When Hurt Heroes Do Harm: Collective Guilt and Leniency toward War-Veteran Defendants with PTSD

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Veterans with post-traumatic stress disorder (PTSD) are at heightened risk for interfacing with the United States legal system as criminal defendants. Two experiments were used to test the hypothesis that American mock jurors would punish a veteran (vs. a civilian) with PTSD for a violent crime less harshly because of their own collective guilt (i.e., the guilt felt for the transgressions of one's in-group) about the veteran's suffering due to war. The participants were United States citizens recruited online ($n = 174$) who completed a mock-juror experiment involving a violent assault committed by either a veteran or a civilian with PTSD. As predicted, jurors were more lenient toward the veteran (vs. the civilian). For male mock jurors this was explained by their collective guilt for the veteran's war-related suffering. A second study experimentally induced individual and collective guilt about veteran defendants, finding that mock jurors ($n = 533$) who are less likely to share a salient in-group identity with the veteran (i.e., women, people with lower national identification with the United States) can be induced to feel the requisite guilt to exhibit leniency toward a veteran. Thus, veterans suffering from PTSD may receive more lenient punishment because they elicit a sense of collective guilt in legal decision-makers.

Key words: collective guilt; jury decision-making; punishment; veteran.

Introduction

The wars in Afghanistan and Iraq are the longest and third longest wars in America's history, respectively (Taylor, 2014). These recent wars have produced approximately 2.5 million war veterans (Ifill, 2014), of whom 20–40% experience post-traumatic stress (Litz & Schlenger, 2009; PEW Research Center, 2011). Post-traumatic stress disorder (PTSD) is related to a greater likelihood of veterans engaging in criminal behavior and interfacing with the criminal justice system (Aprilakis, 2005; Elbogen et al., 2014; Sullivan & Elbogen, 2014; Wilson & Zigelbaum, 1983). Based on the criminal behavior rates of veterans with PTSD from the

Vietnam War, an estimated 25% of these war veterans who develop PTSD are likely to engage in criminal behavior after returning home (Gover, 2008). It is therefore important to determine how a defendant's background as a war veteran might affect legal decision-makers' judgments.

In two experiments, we tested whether mock jurors would be less punitive toward a veteran with PTSD relative to a civilian defendant with PTSD who committed the same violent crime. We also tested a psychological mechanism that might explain such an effect. We hypothesized that jurors might feel guilty that the defendant developed PTSD while

protecting them and committed a violent crime as a result – even though the jurors bear no personal responsibility. That is, jurors might feel ‘collective guilt’ about veterans’ suffering and exhibit leniency as a result. The collective-guilt literature suggests that defendants who might elicit collective guilt (such as war veterans) in the legal decision-maker might be punished *less* punitively compared to defendants who do not elicit collective guilt (Doosje, Branscombe, Spears, & Manstead, 1998). The present research addresses the following practical research question: how might the criminal justice system react to veterans who commit crimes as a result of their PTSD relative to civilians who similarly offer a PTSD defense?

PTSD as a Legal Defense for Veterans

Researchers have obtained complex and somewhat mixed results regarding the success of legal defenses based on other types of mental illness. Some research has demonstrated that a defendant’s mental illness (i.e., depression, obsessive compulsive disorder, schizophrenia, or substance abuse) does not affect mock jurors’ verdicts (Mossiere & Maeder, 2015). Other research, however, demonstrates that whether or not a defendant’s mental illness (e.g., psychosis) makes jurors more or less punitive depends on the jurors’ pre-existing conceptions of mental illness and their attitudes toward insanity as a legal defense (Mossiere & Maeder, 2016; Skeem & Golding, 2001; Skeem, Loudon, & Evans, 2004). There is very little research specifically investigating legal decision-makers’ reactions to defendants with PTSD.

Legal commentators such as Aprilakis (2005) have speculated that jurors will be unlikely to acquit veterans who mount a defense based on their PTSD – yet there are reasons to predict that jurors might be more lenient toward a veteran with PTSD. For example, even though jurors might not be willing to let a veteran off the hook completely with an acquittal based on an insanity defense, they might be willing to

offer a relatively more lenient punishment by choosing a manslaughter verdict over murder. Further, PTSD is a prime candidate for an effective legal defense given that the characteristics of the disorder (e.g., heightened anger and aggression; Friel, White, & Hull, 2008) might make a defendant’s actions seem more excusable (Higgins, Heath, & Grannemann, 2007). Although PTSD has had inconsistent success as a legal defense in court generally (Grey, 2012; Sparr, 1996), it might be more effective for war veterans in particular. In support of this, prosecutors are more likely to be lenient in their plea bargains for veterans with PTSD relative to veterans without PTSD or other defendants with PTSD (Wilson, Brodsky, Neal, & Cramer, 2011).

Only one study, to the authors’ knowledge, has investigated mock jurors’ reactions to veteran defendants with PTSD (Smith, 2016). In two experiments, Smith (2016) manipulated veteran status (i.e., veteran vs. civilian) and whether or not the defendant had received a PTSD diagnosis. Veteran status did not have a main effect or interactive effect on verdicts in either experiment; however, the author did find that when additional curative verdict options were included (i.e., guilty but probated, diverted to treatment) in Study 2, mock jurors who read about a veteran with PTSD who committed a violent crime were more likely to choose diversion to treatment than those who read about a non-veteran without PTSD who committed a non-violent crime. Unfortunately, it is not possible to determine whether the leniency in this comparison is due to veteran status, PTSD diagnosis, or the crime type.

Given that veterans with PTSD have a relatively heightened likelihood of involvement with the legal system (Aprilakis, 2005; Gover, 2008; Sullivan & Elbogen, 2014; Wilson & Zigelbaum, 1983) and that there is only one experiment investigating mock jurors’ reactions to veterans with PTSD in court, there is a clear need for further research on this topic. This issue is investigated in the present experiments with a specific focus on

a theoretical explanation for *why* PTSD defenses might be particularly effective with war veterans (i.e., Americans' collective guilt about veterans' suffering). A large minority of veterans suffer from post-traumatic stress as a result of their service (Litz & Schlenger, 2009) – a highly publicized phenomenon of which the public is well aware (PEW Research Center, 2011). Hearing that a defendant accused of a violent crime is a war veteran might trigger legal decision-makers' assumptions that the veteran experienced serious trauma as a result of fulfilling his duties to protect United States citizens. That is, people might feel *collective guilt* for a veteran's traumatic experiences during war that resulted in him committing a violent crime and, as a result, might be more lenient relative to a civilian who also has PTSD and committed the same crime.

