to the general fairness scale, we used one item each asking respondents about the fairness of police and the courts.

<sup>8</sup> Among both races, males and younger individuals are more likely to report being treated unfairly by the police. Only among blacks, however, do we find that individuals with *higher* education are more likely to report being treated unfairly by police. This finding is consistent with Bobo's (1998) observation that it is often middle class blacks who work (and drive) in white neighborhoods that experience more discrimination in the form of vehicular stops by police.

Table 1. Reports of Unfair Treatment by Police by Race

Number of Times Treated Unfairly by Police	Whites	Blacks
None	87.31	70.40
Once	7.18	9.63
Two or three	4.01	13.84
Four or more	1.50	6.13
N	599	571

*Equality.* In addition to personal experiences, several political and social attitudes may affect individuals’ beliefs about the fairness of the CJS. Perhaps most relevant, one’s perceptions of the justice system are likely to be tied to more general values of egalitarianism if, as may be expected, those who value equality most tend to see a lack of equality and fairness in the justice system. Our measure of equality is based on agreement with two items (Appendix items 7 and 8), with higher scores indicating a stronger preference for equality.

*Racial Stereotypes.* Individuals’ views of fairness may also be tied to their stereotypes of blacks and whites. Those who subscribe to negative stereotypes of blacks, for example, viewing them as lazy or violent, may reject the idea that the justice system discriminates against African-Americans. And those who view whites in a negative light, rating them as dishonest or prejudiced, may be especially likely to view the justice system (which is dominated by whites) as being unfair to blacks. Our measures of *Black Stereotypes* and *White Stereotypes* are additive scales based on the extent to which respondents rate either “most blacks” or “most whites” as “lazy,” “prone to violence,” “prefer to live on welfare,” “hostile,” and “dishonest” on 7-point scales that range from “a very poor description” (at point 1) to “a very accurate description” (at point 7). The resulting indices range from 5 to 35, with higher scores indicating more negative stereotypes (for a similar question format, see Peffley, Hurwitz and Sniderman 1997).

*Political Orientations.* Other more political orientations may also shape perceptions of fairness. As racial profiling and other racial disparities in the CJS come to the political forefront, citizens’ beliefs about fairness should become politicized, fueled by ideological or partisan leanings. *Ideology* and *Party ID* are measured in the standard way and range from “strong liberal (Democrat)” to “strong conservative (Republican).” By the same token, because more politically aware citizens are more attuned to political discourse that publicizes critiques of the justice system, greater awareness should be associated with a lack of perceived fairness. Our measure of *Political Knowledge* is a simple count of the number of correct answers to three factual questions (knowing the offices of Janet Reno and Trent Lott and knowing which institution decides if a law is constitutional).

*Demographic Characteristics.* Finally, several demographic characteristics are included as predictors, in addition to race (0 = African-American, 1= white [non-Hispanic]): education, gender (0 = male, 1 = female), age, and income.<sup>9</sup>

<sup>9</sup> The education variable assigned respondents into the following categories based on their “highest grade or level of education” completed: 1. 8<sup>th</sup> grade or less; 2. grades 9-11; 3. high school graduate/GED; 4. some college or post secondary school; 5. bachelor’s degree; 6. some graduate studies; 7. master’s degree; 8. doctoral degree. The categories used for the income variable are: 1. under \$10,000; 2. \$10,000 to under \$20,000; 3. \$20,000 to under \$30,000; 4. \$30,000 to under \$50,000; 5. \$50,000 to under \$75,000; 6. \$75,000 to under \$100,000; 7. over \$100,000.

### Inter-Racial Antecedents of Fairness Beliefs

To examine inter-racial antecedents of fairness beliefs, we regressed the four Racial Fairness items (columns 1-4) and both General Fairness item (columns 5 and 6) on race, and a host of other predictors in the following equation:

$$\text{Fairness Beliefs} = \text{Race} + \text{Treated Unfairly} + \text{Equality} + \text{Black Stereotype} + \text{White Stereotype} + \text{Ideology} + \text{Party ID} + \text{Political Awareness} + \text{Demographic Characteristics}$$

The OLS regression results are displayed in Table 2.<sup>10</sup> Clearly, the predictive power of race dominates every equation in the table, with standardized coefficients (the bottom entry in each cell) ranging from .19 to .38.<sup>11</sup> Even after the effects of a range of pertinent social and political characteristics are accounted for, the polarizing effects of race remain significant and powerful.

--Table 2 about here--

### Intra-Racial Antecedents of Fairness Beliefs

To estimate the intra-racial sources of fairness beliefs, the equation above (without race as a predictor) was estimated separately for whites and blacks. For this section of the analysis, General and Racial Fairness Indices have been substituted for the six raw items analyzed in Table 2, both to preserve cases and for ease of presentation. The OLS results are reported in Table 3. As can be seen by the first row of coefficients, personal experiences with the CJS—defined in this case as incidents when the respondent was treated unfairly by police—has a significant impact on beliefs about fairness of the CJS. And the varying power of such experiences across equations makes intuitive sense. For African-Americans, being treated unfairly by the police because one is black affects beliefs about racial fairness almost twice as strongly as more general beliefs about the fairness of the justice system ( $b = .40$  vs.  $.21$ ). And as one might expect, for whites, unfair treatment by the police (defined in nonracial terms) has no significant effect on beliefs about racial fairness ( $b = .04$ ), but such experiences are strongly associated with more general fairness beliefs ( $b = .50$ ). Put differently, when we compare across races, we see that the impact of negative personal encounters with the police on individuals' perceptions of *racial* system fairness is much stronger for African-Americans than for whites, while the impact of these experiences on more general assessments of system fairness is greater for whites than for blacks.

--Table 3 about here--

To some extent, the impact of personal experiences observed here runs counter to the literature on personal economic discontents, which finds that personal economic conditions and experiences exert a much smaller and more conditional impact on more general beliefs and behaviors, such as evaluations of, and voting for, the government (e.g., Kinder and Kiewiet 1981). Why might such experiences matter here, particularly for African-Americans? One likely explanation is that, even in the economic realm, personal experiences matter when agents—e.g.,

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<sup>10</sup> We reserve commentary on the impact of other variables in the equations until the analysis of intra-racial differences below, since the effects of many predictors vary substantially by race.

<sup>11</sup> Throughout this analysis, we will report standardized (beta) coefficients when discussing the results within a particular model, and unstandardized (b) coefficients when addressing the differences across models.

political parties, politicians, and the media—help citizens to politicize their personal experiences (e.g., Kiewiet 1983, Mutz 1992). In this fashion, these agents serve to link, in the public mind, the government and one's own level of satisfaction, in effect instructing the citizen to hold the government responsible for his or her own situation. Though this rarely occurs in the economic realm, when it does, personal economic discontents matter politically (e.g., Feldman 1982).

In the criminal justice domain, these conditions for the politicization of personal experiences may have been met, particularly for blacks. The success of a number of agents—including black leaders, the American Civil Liberties Union, and the Justice Department under President Clinton—in publicizing widespread complaints about racial profiling and “driving while black” in the African-American community likely created the conditions for the politicization of personal discontents.

We also see, from the fifth row of coefficients, that respondents of both races who place more value on equality tend to see more deprivations of racial fairness, finding more fault with the fairness and equity in the criminal justice system.

