

Misconduct in the Prosecution of Severe Crimes: Theory and Experimental Test*

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Prosecutorial misconduct involves the intentional use of illegal or improper methods for attaining convictions against defendants in criminal trials. Previous research documented extensive errors in the prosecution of severe crimes. A theory formulated to explain this phenomenon proposes that in serious cases, increased pressure to convict encourages misconduct; further, serious cases increase perceptions of the suspect's guilt, which facilitate justification of the misconduct. A controlled laboratory experiment allows tests of theoretically derived predictions while controlling for extraneous factors common in naturally occurring settings. University undergraduate participants were assigned randomly to prosecute a contrived case of murder or assault; otherwise the two cases were identical. Results showed that participants improperly withheld exculpatory evidence from the defense more often in the murder case than in the assault case. Further, participants prosecuting the murder case expressed a stronger belief in the defendant's guilt than did participants in the assault case. Implications for future research in naturally occurring settings are discussed.

The high incidence of procedural errors in the prosecution of serious crimes has caught the attention of legal scholars and social researchers (Gershman 1992; Meares 1995). New investigatory techniques such as DNA testing have led to the overturning of numerous convictions for rape and murder. Bedau and Radelet (1987) found more erroneous convictions in capital murder cases than had been reported in published collections for all other kinds of cases. In an overview, Rattner (1988) found that although homicides represent less than 2 percent of all criminal convictions, they account for 45 percent of known erroneous convictions.

One explanation for these findings is that prosecutors succumb to increased pressure to convict in more serious cases (Gross 1996). Thus, they are more likely to cut procedural corners and use their belief in the defen-

dant's guilt to justify their misconduct. Do severe crimes encourage more prosecutorial misconduct than do minor crimes?

To answer that question, we use an experimental approach more common to basic research in social psychology than to studies of the legal system.¹ Laboratory experiments commonly are used to test theories that explain abstract processes removed from any naturally occurring situation in research areas, such as status processes in groups and network effects on social exchange.² The goal of such studies is not to

¹ Although basic experimental research is uncommon in studies of the legal system, exceptions exist. Nagin and Pogarsky (2002), for example, tested theories of crime deterrence in an experimental study involving cheating by students. Their findings were consistent with, and added to, the long tradition of nonexperimental research on crime deterrence. The results of their study led Nagin and Pogarsky to call for more basic experimental research on aspects of the criminal justice system.

² For recent examples of studies in these areas, see Correll (2004); Molm, Peterson, and Takahashi (2003).

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establish the occurrence or frequency of some new phenomenon. Instead, basic research attempts to test theories that explain *why* established social phenomena might occur.

In our study, rather than attempting to discover *whether* misconduct occurs more frequently in the prosecution of severe crimes, we assume that it does so, on the basis of accumulated evidence from studies using other methods. We then use the scientific control possible in a laboratory experiment to test a theory that may explain why serious cases might generate more prosecutorial misconduct than minor cases.

A laboratory approach is a useful complement to studies in complex naturally occurring settings because studies of the legal system generate many possible alternative explanations. For example, an alternative plausible explanation for finding more errors in the prosecution of severe crimes is that more effort is spent in trying to discover errors in such cases. More media attention is focused on these cases (Pritchard 1986). Moreover, the legal system provides more checks to prevent the conviction of innocent defendants in cases where penalties are more serious. For example, the thorough appeal process mandated in death penalty cases is more likely to expose existing errors than would appeals in cases carrying less severe penalties. Thus researchers might find more errors in the prosecution of serious cases even if errors actually occurred just as frequently in minor ones (Gross 1996).

The laboratory makes it possible to discover whether increased pressure to convict in a more serious case can produce an increase in prosecutorial misconduct, and whether an increased belief in the defendant's guilt could help justify that misconduct. If laboratory research validates the theory, it can be used to guide future research to investigate conditions in naturally occurring settings that would exacerbate or mitigate the process found in the laboratory to increase prosecutorial misconduct.