Collective Guilt

People feel guilt when they perceive illegitimate harm done unto another and experience a sense of personal responsibility for that harm (Weiner, 1995). Feeling guilt results in a desire to undo an action (Frijda, Kuipers, & Ter Schure, 1989). Guilt is differentiated from other negative emotions such as (a) anger by the appraisals that oneself is the responsible agent (Ellsworth & Smith, 1988; Smith & Ellsworth, 1985) and (b) shame due to a sense of controllability and focus on the interests of someone else (Frijda et al., 1989). Thus, guilt is characterized by a feeling that one has committed harm against another and a desire to make reparations for that harm. Guilt can also occur at the collective level for *group* transgressions. This collective guilt is distinguishable from the personal guilt that an individual might experience for his or her own personal transgressions (Doosje et al., 1998). More specifically, collective guilt occurs when an individual believes that his or her in-group committed an act that caused others harm, even if that individual bears no personal responsibility for the group's

behavior. In other words, to feel collective guilt (a) one must identify with a group (i.e., consider it one's in-group) and (b) that group must commit harm to another (Doosje, Branscombe, Spears, & Manstead, 2006).

Those experiencing collective guilt are more willing to compensate people harmed by their in-group compared to those who are not experiencing collective guilt. For example, Dutch students who read about the negative consequences of the Dutch colonization of Indonesia (e.g., labor exploitation, killings) experienced more collective guilt, and were more willing to compensate Indonesians for the harm done, than Dutch students who did not read this information (Doosje et al., 1998). Even though the Dutch students themselves played no role in the colonization of Indonesia, their experience of collective guilt for the actions of their group motivated compensatory behaviors.

The extant literature on the phenomenon of collective guilt has primarily involved inter-group relations (e.g., Branscombe, 2004; Branscombe, Slugoski, & Kappen, 2004; Wohl, Branscombe, & Klar, 2006). That is, researchers have investigated the impact of perpetrators' collective guilt about a victimized *out-group*. In contrast, the interest in the present study is in investigating Americans' collective guilt about a victimized in-group member (i.e., a harmed war veteran). In focusing on this, a novel theoretical question is addressed; rather than focusing on collective guilt and compensation related to *out-group* members, this study tests whether collective guilt can be experienced for harm inflicted on *in-group* members, thereby addressing a gap that has been identified within the collective-guilt literature (Sullivan, Landau, Branscombe, Rothschild, & Cronin, 2013). More specifically, this study investigates whether American civilians might feel collective guilt about the harm (i.e., PTSD) that their in-group (i.e., America) has caused to its members (i.e., veterans) by sending them to war, and whether this collective guilt would lead to reparations (i.e.,

leniency in punishment for committing a violent crime). Although this has not been tested directly, relevant literature provides indirect support for this hypothesis. Interestingly, when Americans read about how the United States' invasion and subsequent occupation of Iraq led to many American casualties (i.e., in-group self-harm), they felt more collective guilt about the harm inflicted on the people of Iraq (i.e., out-group harm) than if they had read about the out-group harm or no harm (Sullivan et al., 2013). That is, reading about harm that their in-group has caused increased the collective guilt felt about the out-group. This effect is likely to generalize to collective guilt about the in-group – in fact, the effect might be even stronger.

If leniency toward veterans with PTSD is indeed driven by collective guilt about in-group members who incurred harm while serving a protective role, then the effect should depend on the likelihood that one classifies the harmed veteran as an in-group member. Because in-group members are seen as more deserving of favorable treatment than out-group members (Turner, Hogg, Oakes, Reicher, & Wetherell, 1987), collective guilt might be more likely to translate into lenient punishment among participants who more readily categorize veterans as in-group members. For example, men might be more likely to experience collective guilt and seek reparations for a male war veteran than women, based on shared gender. That is, men might be more likely to categorize a male veteran as an in-group member than women, and therefore might be more likely to believe that the veteran is deserving of favorable treatment. As a result, men's collective guilt toward the veteran might motivate them to seek reparations for the harm in the form of punishment leniency. Thus, although all Americans might experience some level of collective guilt for America inflicting harm on United States veterans, it was predicted that collective guilt about veterans with PTSD would be a stronger predictor of leniency among participants who are likely to

classify the defendant as an in-group member (e.g., male participants).

Overview of the Present Experiments

The estimates of crime prevalence among returning war veterans with PTSD (i.e., 25%; Gover, 2008) emphasize the importance of developing an understanding of how this population's transgressions are punished in the criminal justice system. This is particularly important due to the possibility that veterans are at risk for harsher punishment, as people often punish transgressors who serve a protective role more harshly because they feel that the protectors have betrayed the trust placed in them – particularly given that people hold such positive and high expectations of veterans (Koehler & Gershoff, 2003; Leal, 2005; PEW Research Center, 2007). War veterans are also an ideal group for extending the present understanding of the psychological phenomenon of collective guilt beyond out-groups and examine collective guilt in relation to in-group members. Further, war veterans are a naturally occurring, readily identifiable group in society about whom Americans might experience collective guilt for the assumed or acknowledged trauma that veterans experience while at war.

To test the hypotheses, this study investigates the punishment of a veteran suffering from PTSD who commits a crime in two mock juror experiments. In Experiment 1, it was hypothesized that the participants would punish a war veteran with PTSD who commits a violent crime less harshly than they would punish a civilian with PTSD. It was also hypothesized that this leniency toward veterans (vs. civilians) would be mediated by participants' feelings of collective guilt about the defendant's trauma. In Experiment 2, it was hypothesized that experimentally inducing individual and/or collective guilt about veterans in general would reduce the punishment of a specific war veteran who committed a crime. Across both experiments it was predicted that the role of collective guilt in

punishment would depend on the likelihood that participants might classify the war veteran as an in-group member (i.e., based on gender in both experiments and on national identification as an American in Experiment 2).

Experiment 1

Given that veterans' PTSD symptoms are associated with an increased likelihood of committing violence against strangers (Elbogen et al., 2014; Sullivan & Elbogen, 2014), mock jurors' reactions to a veteran suffering from PTSD who committed a violent assault were investigated. The participants read a criminal trial summary depicting either a civilian or a veteran defendant who had been diagnosed with PTSD and had subsequently committed a violent crime. The participants then chose between two verdict options described in the jury instructions (see Appendix 1): manslaughter (i.e., a less punitive judgment) and murder (i.e., a more punitive judgment). The participants also completed a measure of the proposed mediator (i.e., collective guilt).