Racial Stereotypes are also selectively associated with perceptions of fairness in the CJS. Stereotypes of blacks are, for the most part, poor predictors of fairness judgments. Only black respondents appear to significantly base their perceptions of the justice system on their more general views of African-Americans, with more positive views of blacks associated with greater perceived racial disparities on the Racial Fairness scale. By contrast, white respondents' views of the fairness of the justice system appear independent of their stereotypes of African-Americans. Instead, the stereotypes that matter—for white as well as black respondents—are stereotypes of whites. Holding more negative views of “most whites” is significantly associated with the belief that the justice system is unfair in a racial sense. And while the effect is stronger for black respondents, it is nevertheless significant for whites as well.

The selectively significant impacts of Party ID and Ideology for black and white respondents provides some evidence that beliefs about fairness in the justice system have become politicized, at least to some degree. For blacks, stronger Democratic identifiers are more likely to view the system as racially biased ( $\beta = -.18$ ) and generally unfair ( $\beta = -.09$ ). The effects of partisanship are noteworthy in at least two respects. First, there is less variation in partisanship for African-American respondents: fifty-nine percent of black respondents are strong Democrats (compared with 18 percent for whites), and only 9 percent consider themselves Republicans (even if we count those who say they lean toward the party as identifiers). Second, the effect of partisanship no doubt reflects the role that President Clinton and the Justice Department played in establishing a commission to investigate racial profiling and (albeit belatedly) acknowledging the existence of the problem among law enforcement in the U.S. White respondents, on the other hand, seem to evaluate the CJS along more ideological than partisan lines, perhaps because they were overall less attentive to the role played by the previous Administration.

Demographic characteristics, net of other variables in the model, play only a muted and occasionally significant role in shaping beliefs about fairness. For example, consistent with our expectation, more educated whites see less racial fairness. While gender plays no independent role in predicting fairness beliefs among blacks, it plays an interesting role among whites: white males are more likely than females to disagree that the system is racially unfair but are more likely than females to rate the system in general as being unfair.

The relatively large ( $\beta = -.15$ ) effect of income among black respondents is also noteworthy. In evaluating racial fairness, poorer blacks tend to be more cynical in their

judgments relative to more affluent blacks. While this finding stands in contrast to some studies finding little variation across income and educational groups among African-Americans in their tendency to support liberal stands on a wide range of issues (e.g., Schuman et al. 1998), other analyses focusing specifically on perceptions of the police have produced results entirely consistent with ours (e.g., Hagen and Albonetti 1982; Murty, et al. 1990; Parker, et al. 1995). Parker and his colleagues explain this finding, in part, with the speculation that poorer blacks more often live in higher crime neighborhoods. They consequently tend to view the police as natural adversaries because the police-civilian contacts are typically adversarial, involuntary, and negative.

### The Consequences of Fairness Judgments

Beliefs about the fairness of the justice system have readily explicable roots among both blacks and whites. But what *consequences* do they have? How, if at all, does one's level of trust in, or cynicism toward, the justice system affect an individual's interpretation of frequent events that unfold within the CJS? How do they affect the judgments of whites and blacks who are confronted with seemingly "real" scenarios where race and crime intersect in provocative ways? To investigate this question, we created a number of scenario experiments where we manipulate the race of the target in the scenario—suspects in a police search, or the victim of a police brutality case. As we shall see, blacks and whites respond very differently to these scenarios; moreover, regardless of race, one's level of faith in the justice system has a profound impact on his/her interpretation and explanation of these scenarios.

*Police Brutality Experiment.* Our first experiment involves the salient and often racially charged issue of police brutality, where respondents hear about "a recent incident in Chicago in which a police officer was accused of brutally beating a [white/black] motorist who had been stopped for questioning. The police department promised to investigate the incident." By randomly varying the race of the motorist, we are able to determine the degree to which fairness judgments and the race of the target influence respondents' answers to two subsequent survey questions:

1. How likely do you think it is that the police department will conduct a fair and thorough investigation of the policeman's behavior?
2. If he is found guilty of beating the motorist, how should the policeman be punished--should he be fired, sentenced to one year in prison, or sentenced to two or more years in prison?

For each of the two judgments, the following equation was estimated separately for black and white respondents using ordered logit procedures:<sup>12</sup>

$$\text{Judgment} = \text{Race of Target (Motorist)} + \text{Fairness of CJS} + \text{Race of Target} * \text{Fairness} + \text{Equality} + \text{Black Stereotypes} + \text{White Stereotypes} + \text{Education},$$

where the variables in the equation are measured in the following manner. The first dependent variable, Police Investigation, is a four-point scale ranging from "very likely" (point 1 on the scale) to "very unlikely" (4) that the police department will conduct a fair investigation. The

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<sup>12</sup> Ordered logit was used because the punishment variable consists of only three categories: fired, sentenced to 1 year in prison, and sentenced to more than 1 year in prison.

second dependent variable, Officer Punishment, ranges from the minimum punishment of suspending the officer (at point 1) to the maximum punishment of two or more years in prison (3).

Race-of-Target (Motorist) is a dummy variable where black = 0 and white = 1. Fairness of CJS consists of the two item General Fairness scale described earlier,<sup>13</sup> although the scale is now coded from 0 to 6, with higher values indicating more agreement that the justice system is fair. The interaction term, whose purpose is described below, is the product of Race-of-Target and Fairness. Equality, racial stereotypes (both Black and White Stereotypes), and education are included in the model as controls, since they comprise the most likely sources of spurious effects for the Fairness variable (the Race of Target variable is randomly distributed and so should not be affected by the presence or absence of other variables in the model).

To recapitulate our expectations, we believe that judgments of the fairness of the CJS should, overall, be consequential—i.e., those who regard the system most cynically should interpret the scenarios more negatively (be more suspicious of a fair investigation and be more punitive toward the corrupt police officer) than those who perceive the system as fundamentally fair. And because, as we have seen, African-Americans are substantially more negative when evaluating the CJS than whites, they should also be more negative in their interpretations of these scenarios. More specifically, because unfairness, almost by definition, implies mistreatment of a given group, we expect to find more critical views of the police when the target in the scenario is defined as black—a group typically seen as the object of mistreatment. And most importantly, we expect fairness judgments to interact with the race of the motorist, since individuals, especially blacks, are likely to respond differently when the victim of the police beating is also black, particularly if they think the justice system is unfair.

--Table 4 about here--

The ordered logit results for the Police Brutality Experiment are presented in Table 4. In the upper portion of the table (Table 4.A), we present the coefficients for the Police Investigation equation. The first two columns of coefficients give the estimates for Model 1, which includes only the additive effects of the variables, without the interactive term. The second two columns give the coefficients for Model 2, which includes the interactive term.

Inspection of the additive model (Model 1) reveals three important patterns. First, both white and black respondents are more suspicious about the police investigation if they believe the justice system, in general, is unfair. Second, the mean levels of agreement with the statement that the police will conduct a fair trial (not reported) are significantly higher for white than for African-American respondents. And third, only blacks' judgments of the likelihood of an investigation are significantly influenced by the race of the victim in the brutality incident. African-American respondents are much less likely to think a fair investigation will occur when the black motorist is subject to police brutality. A similar but much smaller effect is evident for whites, but the coefficient is not significant at the .05 level.