RELEVANT RESEARCH AND THEORETICAL DEVELOPMENT

The discovery of numerous errors in the prosecution of severe crimes raises a ques-

tion: Do serious criminal cases encourage prosecutorial misconduct (Gross 1996; Meares 1995). Prosecutors theoretically may face increased pressure to convict in trials involving serious crimes, and rewards for high conviction rates in serious cases obtained by prosecutors could lead to higher rates of misconduct in the prosecution of severe crimes. Moreover, if attaining a conviction is more important to prosecutors and if they tend to believe that defendants are guilty in serious cases, then prosecutors could justify their misconduct more easily.

The United States legal system operates under a model of distributive justice based on fault; in this system, it is presumed that severity of crime does not alter perceptions of guilt (MacCoun 1996; Robbennolt 2000). Evidence indicates, however, that more severe crimes may be accompanied by stronger beliefs in a defendant's guilt (Bornstein 1998; Myers 1980). Robbennolt (2000) conducted a meta-analysis of 75 empirical studies on the relationship between outcome severity and perception of responsibility on the part of a potentially accountable individual. The meta-analysis found significantly greater blame attributed to potential perpetrators of more severe crimes. Thus, as the consequences of an act become more severe, the responsibility attributed to the actor becomes greater. In cases involving similar evidence of an individual's guilt, for example, the individual is more likely to be considered guilty by others when the consequences for the victim are more severe (Howe 1991; Sanderson, Zanna, and Darly 2000).

On the basis of this evidence, we propose that when a crime is more severe, prosecutors will be more likely to believe that a suspect is guilty. We further propose that perceptions of guilt may increase the likelihood of misconduct and provide justification. The extensiveness of prosecutorial misconduct in criminal trials in the United States has been well documented (Harmon 2001; Lofquist 2001; Nidiry 1996; Radelet and Bedau 2001), and some observers argue that it is becoming more widespread (Gershman 2001; Lawless and North 1984). It is important to understand the factors that produce this misconduct (Meares 1995); per-

ceptions of a defendant's guilt may be one such factor.

A large body of research demonstrates that individuals develop situation-specific attitudes on the appropriateness of dishonest behavior. Ethical considerations of the situation, for example, are important predictors of such behavior (Birbeck and LaFree 1993; LaBeff et al. 1990). In the case of prosecutorial misconduct, unethical decisions may be tied to "noble cause corruption," in which illegal actions violate citizens' rights for moral reasons (Delattre 1989; Harrison 1999). Because situational factors affect dishonesty, it seems likely that perceptions of the immorality of misconduct decrease as perceptions of a defendant's guilt increase.

We propose, then, that more severe crimes will be accompanied by greater belief in a defendant's guilt. We further propose that more severe crimes will be accompanied by greater misconduct than will less severe crimes. Also, because we believe that perceptions of guilt will provide prosecutors with greater justification for misconduct in trials involving serious crimes, we predict that prosecutors will attach greater personal importance to attaining a conviction when crimes are more severe than when they are less severe.

HYPOTHESES

We propose that perceptions of guilt will increase as the severity of a crime increases. Research has found that in cases of identical law violations, perceivers are more likely to believe that potential offenders are guilty when outcomes are more severe.³ Thus we make the following prediction:

Hypothesis 1: Participants prosecuting a murder will be more likely to believe that the

defendant is guilty than will participants prosecuting an assault.

Increased perceptions of guilt may increase the likelihood of misconduct as prosecutors attach greater importance to the attainment of a conviction. Thus we predict that the personal importance of attaining a conviction will increase as severity of crime increases:

Hypothesis 2: Participants prosecuting a murder will view the attainment of a conviction as more personally important than will participants prosecuting an assault.

We also propose that misconduct will become more likely as severity of crime increases. Research indicates that dishonesty will become more likely as justifications for the behavior increase; we propose that higher perceptions of guilt and a higher perceived importance of attaining a conviction will provide such justification. This leads to the following prediction:

Hypothesis 3: Participants prosecuting a murder will be more likely to engage in misconduct toward attaining a conviction than will participants prosecuting an assault.