It was predicted that the participants would be more lenient toward the veteran defendant compared to the civilian defendant. It was also predicted that the participants would experience more collective guilt about the veteran's PTSD (vs. the civilian's PTSD), which, in turn, would decrease their punitiveness. Finally, it was predicted that this process would be moderated by gender, such that this meditation effect would be stronger for male participants than for female participants, because the former are more likely to classify the male veteran as an in-group member.

Experiment 1 Method

Participants and Design

A sample of 265 American participants was recruited online through Amazon's Mechanical Turk to complete the mock juror experiment. Mechanical Turk is an online panel

that is commonly used to recruit participants into psychological studies and that provides samples, which are more demographically diverse than other traditional samples (e.g., college students or online community member samples) and are considered to be a legitimate source of quality data (Buhrmester, Kwang, & Gosling, 2011; Paolacci, Chandler, & Ipeirotis, 2010). The goal was to adequately power the planned analyses that cross the two experimental cells by gender (i.e., creating four groups total) after excluding participants who failed the attention check ($n = 78$, 29%), were veterans ($n = 9$, 3%), and/or had a felony on their criminal record ($n = 4$, 1%). The exclusion rate for attention checks was likely due to relatively detailed questions about the stimulus designed to screen out online participants who were not paying close attention. This exclusion rate is similar to Mechanical Turk averages (i.e., 20%; Goodman, Cryder, & Cheema, 2013). The final sample includes 174 participants (45% female; 81% White/Caucasian, 9% Asian/Asian American, 6% Black/African American, 3% Hispanic/Latino, 1% Other; $M_{\text{age}} = 34$ years, $SD = 11$). Roughly one third of the sample had an immediate family member who is a veteran (36%), and roughly two thirds had a friend or non-immediate family member who is a veteran (63%). The participants had some familiarity with PTSD in that 11% had experienced a family member being diagnosed with PTSD and 17% had experienced a friend being diagnosed with PTSD. On a self-report item assessing knowledge about PTSD from 1 (*no knowledge*) to 7 (*expert*), the participants averaged 3.89 ($SD = 1.07$); a score of 4 was labeled *some knowledge*.

The participants were randomly assigned to the veteran defendant condition ($n = 89$) or the civilian defendant condition ($n = 85$) and were compensated US\$0.75 for their participation. Random assignment ensured that the number of men and women were equally distributed between conditions, $\chi^2(1, n = 174) = 1.55, p = .213$. Thus, the design

conformed to a 2 (defendant status: veteran vs. civilian) $\times$ 2 (participant gender: male vs. female) between-subjects design (with gender as a measured, quasi-experimental variable).

Procedure

After providing consent the participants were instructed to envision themselves in the role of a juror in a criminal court case. They read a trial summary, which included summaries of opening statements, the prosecution's and defense's cases and closing arguments, and the post-trial pattern jury instructions (see Appendix 1 for trial stimulus). The participants then completed the dependent variable measures, attention checks, and demographic information.

Materials and Measures

Trial stimulus. In the opening statements, the prosecution argues that the defendant should be found guilty of murder in the second degree, and the defense argues that the defendant should be found guilty of the more lenient charge of manslaughter. The prosecution's case describes how the defendant had an altercation with another man that resulted in the defendant beating the victim to death. The defense argues that the defendant was provoked and responded violently because of PTSD caused by a prior trauma, describing the trauma that caused the defendant's PTSD and arguing that it contributed to the killing. The cause of the PTSD is stated as being either the result of combat in Afghanistan or of witnessing a violent bank robbery. The description of the details of the traumatic event that caused the defendant's PTSD are kept as similar as possible across the veteran and civilian conditions. For example, in both conditions the defendant (a) was in a location (either a bank or in Afghanistan) where masked men opened fire on a large crowd that resulted in a grisly and bloody scene of mass shootings, (b) was shot in the shoulder and leg, and (c) witnessed his friend get shot and die (Appendix 1). The perceived level and nature of the resulting PTSD trauma

symptoms are also controlled as much as possible by having the defense's case include details of the defendant's PTSD symptoms (e.g., sleep problems, quick to anger, etc.) and feature a summary from an expert (i.e., a licensed psychotherapist) who offers an official PTSD diagnosis in both conditions. This description of the symptoms of a PTSD diagnosis is also designed to inform participants who lacked knowledge of PTSD (recall that the sample self-reported 'some knowledge' about PTSD on average). The closing arguments reiterate the prosecution's and defense's requests for a verdict of murder and manslaughter, respectively. Thus, the details of the traumatic event and the resulting PTSD symptoms are kept as similar as possible while manipulating the context of Afghanistan (vs. a bank robbery) to trigger participants' potential assumptions about veterans with PTSD and collective guilt for their suffering. The post-trial jury instructions provide information on what constitutes murder in the second degree and what constitutes manslaughter (Stevenson & Bottoms, 2009). The closing statements also highlight the fact that a manslaughter verdict would bring about less severe sentencing than a murder verdict.

Verdict

The participants indicated their verdict preference (*Murder in the Second Degree* or *Voluntary Manslaughter*). The murder verdict represents the more punitive choice.

Collective-Guilt Scale

Six items assessed the participants' level of collective guilt about the defendant's trauma and the extent to which they felt the defendant should be compensated. This scale was inspired by a previous measure of collective guilt (Powell, Branscombe, & Schmitt, 2005), which was modified to be specific to the context of the present experiments. Each item is rated on a seven-point scale from *strongly disagree* to *strongly agree* (e.g., 'As an American I feel guilt about the traumatic

events the defendant experienced', $\alpha = .89$). The scale item responses were averaged to create the participants' collective guilt score.

Attention Check

Three items assessed the participants' attention to important elements of the stimulus:

- In one brief sentence, what was the traumatic experience that the defendant experienced?
- Did the trial summary specifically describe symptoms that the defendant experienced as a result of his traumatic event? (yes/no)
- Did the trial summary specifically describe that the defendant was diagnosed with post-traumatic stress disorder (PTSD)? (yes/no)

Only those who answered these questions correctly are included in the analyses, ensuring that the participants were informed that the defendant had PTSD, that it had been professionally diagnosed, and that the defendant was experiencing clinically and legally relevant symptoms in both the veteran and civilian conditions.

Experiment 1 Results

Verdict

To test the hypothesis that reading about a veteran (vs. a civilian) would lead to a more lenient punishment, a logistic regression was conducted with dummy codes representing veteran status (0 = civilian, 1 = veteran) and participant gender (0 = female, 1 = male), as well as the interaction predicting dichotomous verdicts (0 = manslaughter, 1 = murder; see Figure 1 for verdict breakdown by condition). Consistent with the hypothesis, the participants were significantly less punitive when the defendant was a veteran than when he was a civilian, $B = -1.15$, $SE = 0.47$, $Wald = 5.89$, $p = .015$, odds ratio (OR) = 0.316. Men were significantly less punitive than women overall, $B = -0.96$, $SE = 0.45$, $Wald = 4.47$, $p = .034$, $OR = 0.382$. The interaction was not significant, $B = 0.78$, $SE = 0.35$, $Wald = 1.42$, $p = .234$, $OR = 1.43$.