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<sup>13</sup> The two items from the General Fairness scale were selected because general assessments of fairness should serve as better predictors of judgments across a wider variety of situations than the racial fairness items. In addition, the racial fairness items tend to lack variation among blacks, thus restricting their utility for explaining the responses of African Americans. Some 30% of African Americans (but only 8% of whites) are found at the lowest (unfair) point on the General Fairness scale.

The coefficients for the interactive model (Model 2, presented in the last two columns in Table 4.A)<sup>14</sup> indicate a significant interaction between the race-of-target and fairness beliefs for black respondents only. Clearly, the race of the brutalized motorist has a greater impact on judgments of the investigation among black respondents who believe the justice system is unfair.

--Figure 3 about here--

To gain a better understanding of the nature of the interactive effects for black respondents, Figure 3.A displays a graph of the predicted probability that respondents think a fair investigation is likely, broken down by the race of the motorist, arrayed across the perceived fairness index.<sup>15</sup> As already noted, for white respondents, the question of whether the police would conduct a fair investigation turns on prior beliefs about the justice system; the race of the motorist matters little. For black respondents, however, as the graph makes plain, beliefs about fairness only matter when the beaten motorist is black. When the motorist is white, blacks' judgments about the investigation are unaffected by their fairness beliefs. On the other hand, when the motorist is African-American, black respondents who think the system is unfair hold deep suspicions about the likelihood of a fair investigation into alleged police brutality. By contrast, black respondents who believe the justice system is very fair are much more prone to think an open investigation into the officer's conduct is likely, regardless of the race of the motorist. Of course, it is worth noting that even black respondents who think the justice system is very fair are much more suspicious than whites about the police investigation.

In sum, the results of Table 4.A show that while fairness judgments affect the way both races respond to police brutality cases, it is when the victim of brutality is African-American that race and fairness beliefs combine to confirm the deep suspicions that many blacks hold about the fairness of the justice system.

A slightly different pattern of results is revealed in the lower portion of Table 5 (Table 5.B), where the ordered logit estimates for the Officer Punishment models are reported. In this case, the race of the motorist significantly affects whites' as well as blacks' judgments of how severely the officer should be punished if he is found guilty of beating the motorist. In fact, judging from the relative size of the coefficients for Race in the two Model 1 equations, white respondents appear *more* likely than black respondents to be affected by the race of the motorist—i.e., relative to African-American respondents, whites have a larger punishment differential in their preferred treatment of the police officer who brutalized a black motorist relative to a white motorist. Although most whites appear to operate on the assumption that the justice system is “color-blind,” when they are confronted with a clear case of a police officer brutally beating a black motorist (the question specifically informs them that the officer has been found guilty), they are even more likely than black respondents to recommend a stiff punishment for the offending officer.

Once again the results for Model 2 (the interactive model) indicate a significant interaction between Race and Fairness, but only for black respondents. To gain a better

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<sup>14</sup> Given the coding of the Race and Fairness variables, the coefficients for these two variables in the interactive model can be interpreted as follows. The coefficient associated with Race indicates the impact of the race of the target for people who think the justice system is very unfair, while the coefficient for the Fairness variable indicates the effect of fairness beliefs when the motorist is black. Of course, the conditional effects of Race and Fairness are only meaningful for those models where the interaction term is significant.

<sup>15</sup> Predicted probabilities were generated based on the ordered logit results in Table 4 using Long's (2001) *Spout* program in STATA 7. Predicted probabilities are generated for a likely (very likely + somewhat likely) response, varying Race-of-Target and Fairness, and holding other variables at their mean.

understanding of the nature of the interactive effects for black respondents, we return to Figure 3, this time to the middle panel (Figure 3.B) where the predicted probability of recommending a prison term for the offending officer is plotted by the race of the motorist across the perceived fairness index. One feature that the current graph has in common with the previous one is that fairness beliefs only make a difference in blacks' judgments when the motorist is African-American. Although the probability of recommending a stiff prison term for the offending officer is constant over levels of fairness when the motorist is white, when the motorist is African-American, black respondents are much more likely to recommend a stiff punishment for the officer if they believe the system is very unfair. The result is that blacks who believe the system is *unfair* are more likely to recommend stiffer punishment when the motorist is *black* than when he is *white*. Among blacks who believe the system is *very fair*, however, they are more likely to recommend a prison term for an officer guilty of beating a *white* motorist than a black motorist.

*Stop and Search Experiment.* In the Stop and Search Experiment, we describe a different scenario, followed immediately by two questions:

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

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

By varying the race of the suspect, our aim is to determine the degree to which whites' and blacks' judgments of the search (Was it reasonable?), and the judged credibility of the police versus the men (Did the police plant the evidence?), are affected by race. More importantly, we are able to assess the impact of beliefs about fairness and how they differentially affect respondent attitudes across the treatment groups.

--Table 5 about here--

Table 5 displays the ordered logit results obtained by estimating equations very similar to those estimated for the Police Brutality Experiment. Results for the first question (Reasonable Search?) are presented in Table 5.A, while those for the second question (Believe Police?) are presented in Table 5.B. For the Reasonable Search question, the results for the additive model (Model 1) reveal a familiar pattern: the evaluations of both black and white respondents are affected by the race of the targets and fairness beliefs. And for black respondents only, the interaction between race and fairness is statistically significant. The interaction, as revealed in a predicted probability plot at the bottom of Figure 3 (Figure 3.C), demonstrates fairness only substantially affects the judgments of black respondents who are evaluating the police search of African-American suspects. Among the third of the black sample who rate the justice system as

very unfair, the predicted probability that the police search of the black men is unreasonable approaches 90 percent. By contrast, black respondents who think the system is very fair are likely to conclude the police search is reasonable, regardless of the race of the suspects.

Results for the second question (Believe Police?) are presented in Table 5.B. In this case, attention can be restricted to the additive models because the interaction between Race-of-Suspects and fairness beliefs proved to be insignificant for both black and white respondents. Although the impact of fairness beliefs is significant for respondents of both races, the effects are stronger for whites than blacks, such that individuals who view the justice system as unfair are more likely to believe the police planted the drugs on the two men. Judging from the coefficients for Race-of-Suspects, white as well as black respondents are significantly more likely to believe the suspects when they are black than when they are white, but the effects are much stronger for black respondents. These patterns become more clear in the graph in Figure 3.D. Black individuals are much more likely to side with the suspects over the police than are white respondents (whose predicted probability of believing the men approaches 0), and this is particularly true if the suspects are African American and the respondent holds cynical views of the CJS.

## Summary

In conclusion, consistent with our expectations, beliefs about the fairness of the justice system have important consequences for the way the races interpret events, as suggested by the results of the two experiments. In the first place, individuals who are more cynical about the justice system are more cynical about justice being administered fairly in a number of specific situations. They are, as demonstrated, less likely to believe that the police department can fairly investigate a charge of police brutality, more punitive toward the police officer if he is found guilty, less likely to see the search of the two men as reasonable, and less likely to believe the police vis a vis the men. These findings are applicable to both white and African-American respondents.