To test these hypotheses, we compare the behaviors and attitudes of individuals prosecuting murders and assaults in contrived criminal trials. Our hypotheses are based on an assumption that participants will view murders as more severe than assaults. If these hypotheses are supported but if participants do not view murders as more severe than assaults, our theoretical propositions will not be supported. Thus we measure participants' perceptions of crime severity through a questionnaire item. In keeping with our theoretical rationale, we expect participants assigned to murder trials to indicate higher perceptions of crime severity than participants assigned to assault trials.

WHY EXPERIMENT?

Different kinds of experiments are conducted to address research problems in different ways, ranging from field experiments

³ In trials in naturally occurring settings, we might expect individuals to be predisposed to believe that a defendant for a more serious crime is guilty because of a belief that the defendant would not be charged for a serious offense unless the evidence of his or her guilt was overwhelming. Research on mock juries (e.g., Freedman et al. 1994), however, has found evidence against these sorts of predispositions. Nevertheless, we carefully constructed our experimental protocol so that participants in experimental conditions could see the process that led from the identification of the defendant as a suspect through

his being charged with a crime; this process was identical across the two conditions.

that alter naturally occurring social situations as little as possible to basic social science experiments that recreate only the elements of a social setting deemed theoretically relevant (Lovaglia 2003). In criminal justice research, experimentation perhaps is used most extensively to investigate behavior in mock juries that are constructed to mirror the conditions of actual juries. Researchers then can change key aspects of the mock setting to determine the effects of those changes on jurors' behavior. Bornstein (1999) concluded that results obtained from mock juries generalize well to the courtroom. Diamond (1997) found that even though mock jury designs are not becoming better able to simulate naturally occurring jury conditions, their results still affect court rulings significantly.

An advantage to testing theoretical explanations with experiments is that experiments control for extraneous factors found in complex naturally occurring settings which may mask fundamental processes (Lucas 2003). Our experiment, for example, can create identical conditions for all participants except the severity of the crime that participants prosecute. Moreover, participants then can be assigned at random to prosecute either a more severe or a less severe crime, with controls for individual differences among participants. If significant misconduct differences between the experimental conditions are found in the predicted direction, this finding would constitute strong evidence that severity of crime encourages prosecutorial misconduct.

When such an understanding is gained from testing theories that explain why social phenomena occur, it then can suggest research using different methods that assess the extent of a social phenomenon in a particular setting. For example, a laboratory experiment investigating prosecutorial misconduct will not provide direct evidence of the extent or frequency of misconduct by working prosecutors. It can, however, help us understand the conditions that encourage wrongdoing. Future research using other methods then can investigate the conditions faced by working prosecutors that may affect the occurrence of misconduct.

METHODS

Design

We designed a controlled experimental setting that allowed us to compare participants' misconduct when prosecuting a contrived case of severe crime (murder) with their misconduct when prosecuting a less severe crime (assault). The design also allowed us to measure participants' assessments of the defendant's guilt. Each participant was assigned randomly the position of prosecuting a defendant for either murder or assault.

Participants first constructed a case against a defendant. In assembling this case, they had the opportunity to engage in misconduct to increase the likelihood of conviction. Participants then answered a number of questions on their perceptions and behaviors.

Procedure

Participants were recruited from introductory classes at a large Midwestern university and were paid for their participation. Before the beginning of the experiment, each participant was assigned randomly to a criminal case, either murder or assault. In the murder condition, a victim died from injuries sustained during an attack; in the assault condition, the victim recovered fully. Aside from this difference, the materials given to all participants were identical.

Upon arriving for the experiment, each participant was told that as part of the study, he or she would be acting as a defense attorney, a prosecuting attorney, or a judge in a contrived criminal trial. The participant then was asked to draw one of three slips of paper from a hat to determine his or her role in the study. All the slips, however, contained the word *prosecutor*, so participants always acted as prosecuting attorneys in the study.