Collective Guilt

A 2 (defendant status: veteran vs. civilian) $\times$ 2 (participant gender: male vs. female) between-subjects analysis of variance (ANOVA) was conducted on collective guilt scale scores, which revealed a main effect of

Figure 1. Percentage of punitive murder verdicts as a function of veteran status condition and participant gender in Experiment 1.

Figure 2. Mean collective-guilt scale scores as a function of veteran status and participant gender in Experiment 1.

defendant status (see Figure 2 for descriptive statistics). As predicted, when the defendant was a veteran, participants reported more collective guilt ($M = 3.28$, $SD = 1.52$) compared to when the defendant was a civilian ($M = 2.56$, $SD = 1.20$), $F(1, 170) = 12.93$, $p < .001$, 95% CI $[-1.49, -0.26]$, $\eta_p^2 = .07$. No other effects were significant, $F_s \leq 0.30$, $p_s \geq .59$, $\eta_p^2 \leq .002$. Thus, the hypothesis was supported that people felt significantly more collective guilt about the veteran (vs. the civilian) defendant with PTSD.

Moderated Mediation Model

Next, a moderated mediation model utilizing Hayes' (2013) PROCESS Macro was used to determine whether or not the participants' collective guilt explained their leniency toward the veteran (vs. the civilian) defendant. Because men (vs. women) might more readily categorize the male veteran defendant as belonging to a shared in-group, a test was conducted to determine whether or not the indirect effect of defendant veteran status on punitiveness (i.e., verdicts) through the potential mediator (i.e., collective guilt) was stronger for men than for women. A logistic model revealed that collective guilt mediated

the leniency effect of the defendant's veteran status on punitiveness for male participants, $M_{\text{indirect_effect}} = -0.22$, $SE = 0.10$, 95% CI $[-0.48, -0.06]$. More specifically, reading about the veteran (vs. the civilian) defendant increased male participants' feelings of collective guilt, $B = 0.65$, $SE = 0.18$, $p < .001$, which subsequently reduced their likelihood of choosing the more punitive murder verdict, $B = -0.34$, $SE = 0.10$, $p = .001$. This indirect effect is not significant for women, $M_{\text{indirect_effect}} = -0.16$, $SE = 0.19$, 95% CI $[-0.72, 0.05]$. Thus, although men and women reported similar levels of collective guilt, this collective guilt translated into more lenient punishment decisions only among men.

Experiment 1 Discussion

The hypothesis was supported; participants were relatively evenly split about whether the civilian was guilty of manslaughter or murder (i.e., 56% voted manslaughter) while being significantly more likely to choose the more lenient manslaughter verdict when the defendant was a veteran (i.e., 68% voted manslaughter). It was also found that the participants indeed felt more collective guilt

when the PTSD was described as originating in a veteran as a result of combat compared to originating in a civilian as a result of witnessing a bank robbery. In line with previous work on collective guilt (Doosje et al., 1998; Ferguson & Branscombe, 2010; Wohl et al., 2006), this effect suggests that participants acknowledged the harm done to veterans and accepted that their group (i.e., Americans) was at least partly responsible for that harm. As a result, they felt guilt about the veteran defendant – even though they played no direct role in harming the defendant or bringing about his PTSD.

Finally, moderated mediation analyses revealed that collective guilt explains why male, but not female, participants were more lenient toward the veteran compared to the civilian, despite men and women reporting similar levels of collective guilt. Reporting guilt for a suffering veteran's plights is a highly socially desirable response. Women are more likely to give socially desirable responses (e.g., Bernardi, 2006; Bernardi & Guptill, 2008; Chung & Monroe, 2003) and, as such, women's reported guilt might be artificially inflated by social desirability concerns and therefore inconsequential to their verdicts and punitiveness. Men, on the other hand, might actually experience collective guilt for the male veteran's harm because they are more likely to characterize him as an in-group member and, in turn, are more genuinely motivated to be lenient in their sentencing of the veteran. This issue is addressed in Experiment 2 by experimentally manipulating the guilt rather than relying on self-report.

Experiment 2

Experiment 2 was designed to address the limitations of Experiment 1 by extending the investigation to experimental manipulations of guilt. In Experiment 1, collective guilt toward veterans was relied upon measured via self-report, which – one could argue – might be vulnerable to social desirability concerns. To address this issue, collective guilt

was manipulated rather than measured. Experimentally manipulating collective guilt is an important step in establishing it as a valid mediator of the effect of defendant veteran status on punitiveness (Spencer, Zanna, & Fong, 2005).

Furthermore, Experiment 1 was extended to test whether this effect is limited to collective guilt or if it would extend to a personal guilt induction. Although guilt is often thought of as resulting from an action that causes harm, guilt can also be the emotional consequence of one's perceived *inaction* (Baumeister, Stillwell, & Heatherton, 1994; Tilghman-Osborne, Cole, & Felton, 2010). Thus, people might experience (a) personal guilt as a result of not personally contributing to the war effort by serving or not personally supporting veterans once they return home, and/or (b) collective guilt as a result of America's failure to provide sufficient services to wounded veterans after they return home. The effects of inducing both personal guilt and collective guilt (relative to a no-guilt control) on punitiveness are tested. It was predicted that the guilt inductions would decrease people's punitiveness toward a veteran who committed a violent crime relative to a no-guilt control.

Guilt Inductions Moderated by Gender

Based on Experiment 1, it was predicted that these guilt induction effects would be stronger for women than for men. In Experiment 1, men's collective guilt toward veterans produced lenient judgments – even without experimental guilt inductions, which is analogous to the no-guilt control condition in Experiment 2. In contrast, collective guilt did not predict leniency for women in Experiment 1. Thus, it was predicted that guilt inductions would have a more extreme effect on women than on men, because men's collective guilt toward veterans was expected to consistently translate to greater leniency across conditions, even when not induced to feel guilt. The explanation for the Experiment 1 results rests on the assumption that gender

moderates the collective guilt effect due to men (vs. women) being more likely to classify the male veteran as an in-group member. Experiment 2 was designed to provide converging evidence and a conceptual replication based on another individual difference variable: national identification.