These same cynical interpretations are encouraged by the race of the target—i.e., respondents are less sympathetic to the police in both experiments when the motorist/pedestrian is described as black rather than white. This effect is both stronger and more consistent for African-American than for white respondents, who, with only one exception (the punishment of the police officer), tend to regard the system as more “color blind” than do the black respondents. Given the suspiciousness with which many African-Americans perceive the justice system, as reported in the first part of this analysis, it is not surprising to find a tendency for many of them to fault the police officers mainly in the scenarios when the officers are interacting with a black victim of police brutality and black suspects in a drug search.

[Among whites, in most circumstances the race of the target is not a major predictor of how they respond to the scenarios. It is only when whites are told explicitly that the police officer is guilty of beating a black motorist that whites’ reactions hinge on the race of the target.

Beliefs about fairness and the race of the target affect blacks’ judgments, but it is their interaction that matters most. In the first place, fairness judgments only matter when the target is black. Blacks’ responses to the white target are essentially flat over the fairness scale. But when the target is black, fairness judgments matter a great deal. They appear to be activated and mobilized. This indicates that fairness judgments have strong racial overtones for blacks. In

addition, the race of the target appears to matter most for blacks who think the system is unfair. Blacks who think the system is unfair assume African American targets will be treated much less fairly by the police than white targets will. On the other hand, among blacks who think the system is very fair, race matters less and if there is a bias in their judgments it is for the white versus the black target.

This is not to say, however, that blacks who feel the system is unfair operate like whites. Generally speaking, blacks at almost every level of fairness are more cynical than whites about the possibility of justice in the CJS???

Aside from these additive effects of fairness beliefs, however, such beliefs interact with the race of the target in a variety of incendiary situations, but only for black respondents. Blacks who perceive the CJS to be essentially fair are mainly unaffected by the race manipulation, responding essentially similarly regardless of whether the motorist or suspects are white or African-American. In fact, in the case of judging punishment for an officer guilty of beating a motorist, these respondents are even less likely to punish severely the officer accused of beating the black motorist than the white motorist. It is primarily among African-American respondents who perceive unfairness in the justice system that the race manipulation matters, as these individuals judge the police encounters to be more pernicious when the targets are black than when they are white. This pattern makes perfect sense inasmuch as an overall judgment of unfairness can be expected to influence evaluations in specific situations only, or at least primarily, when the system is believed to be at its weakest—when the system “processes” African-American citizens.

## CONCLUSION

Our investigation of the antecedents and consequences of fairness beliefs among whites and blacks has been wide-ranging. We therefore conclude with a brief overview of our most important findings. First, our investigation of the sources of whites’ and blacks’ beliefs about the fairness of the CJS revealed a wide chasm between the races, with African Americans being much less likely to view the system as fair than whites. It is difficult to over-emphasize the power of race to explain differences in judgments of fairness. Even after the effects of a range of pertinent social and political characteristics are accounted for, the polarizing effects of race remain significant and powerful. Indeed, race is the dominant fault line in evaluations of the CJS. Other political and social cleavages are clearly secondary to race when it comes to evaluating the fairness of the CJS.

Another important finding concerns the power of personal experiences to shape African Americans’ views of the CJS. Blacks who report being treated unfairly by the police are significantly more likely to rate the justice system as unfair, and this is true whether the justice system is defined in terms of the courts, the police or the justice system in general. We can only conclude that widespread reports of law enforcement engaging in racial profiling and stopping citizens for “driving while black” are having a corrosive effect on support for the CJS in the African American community.

A third important finding is that fairness judgments have important consequences for the way whites and blacks react to specific events in the justice system. Based on our analysis of survey experiments where we manipulated the race of the victim in a police brutality case and

the race of the suspects in a police drug search, fairness judgments play a powerful role in shaping interpretations of police behavior. For both races, individuals who are more cynical about the system are naturally more cynical in their interpretations of police behavior. But what is most striking about the experimental findings is that among African Americans, these beliefs are primarily important in cynical interpretations of scenarios *when blacks are the possible target of discrimination*. This suggests that for many African Americans even more general assessments of the fairness of the CJS have strong racial undertones.

## **Appendix**

### **Survey Items**

#### **Fairness Items**

##### **Racial Fairness:**

Now I'm going to read you several statements that some people make about problems with the justice system in their community. As I read each one, please rate how serious it is in your community on a 7 point scale, where 1 means it is not a problem and 7 means it is a serious problem.

1. Courts that give harsher sentences to African-Americans than to whites.
2. Police who stop and question blacks far more often than they stop whites.
3. Police who care more about crimes against white people than crimes against minorities.
4. Do you feel that African-Americans in your community are treated less fairly than whites in dealing with the police, such as traffic incidents?

##### **General Fairness:**

5. The justice system in this country treats people fairly and equally.
6. The courts in your area can usually be trusted to give everyone a fair trial.

#### **Equality**

7. One of the big problems in this country is that we don't give everyone an equal chance.  
(Reverse coded)
8. We shouldn't worry so much about how equal people are in this country.

Items 5-8 provided four response options ("strongly agree," "somewhat agree," "somewhat disagree," and "strongly disagree.")

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**Table 2. Predicting Perceptions of Fairness in the Criminal Justice System by Race**

<b>Indep. Variables</b>	<b>Police Stopping Blacks a Problem</b>	<b>Courts Racially Biased a Problem</b>	<b>Police Care More Crime agst Whites a Problem</b>	<b>Police Treat Blacks Less Fairly</b>	<b>Disagree Justice System Fair</b>	<b>Disagree Courts Fair</b>
Race	1.59**(.16) .35	1.73**(.16) .38	1.49** (.16) .34	.23** (.04) .24	.46** (.08) .24	.40** (.08) .19
Treated Unfairly	.24** (.08) .09	.22** (.08) .08	.14* (.07) .06	.05* (.02) .09	.14** (.04) .12	.16** (.04) .12
Black Stereotype	.02 (.01) .09	-.01 (.01) -.05	-.001 (.01) -.004	-.003 (.003) -.06	-.002 (.005) -.02	-.002 (.006) -.02
White Stereotype	.04** (.01) .13	.06** (.01) .20	.07** (.01) .23	.004 (.003) .06	.003 (.006) .02	.018*(.006) .13
Equality	.22** (.04) .16	.21** (.04) .15	.14** (.04) .10	.06** (.01) .19	.12** (.02) .20	.11** (.02) .17
Ideology	-.04 (.03) -.04	-.03 (.03) -.02	-.05 (.03) -.05	-.01 (.008) -.04	-.01 (.02) -.02	-.01 (.02) -.02
Party ID	-.09* (.03) -.08	-.07* (.03) -.07	-.08* (.03) -.08	-.03**(.01) -.12	-.009 (.02) -.02	-.01 (.02) -.03
Political Knowledge	.07 (.07) .03	.03 (.07) .01	.14* (.07) .06	.03 (.02) .05	-.003 (.03) -.003	.01 (.04) .01
Education	.07 (.05) .04	.11* (.05) .07	.06 (.05) .03	.05** (.01) .13	.01 (.02) .01	.03 (.03) .08
Gender	.08 (.12) .02	-.18 (.12) -.04	.07 (.12) .01	.04 (.03) .04	.25** (.06) .12	.18* (.06) .09
Age	-.003 (.004) -.02	.001 (.004) .006	-.003 (.004) -.02	-.001 (.001) -.02	.002 (.002) .03	-.001 (.002) -.02
Income	-.06 (.04) -.04	-.11* (.04) -.08	-.05 (.04) -.03	-.02 (.01) -.06	-.01 (.02) -.02	-.03 (.02) -.04
N	967	966	977	912	1001	989
R2	.39	.39	.36	.26	.20	.19
Adj R2	.39	.39	.35	.25	.20	.19

\*p > .05, \*\*p < .01

Note: Coefficients are unstandardized regression coefficients from OLS with standard errors in parentheses and standardized coefficients below. The above variables are coded so that higher values indicate: believing that police treat blacks less fairly, courts racially biased, police stopping blacks a problem, police caring more about crimes against whites a problem, disagree justice system fair, disagree courts fair, black, personally treated unfairly by the police, more negative stereotypes, greater equality, more conservative, Republican, higher knowledge, more education, female, and older.