The participant then read a packet titled "Police Report," which he or she believed also would be read by the defense attorney and the judge. The report followed a chronological sequence of events, beginning with a call to the police department of Centralia (a fictional city) to report a missing person and ending with criminal charges against a defendant.

By reading the police report, participants learned that police officers traveled to the residence of the individual reported missing. They found the home ransacked and a body in the front hallway. The police report noted that officers then called emergency medical personnel. According to the participant's condition, the medical personnel either pronounced the individual deceased (murder condition) or fully recovered from his injuries in days (assault condition).

Participants learned from the police report that fingerprints on the front door of the victim's home matched those of a convicted felon. After this individual was interviewed, participants read, he left Centralia and was arrested in another city. The police report ended with an indictment against the individual for murder (murder condition) or assault (assault condition).

After reading the police report, participants read a form titled "Facts Relevant to the Case." They believed that both the judge and the defense attorney in the case would read the same form. It described several details of the case; most of these pointed to the defendant as the most likely suspect. Some materials, however, indicated the victim's wife as a possible suspect.

Participants then read a form titled "Your Job—Prosecutor," which explained the duties of the prosecuting attorney during the study. Participants learned that prosecuting attorneys, defense attorneys, and judges would complete the study at different times. Prosecuting attorneys and defense attorneys, they read, assembled cases to present to the judge. The form led participants to believe that if they had been selected as judges, they would have received materials compiled earlier by prosecuting and defense attorneys.

"Your Job—Prosecutor" emphasized that the participants were not to act as detectives: they were not attempting to determine who committed the crimes against the victim. The prosecuting attorney's job, according to the instructions, was only to present the case against the defendant to the best of his or her ability. This would be accomplished by convincing the judge of the defendant's guilt.

Participants also learned that they would be paid on the basis of how well they presented the case against the defendant. They were told that they would receive \$10 for partici-

pating in the study regardless of the outcome of the trial, but would receive an additional \$5 (sent to the participant later) if the judge returned a verdict of "guilty."

The instructions informed participants that as prosecuting attorneys, they would have special responsibilities in the case. Because the defendant had a court-appointed attorney, the prosecution had significantly more resources in collecting evidence than did the defense. Participants read that they, as prosecuting attorneys, would have access to all police interviews. Further, they were obligated by law to turn over to the defense all materials that might point to the defendant's guilt or innocence. If the participant chose not to turn over any such materials, he or she was not likely to be caught. The instructions emphasized, however, that such actions were illegal and were defined as misconduct.⁴

Participants then learned their duties in the trial. First, they were to read through the interviews obtained by police officers. In all, participants read six interviews containing a total of 60 questions, each numbered individually. The first task was to compile a list of questions from the interviews to turn over to the defense. The second task was to select the 10 police interview questions that the participant thought would be most likely to convince the judge of the defendant's guilt. The final task was to write a one-page closing argument to be read by the judge in the case.

Participants then were given a packet containing the interviews. Information in the interviews generally pointed to the defendant's guilt. Four questions, however, contained information identifying the victim's wife as a potential suspect. In one question, for example, a neighbor identified the car of the victim's wife's boyfriend as present in the victim's driveway on the day of the attack.⁵

⁴ These actions in fact are misconduct in naturally occurring trials. The *Brady* rule requires prosecutors to turn over to defense attorneys interview summaries with witnesses that may exculpate the defendant; this rule, Kurcias (2000) argues, has been laxly enforced.

⁵ Criminal trials often include information provided by victims. We did not include information provided by victims, however, because it would have been different for the assault victim than for the murder victim.

Participants read through the interviews and completed their three duties. First, they indicated pieces of relevant evidence that they wished to turn over to the defense attorney. To complete this task, they were given a form titled "Questions for Defense," which contained the identifying number of each interview question. Participants circled each question on the form that they wished to submit to the defense; they were permitted to circle all, none, or any number of these questions. We determined misconduct by noting the number of the four questions pointing to the victim's wife as a suspect that participants chose not to turn over to the defense attorney.