Guilt Inductions Moderated by National Identification

If gender moderates the link between collective guilt and leniency toward a war veteran because it is a proxy for the extent to which the participant identifies with the war veteran, a similar pattern should occur for other such proxies. Thus, an additional moderator for the guilt inductions was tested that, theoretically, should mirror the gender results: national identification as an American. Because harm to the self is perceived as particularly severe and illegitimate (Baumeister et al., 1990; Stillwell & Baumeister, 1997), those with a high level of national identification might be more affected by knowledge of a harmed veteran than those with a low level of national identification because they might more readily identify the veteran as an in-group member (i.e., part of the self). Thus, similar to men (vs. women) who might be more likely to classify the war veteran as an in-group member, it was hypothesized that if participants identified strongly as Americans then they would be more lenient toward the war veteran – even without the guilt inductions. In contrast, similar to the prediction about women, it was hypothesized that if participants did not identify strongly as Americans then the guilt inductions would have a stronger effect, because without the guilt inductions they would not be as naturally inclined toward leniency for veterans. In other words, it was hypothesized that the guilt inductions would have a weaker effect on participants' leniency as their level of national identification increased.

Hypotheses

An interaction between the guilt inductions and each of the individual difference

variables (i.e., gender, national identification) was predicted. Specifically, it was predicted that participants who are more likely to classify the male veteran defendant as an in-group member (i.e., men, and people who identify more strongly as Americans) would not be affected by the guilt inductions because they would be already more likely to feel collective guilt and therefore be lenient, even when not induced to do so by the manipulation. In contrast, it was predicted that participants who are less likely to spontaneously classify the male veteran defendant as an in-group member (i.e., women, and people who identify less strongly as Americans) would be affected by the guilt inductions because guilt about the veteran's trauma would need to be induced rather than already being present. The inclusion of separate collective and individual guilt conditions was exploratory: it was predicted that both would be effective relative to the condition with no guilt induction but no prediction was made about whether or not the two conditions would be equally effective.

Experiment 2 Method

Participants and Design

A sample of 610 American participants was again recruited via Mechanical Turk to complete the mock jury experiment online. Participants were excluded from analyses for failing attention checks ($n = 23$, 4%), being a veteran ($n = 36$, 6%), not being a United States citizen ($n = 8$, 1%), or having a felony on their criminal record ($n = 10$, 2%). The final sample consists of 533 participants (54% female; 78% White/Caucasian, 8% Black/African American, 7% Asian/Asian American, 5% Hispanic/Latino, 2% Other; $M_{\text{age}} = 34$ years, $SD = 12$). Of the sample, 41% had an immediate family member who was a veteran and 67% had a friend or non-immediate family member who was a veteran. Some participants again had some familiarity with PTSD in that 12% reported experiencing a family member being

diagnosed with PTSD and 20% reported experiencing a friend being diagnosed with PTSD. On a self-report item asking participants to rate their knowledge about PTSD from 1 (*no knowledge*) to 7 (*expert*), they averaged 4.12 ($SD = 1.09$); a score of 4 was labeled *some knowledge*.

The participants were randomly assigned to one of four experimental conditions: no-guilt control ($n = 133$), personal guilt ($n = 127$), collective guilt ($n = 132$), or personal and collective guilt ($n = 141$), and were compensated US\$1.00 for their participation. Random assignment ensured that the men and women were equally distributed between conditions, $\chi^2(3, n = 533) = 3.26, p = .353$. Thus, the design conformed to a 2 (personal guilt: yes vs. no) $\times$ 2 (collective guilt: yes vs. no) $\times$ 2 (participant gender: male vs. female) between-subjects design. The civilian condition was not included in Experiment 2 because it had been established in Experiment 1 that the participants' response to the civilian differed from their response to the veteran, and because it would be nonsensical to attempt to make the participants feel a sense of personal responsibility for the trauma sustained by a civilian during a violent bank robbery.

Procedure

All experimental procedures were carried out online and were identical to those of Experiment 1. The only modification to the procedure was randomly assigning participants to one of four guilt-induction conditions before reading the trial stimulus.

Materials and Measures

The guilt-induction stimuli preceded the trial stimulus from Experiment 1 (see Appendix 2). Each condition began with the same cover story explaining that the study was being conducted in conjunction with a fictitious organization called the Center for Civilian and Veteran Issues and that the participant was first going to

be presented with some information about the recent war in Iraq before being asked questions about his or her attitudes. This introduction included innocuous facts about the war in Iraq that should not induce feelings of guilt about veterans (e.g., when it began, weapons used by the United States, what divisions of the military were involved, etc.). In the no-guilt control condition, only this neutral introduction about the war was included.

Personal-Guilt Induction

The personal-guilt stimulus described that if more men and women had joined the war effort, the number of casualties would have been significantly reduced. It also reported that returning veterans believe that more individuals should have volunteered to help them once they had returned home, and that despite many individuals being in favor of going to war, there was little support from individuals once the veterans had returned. The goal of this information was to make the participants feel personally guilty that they did not serve in the war and had not helped returning veterans personally. To reinforce this manipulation, the participants in this condition responded to statements and questions that were designed to elicit feelings of individual guilt. The participants responded on a scale of 0 (*strongly disagree*) to 100 (*strongly agree*) to the following statements:

1. As an individual, I believe it is important that individuals fulfill their civil obligations.
2. As an individual, I believe it is important to be indebted to those who fulfill their own civil duties.
3. As an individual, I believe it is important to provide adequate support to those who serve their country.

The participants then responded 'yes' or 'no' to the following two questions:

1. Have you, or do you currently, serve in the military?

2. If not, do you personally believe you should have?

The responses to these statements and questions were not used as dependent measures in analyses given that none of them actually measure guilt; they were included only to induce more intense feelings of personal guilt by forcing the participants to acknowledge that it is important to help but that they also did not do so. Thus, these statements and questions prompted participants to respond as individuals in order to cause them to think of their failure to act in terms of their personal (rather than collective) identity (Turner, Oakes, Haslam, & McGarty, 1994).

Collective-Guilt Induction

Similar to previous studies manipulating collective guilt (e.g., Powell et al., 2005), collective guilt was induced in the present study by making the shared in-group identity (i.e., Americans) and the group's transgression (i.e., sending veterans to war and not providing adequate services) salient. The collective-guilt stimulus reported that many returning veterans struggle with war-related issues and disabilities, and that many are homeless or on the verge of homelessness because America has failed to provide adequate care and resources for this group. The collective-guilt stimulus then indicated that veterans reportedly feel that America, as a society, has failed to properly care for those who defended their freedom – despite American citizens' overwhelming support for the war initially. The goal of this information was to make participants feel collective guilt as citizens of America who have let down veterans who are struggling and suffering after returning home from war. To reinforce this manipulation, the participants in this condition then responded to statements and questions that were designed to elicit feelings of collective guilt. The participants responded on a scale of 0 (*strongly disagree*) to 100 (*strongly agree*) to the following statements:

1. As an American, I believe it is important that America fulfills its civil obligations to its soldiers.
2. As an American, I believe it is important to be indebted to soldiers who perform their civil duties.
3. As an American, I believe it is important to provide adequate support to those who serve their country.