**Table 3. Predicting Perceptions of Fairness in the Criminal Justice System by Race**

<b>Independent Variables</b>	<b>Racial Fairness of CJS (Blacks)</b>	<b>Racial Fairness of CJS (Whites)</b>	<b>General Fairness of CJS (Blacks)</b>	<b>General Fairness of CJS (Whites)</b>
Treated Unfairly	.40** (.10) .18	.04 (.15) .02	.21** (.08) .12	.50** (.12) .18
Black Stereotype	-.032* (.016) -.10	.002 (.02) .01	-.018 (.012) -.08	.024 (.016) .11
White Stereotype	.08** (.02) .23	.05* (.02) .17	.01 (.01) .04	.004 (.02) .02
Equality	.20** (.17) .14	.30** (.06) .25	.33** (.05) .29	.13** (.05) .13
Ideology	.01 (.05) .01	-.14** (.05) -.16	.02 (.04) .03	-.10* (.04) -.12
Party ID	-.27** (.07) -.18	-.02 (.05) -.02	-.10* (.05) -.09	.03 (.04) .04
Political Knowledge	.13 (.12) .06	-.06 (.10) -.03	.06 (.09) .03	-.03 (.08) -.02
Education	.15 (.09) .09	.18** (.07) .13	.05 (.07) .04	.04 (.05) .03
Gender	-.02 (.21) -.01	-.36* (.18) -.10	.25 (.16) .07	.63** (.14) .19
Age	.01 (.01) .07	-.01* (.006) -.10	.01 (.01) .04	-.01 (.01) -.06
Income	-.22** (.07) -.15	-.01 (.06) -.05	-.03 (.06) -.03	-.08 (.05) -.07
N	462	419	487	499
R2	.16	.17	.13	.14
Adj R2	.14	.14	.11	.12

\*p > .05, \*\*p < .01

Note: Coefficients are unstandardized regression coefficients from OLS with standard errors in parentheses and standardized coefficients below. The above variables are coded so that higher values indicate: believing that blacks are treated less fairly by police and courts, disagreeing that the justice system is fair, personally treated unfairly by the police, more negative stereotypes, greater equality, more conservative, Republican, higher knowledge, more education, female, and older.

**Table 4. Police Brutality Experiment**

A. How likely is that the police department will conduct a fair and thorough investigation of the policeman’s behavior (1 = very likely)?

<b>Independent Variables</b>	<b>Fair Investigation Unlikely? Model 1 (blacks only)</b>	<b>Fair Investigation Unlikely? Model 1 (whites only)</b>	<b>Fair Investigation Unlikely? Model 2 (blacks only)</b>	<b>Fair Investigation Unlikely? Model 2 (whites only)</b>
<b>Race of Victim (black=0)</b>	-0.97** (.16)	-0.23 (.16)	-1.90** (.41)	-0.02 (.55)
<b>CJS Fairness (hi=fair)</b>	-0.16** (.05)	-0.23** (.02)	-0.29** (.07)	-0.45** (.07)
<b>Race X Fairness</b>	---	---	.23** (.09)	-0.04 (.10)
<b>N</b>	559	570	559	570

B. If he is found guilty of beating the motorist, how should the policeman be punished (1 = least severe punishment)?

<b>Independent Variables</b>	<b>Officer Punishment? Model 1 (blacks only)</b>	<b>Officer Punishment? Model 1 (whites only)</b>	<b>Officer Punishment? Model 2 (blacks only)</b>	<b>Officer Punishment? Model 2 (whites only)</b>
<b>Race of Victim (black=0)</b>	-0.32* (.16)	-0.52 ** (.16)	-1.20** (.44)	-0.40 (.55)
<b>CJS Fairness (hi=fair)</b>	-0.14** (.05)	-0.10* (.05)	-0.27** (.08)	-0.08 (.07)
<b>Race X Fairness</b>	---	---	.22* (.10)	-0.02 (.10)
<b>N</b>	554	565	554	565

Note: Entries are ordered logit regression coefficients with standard errors in parentheses. Higher values on the above variables indicate: fair police investigation unlikely, more severe punishment of guilty officer, white motorist/victim of police brutality, and a belief that justice system is very fair. Estimates are independent of the effects of Equality, Black Stereotypes, White Stereotypes, and Education (not shown).

**Table 5. Stop and Search Experiment**

A. Do you think this is definitely a reasonable search (1), probably a reasonable search (2), probably not a reasonable search (3), or definitely not a reasonable search (4)?