The participants' second and third duties in the study (described above) were not relevant to our hypotheses; we included them only to decrease suspicion about the purposes of the list of questions for the defense.

After completing the three duties, participants filled out a post study questionnaire. Items on the questionnaire measured how much prison time the participant believed the perpetrator of the crime deserved, how personally important it was to the participant to attain a conviction in the case, how generally important the participant believed it was to convict the defendant, the extent to which the participant believed that the defendant was guilty, and how likely the participant believed it was that the defendant would be convicted. Participants then were debriefed and paid.

RESULTS

Eighty participants completed the study, 40 in each experimental condition. Data from seven additional participants were excluded from analyses.⁶

⁶ Of these 80 participants, 54 were female and 26 were male. The class breakdown was as follows: 49 freshmen, 22 sophomores, four juniors, one senior, and four indeterminate. Data were excluded for four participants (three of whom were not native English speakers) who did not understand the study materials and for three who did not believe that other participants were acting as defense attorneys and judges.

Effectiveness of Our Experimental Design

We proposed that severity of crime would affect participants' perceptions of guilt or innocence and their degree of misconduct. In particular, we expected that participants would be more likely to view a suspect as guilty and to engage in misconduct in a murder trial than in an assault trial. That is, we assumed that participants would perceive murder as a more serious crime than assault.

We asked participants to rate the severity of the crime (1 = very severe; 7 = not at all severe). The mean score for participants in the murder condition was 1.28 (sd = .85); for those in the assault condition, 3.03 (sd = 1.44). This difference is in the expected direction; participants regarded murder as more serious than assault. A *t*-test of the difference is significant ($t = 6.62$, one-tailed p of difference in predicted direction $< .001$).⁷ Thus we conclude that the participants perceived murder to be more severe than assault.

Tests of Hypotheses

Perceptions of guilt. Hypothesis 1 predicted that participants in the murder condition would be more likely to view the defendant as guilty than would participants in the assault condition, although identical evidence pointed to the defendant. We tested this hypothesis with a questionnaire item that asked participants to rate on a scale of 1 (definitely not guilty) to 7 (definitely guilty) how strongly they believed that the defendant was guilty. (See the appendix for poststudy questionnaire items answered by participants.) The mean score on the guilt question for the murder condition was 5.25 (sd = 1.33); for the assault condition, 4.40 (sd = 2.09). This difference is in the predicted direction and is significant ($t = 2.17$, one-tailed $p = .017$), and supports Hypothesis 1. Table 1 displays mean

⁷ In testing a theoretically derived prediction, a two-tailed alpha level of .05 considers the combined probability of a chance result at both tails of the probability distribution—that is, for a difference either lower or higher than the target value. Thus, when a prediction specifies not only that a difference will occur but also the direction of that difference, a one-tailed test at the .05 alpha level is warranted.

Table 1. Mean Differences and Results of T-tests for Hypotheses

	Mean (SD)	t	p ^a
Perceptions of Guilt (7 = high perceptions)			
Murder condition	5.25 (1.33)		
Assault condition	4.40 (2.09)		
Hypothesis 1: Murder condition > assault condition		2.17	.017
Personal Importance of Conviction (7 = very important)			
Murder condition	5.63 (1.61)		
Assault condition	4.75 (1.94)		
Hypothesis 2: Murder condition > assault condition		2.19	.031
Number of Exculpatory Questions Withheld From Defense			
Murder condition	2.15 (1.51)		
Assault condition	1.50 (1.45)		
Hypothesis 3: Murder condition > assault condition		1.96	.027

^a One-tailed probability values reflect differences in predicted directions.

differences and the results of our hypothesis tests.

Personal importance of attaining a conviction. Hypothesis 2 predicted that participants in the murder condition would view attaining a conviction as more important than would participants in the assault condition. A posttest questionnaire item asked participants to indicate how strongly they felt that attaining a conviction was personally important (1 = not at all important; 7 = very important). The mean answer on the scale for participants in the murder condition was 5.63 (sd = 1.61); for the assault condition, 4.75 (sd = 1.94). This difference is in the predicted direction: participants in the murder condition viewed a conviction as more personally important. This result is significant ($t = 2.19$, one-tailed $p = .031$) and supports Hypothesis 2.