The participants then responded 'yes' or 'no' to the following two questions:

1. Do you believe America has done enough to support veterans returning from war?
2. If not, as an American, do you feel like America should?¹

Again, the responses to these questions were not used as dependent measures, as they were only included to induce more intense feelings of collective guilt. These statements and questions caused the participants to respond while thinking of themselves as Americans and then primed them to think of America's failure to act in terms of their collective (rather than personal) identity (Sullivan et al., 2013; Turner et al., 1994).

Measures

The same verdict measures from Experiment 1 were utilized for Experiment 2. A scale assessing participants' identification as an American was added after the verdict measure (Roccas, Klar, & Liviatan, 2006). The participants were asked the extent to which they agreed with eight items on seven-point response scales ranging from *strongly disagree* to *strongly agree* (e.g., 'Being an American is an important part of my identity'; 'It is important to me to view myself as an American'; $\alpha = .94$.) Given how many participants were excluded in Experiment 1 for conservative attention checks, in this experiment only participants who failed to respond to the following question correctly

were screened out: ‘This question is designed to make sure survey respondents are paying attention. Please choose “somewhat agree” to answer this question’.

Experiment 2 Results

Guilt Inductions Moderated by Gender

To test the hypothesis that the guilt inductions would have a stronger effect on women than on men, a logistic regression was conducted with dummy codes representing participant gender (0 = female, 1 = male), the individual guilt induction (0 = control, 1 = individual guilt), the collective guilt induction (0 = control, 1 = collective guilt), and all two- and three-way interactions predicting dichotomous verdict choice (0 = manslaughter, 1 =

murder; see Figure 3). A significant three-way interaction was found, $B = -1.64$, $SE = 0.74$, $Wald = 4.93$, $p = .026$, $OR = 0.193$. In order to follow up this interaction, the simple individual guilt $\times$ collective guilt interaction is reported separately for men and women. These analyses revealed a significant two-way interaction between individual and collective guilt for women, $B = 1.04$, $SE = 0.74$, $Wald = 4.93$, $p = .026$, $OR = 0.193$. As predicted, female mock jurors who were induced to feel collective guilt were marginally less likely to choose murder than women in the no-guilt control group, $B = -0.66$, $SE = 0.34$, $Wald = 3.66$, $p = .056$, $OR = 0.518$. They were not, however, more lenient when they were induced to feel individual guilt relative to the no-guilt control, $B = -0.56$,

Figure 3. Percentage of punitive murder verdicts as a function of individual- and collective-guilt induction and participant gender in Experiment 2.

$SE = 0.35$, $Wald = 2.52$, $p = .112$, $OR = 0.571$. As predicted, however, for male participants, there was not a significant interaction effect, $B = -0.60$, $SE = 0.54$, $Wald = 1.22$, $p = .269$, $OR = 0.548$, neither were the individual, $B = 0.36$, $SE = 0.39$, $Wald = 0.85$, $p = .357$, $OR = 1.432$, and collective, $B = 0.08$, $SE = 0.40$, $Wald = 0.04$, $p = .833$, $OR = 1.09$, guilt inductions significant. In summary, men were similarly lenient regardless of the guilt inductions, while women were more lenient when induced to feel collective guilt.

Guilt Inductions Moderated by National Identification

To test the hypothesis that guilt inductions would have a weaker leniency effect as national identification increased, a similar logistic regression analysis was conducted with the same dummy codes representing the individual-guilt induction and the collective-guilt induction, a continuous measure of national identification, and all two- and three-way interactions predicting the verdict. The predicted interactions were significant for the individual-guilt induction and the national-identification interaction, $B = -1.30$, $SE = 0.09$, $p = .031$, and marginally significant for the interaction between the collective-guilt induction and national identification, $B = -1.25$, $SE = 0.63$, $p = .082$.

Because national identification is a continuous moderator (as opposed to the categorical gender moderator) the Johnson–Neyman technique (Hayes & Matthew, 2009) was applied to probe the predicted interactions. More traditional methods would select two arbitrary values of national identification at which to assess the significance of the guilt-induction effects (e.g., typically 1 to 2 SDs above and below the mean; cf. Aiken & West, 1991). In contrast, the Johnson–Neyman approach provides a more thorough analysis by identifying the entire range of moderator values (i.e., national-identification values) in which the focal predictor (i.e., the

guilt inductions) has a significant effect on punitiveness. In other words, Table 1 gives a more thorough picture of the pattern of the interactions by showing the strength and significance of the guilt manipulations on verdicts at *all levels* of national identification (rather than at an arbitrary low point and an arbitrary high point).

The results depicted in Table 1 demonstrate that, as predicted, the strength of the individual-guilt induction effect indeed decreases as national identification increases. The individual-guilt induction *significantly* reduces punitiveness toward the veteran when the participants have a national-identification scale score at or below 1.90. A similar pattern was found for the collective-guilt induction, such that the strength of the effect also decreased as national identification increased. The collective-guilt induction *significantly* reduced punitiveness toward the veteran when the participants had a national-identification scale score at or below 3.70. Thus, the guilt inductions made the participants who had a relatively low level of national identification more lenient. In contrast, the guilt inductions were ineffective for participants with a moderate to high level of national identification, who were lenient regardless of whether or not they were induced to feel guilt. To help the reader visualize this pattern, the interaction is graphed based on traditional approaches (± 2 SDs), which demonstrates that the collective-guilt (Figure 4) and individual-guilt (Figure 5) inductions are less effective for mock jurors with higher national identification because, as hypothesized, they are similarly lenient across the guilt conditions – even when not induced to feel guilt.

Experiment 2 Discussion

The guilt inductions interacted similarly with two very different variables that were hypothesized to make participants more likely to classify the veteran as an in-group member. Guilt inductions led to greater leniency

Table 1. Study 2 Regions of Significance for the Conditional Effects of Individual and Collective Guilt on Verdicts as a Function of National Identification.