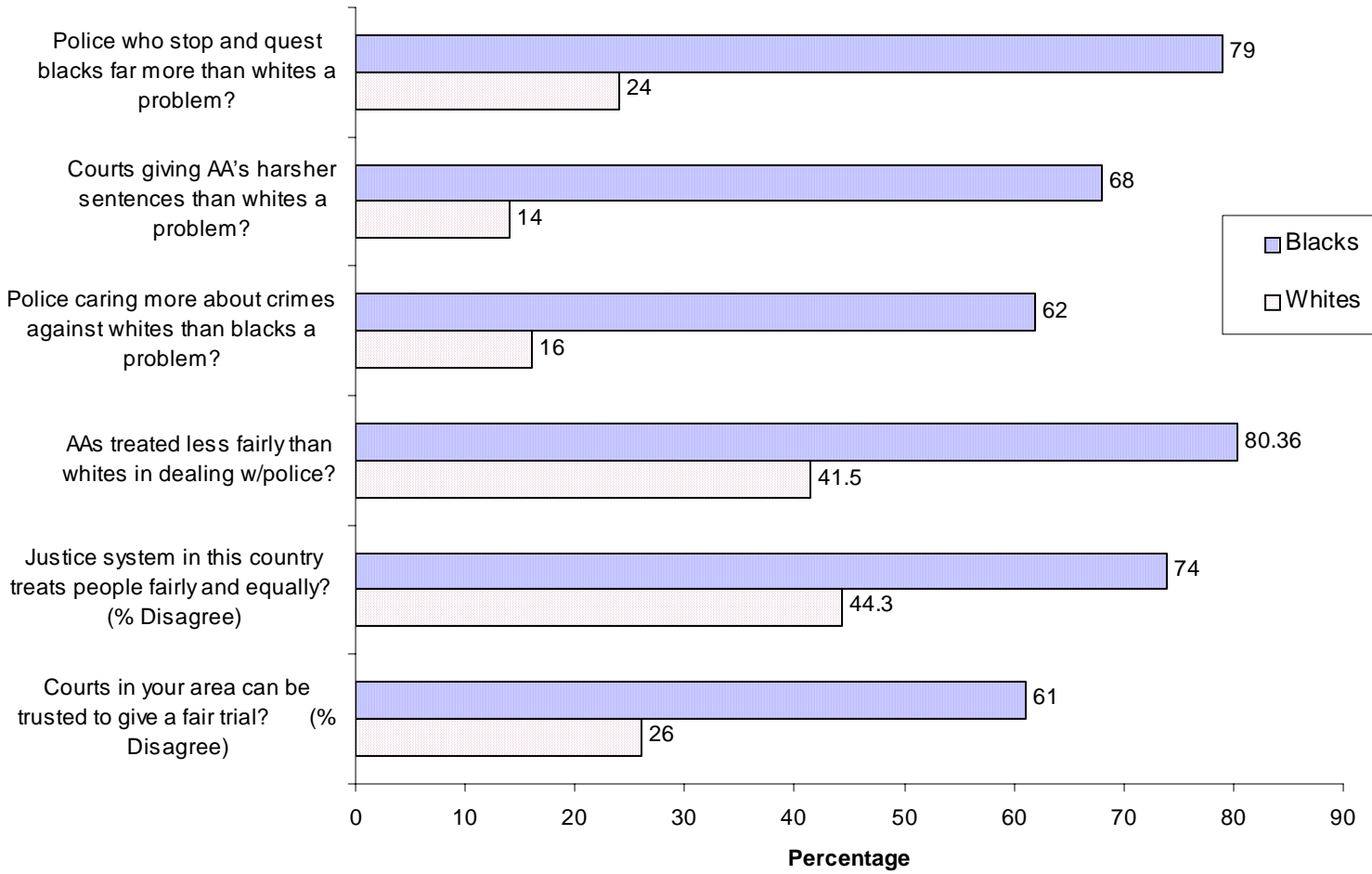
<b>Independent Variables</b>	<b>Reasonable Search? Model 1 (blacks only)</b>	<b>Reasonable Search? Model 1 (whites only)</b>	<b>Reasonable Search? Model 2 (blacks only)</b>	<b>Reasonable Search? Model 2 (whites only)</b>
<b>Race of Men (black=0)</b>	-.37* (.15)	-.31* (.15)	-1.05** (.39)	-.30 (.55)
<b>CJS Fairness (hi=fair)</b>	-.18** (.05)	-.14** (.05)	-.27** (.07)	-.13* (.07)
<b>Race X Fairness</b>	---	---	.17* (.09)	.002 (.10)
<b>N</b>	551	576	551	576

B. Who are you more likely to believe--the police, who claim the two men were carrying drugs (1 = very likely to believe police, 2 = somewhat likely), or the two men, who claim the police planted the drugs on them (3 = somewhat likely, 4 = very likely)?

<b>Independent Variables</b>	<b>Believe Police? Model 1 (blacks only)</b>	<b>Believe Police? Model 1 (whites only)</b>	<b>Believe Police? Model 2 (blacks only)</b>	<b>Believe Police? Model 2 (whites only)</b>
<b>Race of Men (black=0)</b>	-.99** (.18)	-.49** (.17)	-1.48** (.45)	.42 (.63)
<b>CJS Fairness (hi=fair)</b>	-.10* (.05)	-.27** (.06)	-.17* (.07)	-.26* (.08)
<b>Race X Fairness</b>	---	---	.12 (.10)	-.01 (.11)
<b>N</b>	451	510	451	510

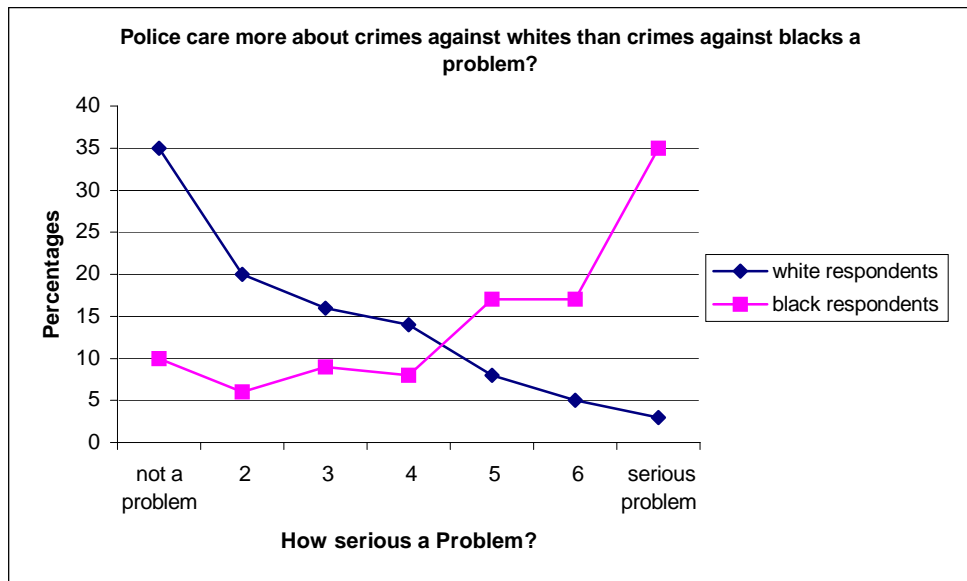
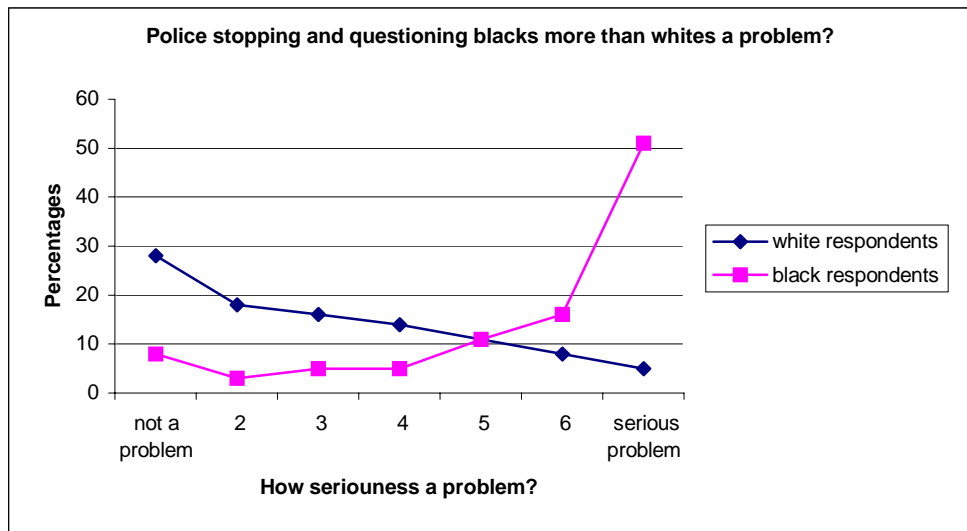
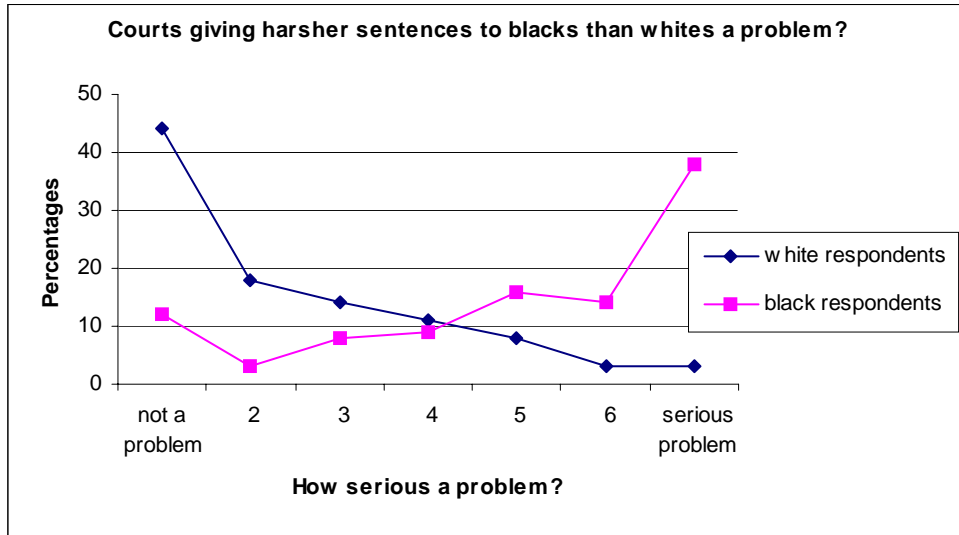
Note: Entries are ordered logit regression coefficients with standard errors in parentheses. Higher values on the above variables indicate: judging the police search as unreasonable, believing the men versus the police, white versus black suspects, and a belief that justice system is very fair. Estimates are independent of the effects of Equality, Black Stereotypes, White Stereotypes, and Education (not shown).