In addition to asking participants how strongly they felt that attaining a conviction was personally important, we asked them how strongly they believed that attaining a conviction in the trial was generally important (1 = very important; 7 = not at all important). The mean score on the scale for participants in the murder condition was 2.70 (sd = 1.68); in the assault condition, 2.83 (sd = 1.78). This difference is not significant ($t = .323$, two-tailed $p = .748$). Although unexpected, this lack of a result does not bear directly

on Hypothesis 2, which concerns the personal importance of a conviction as a potential motivating factor in misconduct.

Misconduct. In Hypothesis 3 we predicted that participants in the murder condition would be more likely to engage in misconduct than participants in the assault condition. We measured misconduct by the number of the four questions pointing to an individual other than the defendant as a potential suspect that participants withheld from the defense. The mean number of these questions withheld from the defense by participants in the murder condition was 2.15 (sd = 1.51); by participants in the assault condition, 1.50 (sd = 1.45). This difference is in the predicted direction: participants in the murder condition were more likely to withhold relevant evidence. A t -test of this difference is significant ($t = 1.96$, one-tailed $p = .027$) and supports Hypothesis 3.⁸

In addition to behavioral measures on participants' misconduct behavior, a posttest questionnaire item asked participants whether they had withheld relevant material

⁸ One can argue that a nonparametric test is more appropriate for this hypothesis, given that there were only four levels of misconduct (Siegel and Castellan 1988). We include t -test results for consistency but also ran a non parametric Mann-Whitney U-test, which produced a significant result ($U = 609.00$, $p = .03$, one-tailed).

from the defense. Participants were asked to rate the extent to which they believed they had turned over all relevant facts to the defense (1 indicated that they had turned over all relevant information; 7 indicated that they had not done so). The mean score on this scale for participants in the murder condition was 2.70 ($sd = 1.91$); for participants in the assault condition, 1.93 ($sd = 1.31$). This difference is in the direction indicating that participants in the murder condition were more likely to withhold relevant information, and is significant ($t = 2.116$, one-tailed $p = .019$). This finding is consistent with our behavioral measures of misconduct, and indicates that participants in the murder condition made conscious decisions to withhold exculpatory evidence.

Participants also answered a question indicating how strongly they thought a guilty conviction in the case was likely (1 = very likely; 7 = not at all likely). Because participants in the murder condition withheld more relevant information from defense attorneys, we might expect those participants to consider eventual conviction of the defendant more likely. The mean answer on this scale for participants in the murder condition was 2.40 ($sd = 1.28$); for participants in the assault condition, 3.03 ($sd = 1.58$). This difference is in the direction indicating that participants in the murder condition believed conviction to be more likely, and it approaches significance ($t = 1.95$, two-tailed p of a difference not predicted = .055).

Results for Hypothesis 3 demonstrate that participants in the assault condition were more likely than participants in the murder condition to turn over relevant information to the defense attorney. We also measured the total number of all questions that participants turned over to the defense. Participants in the murder condition, on average, turned over 20.28 ($sd = 12.80$) questions; those in the assault condition turned over an average of 21.40 ($sd = 15.00$) questions. This difference is not significant ($t = .361$, two-tailed $p = .719$). Aside from differences in the four questions pointing to an alternative suspect, it appears that participants in the murder and the assault conditions behaved similarly in turning over questions to the defense attorney.

DISCUSSION AND CONCLUSION

Results of a controlled laboratory experiment supported the theory that the personal importance of a conviction for prosecutors of severe crimes combines with a stronger perception of the guilt of defendants in serious cases; this combination encourages greater misconduct in the prosecution of severe crimes. Participants were assigned randomly to act as prosecutors in a contrived criminal case of assault or murder. The two cases were identical except that in the murder case the victim died from wounds suffered in the assault. We found that (1) participants who prosecuted a murder believed more strongly in the defendant's guilt, (2) obtaining a conviction was more personally important to those who prosecuted a murder, and (3) participants who prosecuted a murder engaged in misconduct more often than did those who prosecuted an assault.