Conditional Effect of Individual Guilt on Verdicts						Conditional Effect of Collective Guilt on Verdicts					
National ID Value		95% Confidence Intervals				National ID Value		95% Confidence Intervals			
		<i>B</i>	<i>Z</i>	<i>p</i>	<i>LL</i> <i>UL</i>			<i>B</i>	<i>Z</i>	<i>p</i>	<i>LL</i> <i>UL</i>
1.00		−1.04	−2.057	.040	−2.025 −0.049	1.00		−1.04	−2.05	.041	−2.025 −0.045
1.30		−0.96	−2.037	.042	−1.877 −0.036	1.30		−0.97	−2.06	.039	−1.893 −0.048
1.60		−0.88	−2.012	.044	−1.730 −0.023	1.60		−0.91	−2.07	.038	−1.761 −0.050
1.90		−0.80	−1.980	.048	−1.584 −0.008	1.90		−0.84	−2.09	.037	−1.630 −0.051
2.05		−0.75	−1.960	.050	−1.510 0.000	2.20		−0.78	−2.10	.036	−1.501 −0.050
2.20		−0.72	−1.938	.053	−1.439 0.008	2.50		−0.71	−2.10	.036	−1.373 −0.048
2.50		−0.64	−1.883	.060	−1.296 0.026	2.80		−0.65	−2.10	.036	−1.248 −0.043
2.80		−0.55	−1.809	.071	−1.156 0.046	3.10		−0.58	−2.09	.037	−1.126 −0.035
3.10		−0.47	−1.709	.088	−1.019 0.070	3.40		−0.52	−2.05	.040	−1.008 −0.023
3.40		−0.39	−1.571	.116	−0.886 0.098	3.70		−0.45	−1.98	.048	−0.897 −0.005
3.70		−0.31	−1.382	.167	−0.759 0.131	3.77		−0.44	−1.96	.050	−0.873 0.000
4.00		−0.23	−1.126	.260	−0.640 0.173	4.00		−0.39	−1.86	.063	−0.793 0.021
4.30		−0.15	−0.794	.427	−0.531 0.225	4.30		−0.32	−1.66	.096	−0.699 0.057
4.60		−0.07	−0.394	.694	−0.435 0.289	4.60		−0.26	−1.39	.166	−0.618 0.106
4.90		0.01	0.042	.967	−0.353 0.368	4.90		−0.19	−1.04	.299	−0.552 0.169
5.20		0.09	0.461	.645	−0.286 0.462	5.20		−0.13	−0.66	.508	−0.500 0.247
5.50		0.17	0.824	.410	−0.232 0.569	5.50		−0.06	−0.30	.764	−0.461 0.339
5.80		0.25	1.114	.265	−0.189 0.686	5.80		0.00	0.02	.987	−0.433 0.441
6.10		0.33	1.335	.182	−0.154 0.812	6.10		0.07	0.28	.781	−0.414 0.551
6.40		0.41	1.501	.133	−0.125 0.944	6.40		0.13	0.49	.624	−0.401 0.667
6.70		0.49	1.625	.104	−0.101 1.080	6.70		0.20	0.66	.510	−0.392 0.789
7.00		0.57	1.718	.086	−0.080 1.220	7.00		0.26	0.79	.427	−0.387 0.913

Note: To probe the guilt inductions by national identification interactions, we utilized Hayes and Matthes' MODPROBE SPSS macro, which incorporates the Johnson-Neyman technique. This analysis reveals all ranges of the moderator (e.g., national identification) in which the focal predictor (i.e., individual guilt induction, collective guilt induction) is a significant or non-significant predictor of the outcome (i.e., verdict). Bolded numbers indicate the range in which the conditional effect is significant.

toward a veteran who committed a crime, but only for participants who were relatively less likely to have classified the veteran as an in-group member (i.e., women, and people who scored low on national identification as an American). In contrast, these manipulations were less effective for those who were more likely to classify the veteran as an in-group member (i.e., men, and people who scored high on national identification as an American) because they were already more lenient

without the guilt inductions. In other words, it was possible to induce women and those with a low level of national identification to be more lenient by making them read guilt inductions, while men and those with a high level of national identification were lenient even when they did not read guilt inductions. This is consistent with Experiment 1, in which men's, but not women's, collective guilt about veterans translated to less punishment in the absence of a guilt induction.

Figure 4. The effect of collective-guilt induction on the likelihood of choosing a murder verdict as a function of national identification in Experiment 2.

Figure 5. The effect of individual-guilt induction on the likelihood of choosing a murder verdict as a function of national identification in Experiment 2.

General Discussion

The primary purpose of the present research is to assess whether jurors might be more lenient toward a defendant with PTSD who is a veteran relative to a civilian, and to advance a psychological explanation for any such effects. Instead of being more punitive toward a veteran, as some previous research would have predicted (Koehler & Gershoff, 2003), the participants were more lenient toward a veteran (vs. a civilian) with PTSD

for committing a violent crime (Experiment 1). For men, this leniency was explained by collective guilt for the veteran's war related suffering (Experiment 1). In Experiment 2, women and people who did not identify strongly with being American were both more lenient toward the veteran defendant when experimentally induced to feel collective guilt for the veteran's suffering. In contrast, for men and people who identify strongly with being American, the

individual- and collective-guilt inductions did not have an effect because they were already lenient toward the veteran without the use of guilt induction. Although identification with the defendant was not directly measured, gender and national identification were chosen because they are two very different variables that were predicted to make participants more likely to classify the veteran defendant as an in-group member. The pattern of results suggests that people who are more likely to classify the male veteran defendant as an in-group member (i.e., men, and people who identify strongly with being American) are more likely to feel collective guilt and as a result bestow more lenient punishment – even when not induced to do so. People who are less likely to naturally classify the male veteran defendant as an in-group member (i.e., women, and people who do not identify strongly with being American) can be induced to be more lenient by making them read a collective-guilt induction that highlights their shared group identity (i.e., Americans) and that group's transgressions against war veterans.

These results are particularly noteworthy and important to report given the likelihood that recent veterans with PTSD will be charged with violent crimes, and the fact that the only other study conducted on this issue reports that veteran status did *not* affect mock jurors' judgments (Smith, 2016). These discrepant findings could be due to differing samples (i.e., student versus community sample), differences in the offense descriptions, and the fact that the present study operationalizes leniency as the likelihood of choosing a more lenient (but still guilty) verdict of manslaughter rather than murder. It might be the case that veteran status does not lead jurors to be so lenient as to acquit, but does lead them to choose a verdict associated with less punishment within the more restricted range of guilt verdicts that acknowledge the defendant's guilt. The present results are consistent with previous research demonstrating that prosecutors exhibit leniency toward

veterans with PTSD in plea bargains (Wilson et al., 2011).