**Figure 1. Racial Differences in Perceived Fairness of Criminal Justice System**



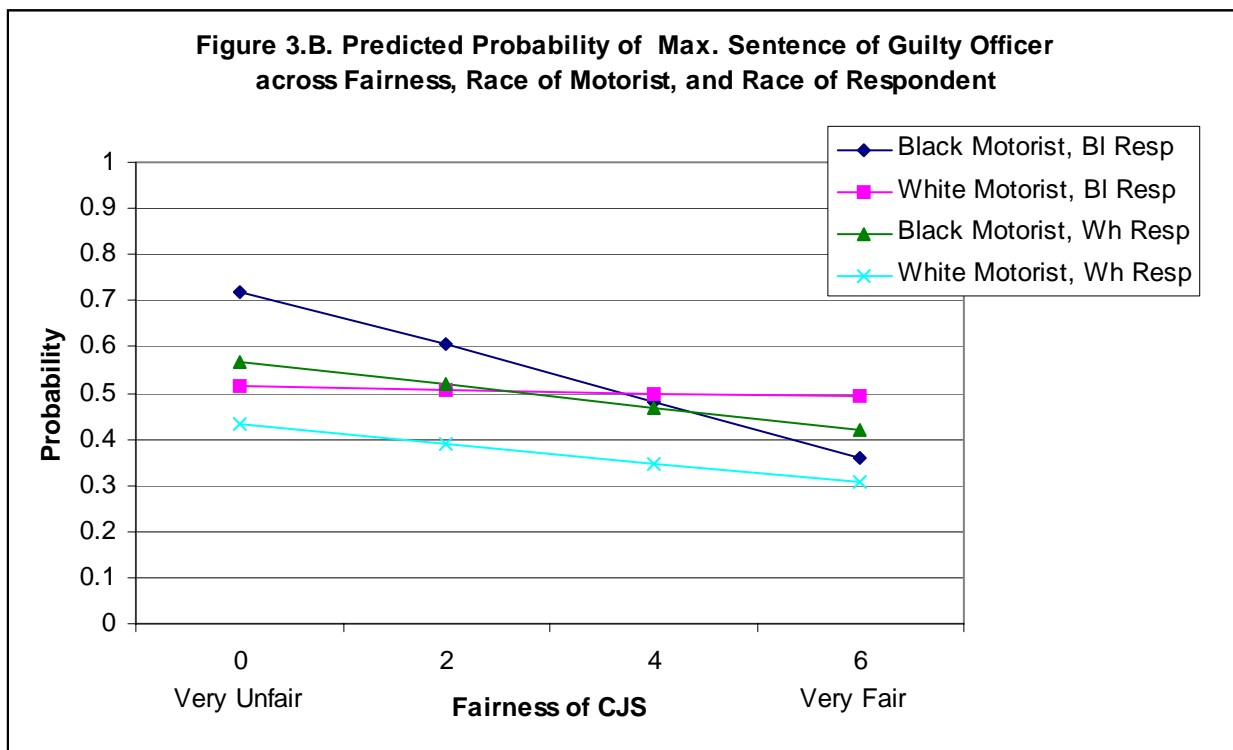
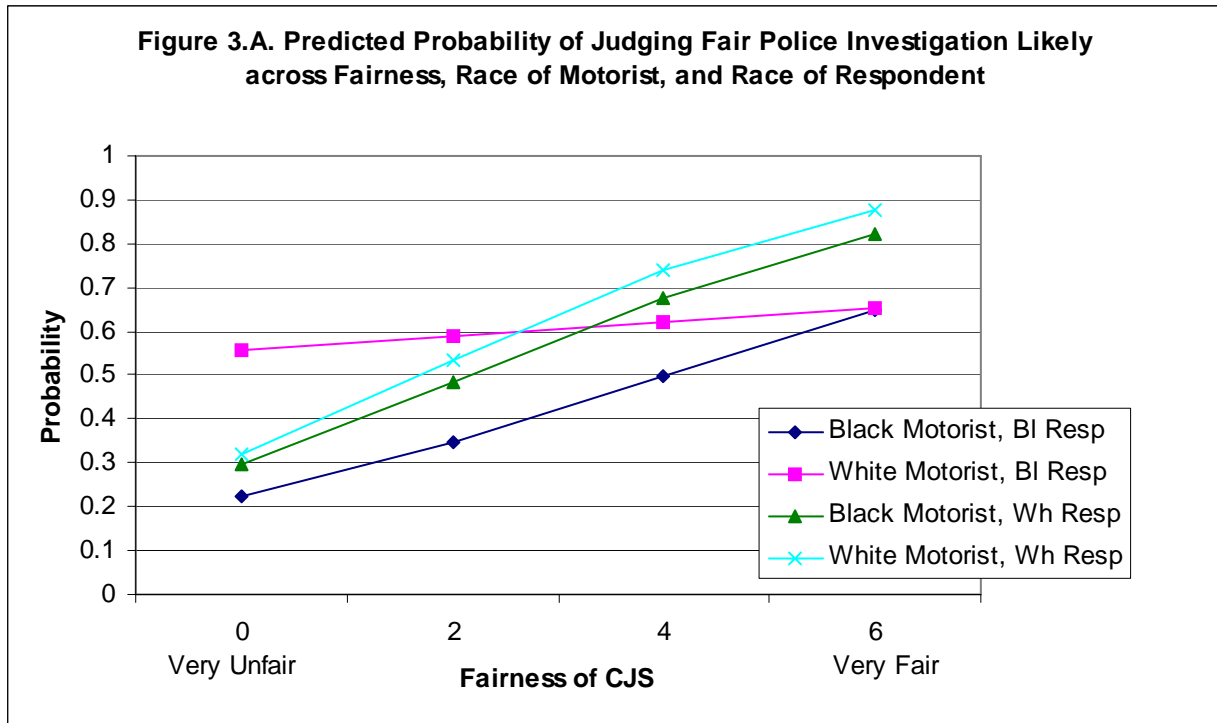
Source: National Race and Crime Survey, 2001