We found an unexplained lack of difference when participants were asked about the "general importance" of a conviction. The participants may have felt that "in general" all convictions should be equally important. We did not know of this development, however, while the study was in progress and thus could not ask participants why they responded as they did to the items on personal and general importance. Further research should explore this question. Nonetheless, the key indicator was personal importance of a conviction, because we had proposed that this consideration might motivate prosecutors to engage in misconduct.

Results of a carefully conducted randomized experiment supported all three hypotheses based on our theory, increasing our confidence in that theory. Generalizing the results of basic experiments to naturally occurring situations is not advisable, however. We cannot assume that the processes found to encourage misconduct in the laboratory operate similarly for working prosecutors or exert similar effects.

We have not learned anything new about the extent or severity of misconduct among working prosecutors except where to look for it in future research of actual criminal cases. The naturally occurring situation contains many other factors with the potential to alter

the propensity for misconduct. These may interact with the process we have identified to mitigate or aggravate the extent of wrongdoing.

We have discovered a process capable of increasing misconduct in the prosecution of more severe crimes. Whether that process produces more misconduct when working prosecutors handle more serious cases is an open question. One can argue that the legal system has safeguards in place to counter the process or that the rigorous training of prosecutors limits its effect. Nonetheless, the results of this study shift the research burden of proof to those who think that working prosecutors avoid misconduct when the stakes are high. New research can be designed to investigate how the legal system or the training of prosecutors might limit misconduct in the prosecution of severe crimes.

For example, our study did not include potential punishments for prosecutors who engaged in misconduct. In naturally occurring trials, fear of punishment may make misconduct less likely in cases involving more severe crimes. The opposite effect also could occur

the greater rewards and opportunities for advancement earned by obtaining convictions in serious, high-profile cases may increase pressure to engage in wrongdoing. Moreover, evidence indicates that prosecutors are unlikely to incur sanctions for engaging in misconduct in naturally occurring trials (Chineson 1986; Gershman 1992; Kurcias 2000; Mearns 1995). It would be worthwhile to determine how the potential rewards and penalties for prosecutorial misconduct affect its prevalence.

This research supports the theoretical propositions that presumptions of guilt and actions of misconduct will be greater for more serious crimes. Because the consequences of misconduct in the prosecution of serious crimes are potentially much more severe than for minor crimes, future research could address these issues in diverse populations and settings. It will be difficult to determine precisely how strongly severity of crime affects misconduct in natural settings. Perhaps the main contribution of this research is to provide a compelling reason to investigate misconduct among working prosecutors of serious cases.

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APPENDIX

Questionnaire Items Answered by Participants Before Debriefing: Questions for Prosecuting Attorney

- 1) How likely do you think it is that the defendant is guilty? (Circle the number that most closely approximates your feelings.)
Definitely guilty 1 2 3 4 5 6 7 Definitely not guilty
- 2) How severe do you consider the crime committed in this case? (1 = Extremely severe to 7 = Not at all severe.)
- 3) Do you believe that you turned over all relevant evidence to the defense? (1 = Definitely turned over all relevant facts to 7 = Definitely did not turn over all relevant facts.)
- 4) How likely do you think it is that you will secure a conviction in this case? (1 = Very likely to 7 = Not at all likely.)
- 5) How important do you think it is that a conviction is attained against the defendant in this case? (1 = Very important to 7 = Not at all important.)
- 6) How important was it to you personally that you attain a conviction? (1 = Not at all important to 7 = Very important.)
- 7) What do you think the appropriate punishment is for the person who committed this crime? (Circle one)

Less severe than prison time

Prison time, but less than 5 years

5 to 10 years in prison

10 to 20 years in prison

Life in prison

More severe than life in prison

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