**Figure 2. Magnitude of Inter-Racial Differences on Selected Questions of Racial Fairness**



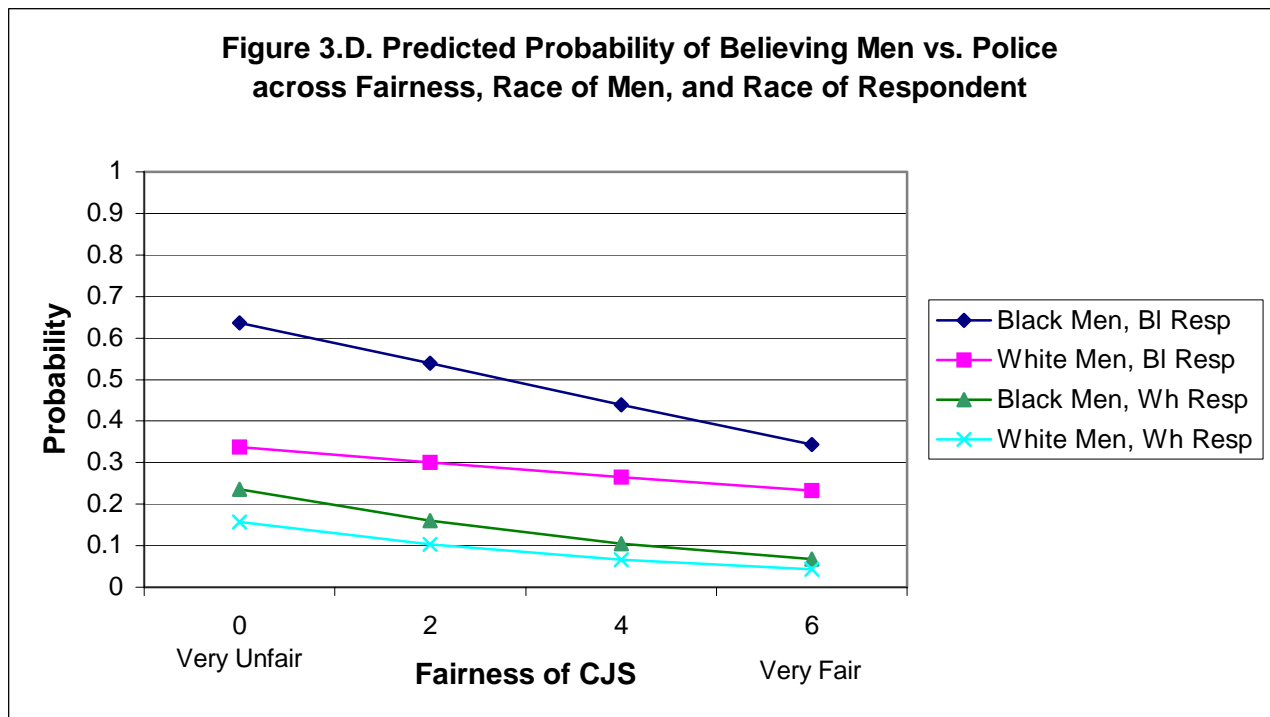
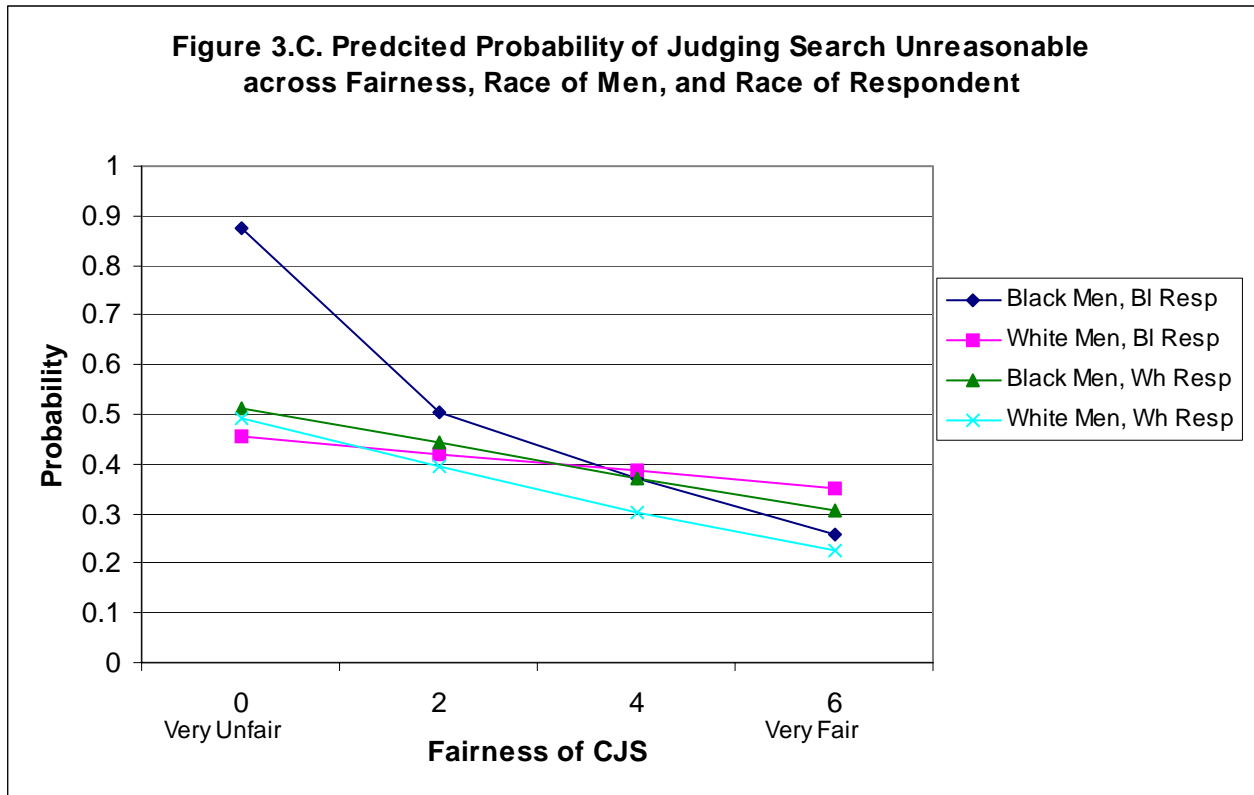
Source: National Race and Crime Survey, 2001

**Figure 3. Predicted Probabilities Depicting Interactions between Race of Target and Fairness for Black and White Respondents**



Source: Race and Crime Survey, 2001

**Figure 3. Predicted Probabilities Depicting Interactions between Race of Target and Fairness for Black and White Respondents (Cont'd)**



Source: Race and Crime Survey, 2001