Legal Implications

This study has not only identified an extralegal variable that might affect verdicts (i.e., veteran status) but also the psychological mechanism underlying this effect (i.e., feeling collective guilt about veteran's suffering). This finding identifies a new role that emotion might play in legal proceedings: collective guilt can produce leniency in the punishment of violent crimes. Generally speaking, defendants who elicit feelings of collective guilt might be given more lenient punishments. PTSD is typically an ineffective defense for sufferers other than veterans or battered women (Grey, 2012). Traumatic life histories offered as mitigating evidence, such as difficult childhoods, can even backfire and lead to *more* punitive sentences (Barnett, Brodsky, & Price, 2007; Stevenson, Bottoms, & Diamond, 2010). The current findings suggest, however, that these legal strategies might be more effective if they are presented in a manner that elicits collective guilt in the decision-maker (e.g., highlight how society has failed to protect the defendant as a child).

These findings are particularly important given how often PTSD is likely to be employed as a legal defense for a wounded veteran. Prevalence estimates of PTSD in veterans returning from the recent war in Iraq range from 20% to nearly 40% (Litz & Schlenger, 2009; PEW Research Center, 2011) – much higher than the rate of PTSD in the general population (8%; Thomas et al., 2010). Furthermore, PTSD is positively associated with criminal behavior and interaction with the criminal justice system among veterans (Aprilakis, 2005; Elbogen et al., 2014; Sullivan & Elbogen, 2014; Wilson & Zigelbaum, 1983). The present findings empirically support speculation that PTSD might be a particularly effective defense for veterans (Higgins, 1991). The argument that a veteran's PTSD appeals to legal decision-makers'

patriotism (Slovenko, 2004) is consistent with the present findings that the PTSD defense for a veteran motivated leniency – particularly among those who identify strongly with being American. The present experiments identify an extralegal variable that attorneys and the legal system should be made aware of: although other mental illness defenses are often ineffective in obtaining an acquittal, PTSD defenses might reduce punitiveness for veterans – particularly if judges and juries feel collective guilt for the defendant's suffering. Further, given that the public is aware that veterans often suffer from PTSD, leniency toward veterans might manifest even when a specific PTSD diagnosis is not included in the defense because the legal decision-maker assumes that the veteran is suffering as a result of trauma. This is a potentially fruitful area for future research.

Theoretical Implications

The results of this study have several important theoretical implications. First, they address an acknowledged gap in the collective-guilt literature (Sullivan et al., 2013) by demonstrating that people are motivated by collective guilt to make reparations for their in-group's harming of its *own* members (as opposed to out-group victims). Furthermore, although collective guilt is considered a relatively rare phenomenon because people avoid thinking of their in-group negatively by minimizing and justifying the harm it causes (Branscombe, 2004; Wohl et al., 2006), the present data suggest that collective guilt toward one's *own in-group* might be more difficult to avoid. That is, for some participants (i.e., men in Experiment 1, and men and those who identify strongly with being American in Experiment 2), collective guilt led to showing leniency toward the veteran even when there was no explicit indication of the in-group's responsibility for the harm done. People might be less able to exonerate their in-group from wrongdoing when the victims are also in-group members.

Second, these experiments suggest a possible boundary condition for previous research demonstrating greater punitiveness toward transgressors in a protector role (vs. non-protectors). Specifically, people punish transgressors in a protective role more harshly, such as a security guard who commits a robbery relative to a janitor who commits a robbery (Koehler & Gershoff, 2003). The results of Experiment 1 suggest that this increased punitiveness might not extend to protectors who have been harmed while serving their protective role (e.g., such as a veteran being harmed during combat in war), or that it might be exclusive to protectors who transgress while concurrently in their protective role (e.g., a security guard who commits a robbery while on duty; Koehler & Gershoff, 2003). Further research is needed to test these questions directly.

Third, the effect of collective guilt about veterans with PTSD on reparations (i.e., leniency in punishment) was dependent on participant characteristics that were predicted to serve as proxies for the likelihood of classifying the harmed veteran as an in-group member. Although gender and national identification are very different individual difference variables, they are both relevant to the likelihood of the male veteran being classified as an in-group member and, as a result, both similarly moderated the effect of collective guilt on lenient punishment. In other words, these two moderation effects served as conceptual replications of the hypothesis that the effect of collective guilt on leniency depends on the extent to which people are likely to classify the defendant as an in-group member.

Limitations and Future Directions

Limitations inherent to the scope of the present research raise several novel theoretical questions and potentially fruitful avenues for future research. First, it is unclear whether the leniency effect found in these experiments would generalize to other types of veterans or

circumstances. For example, future research could test whether leniency toward veterans generalizes to veterans who (a) are currently performing their protective duties, (b) served their country but were not harmed in the line of duty, (c) were harmed in a different way (e.g., a physical disability instead of PTSD, which might uniquely produce leniency because of behavioral consequences associated with the disorder, such as heightened anger and aggression, Friel et al., 2008), (d) committed a crime that was not the direct result of harm sustained while they were performing their duties in a war zone (e.g., a non-violent crime), (e) served in wars viewed less favorably by the general public (e.g., the Vietnam War; Slovenko, 2004), or (f) represent different demographics (e.g., age, race). The circumstances surrounding the veteran in the present study are an important first step in that they demonstrate that protectors *can* be treated with leniency rather than punitiveness – which has not been the case in previous studies – but cannot speak to these alternative circumstances. The present case includes a defense expert who testified about the defendant's PTSD symptoms in all conditions. Many real trials might include a prosecution expert who refutes the diagnosis or its role in the crime, which might make participants more skeptical of both experts (Levett & Kovera, 2008, 2009) and result in jurors not believing the PTSD diagnosis. This was a purposeful choice because, as a first step, it was important to assess mock jurors' reactions toward a veteran (vs. a civilian) defendant that they believed had PTSD. The inclusion of prosecution experts, however, would be an interesting area for future research.

Second, future research could directly measure the extent to which participants identify with the defendant. The present experiments investigate proxies for the likelihood that one might categorize the male veteran defendant as an in-group member (i.e., gender and national identification) but does not directly ask participants how much they

identified with the defendant. An interesting extension of the present research would be to assess the effects of having an additional condition with a female veteran defendant to test whether female participants in this condition identify with a female veteran and demonstrate collective guilt and leniency in a similar way to that exhibited by the men in the present experiments in relation to a male defendant. Future research could experimentally prime group identification instead of relying on naturally occurring groups in society.

Third, there are potential limitations concerning the verdict measure. The 'not guilty' verdict option was not included, which would have given the participants an even more lenient option. One could argue, however, that this additional verdict would not have substantially changed the results unless participants who chose murder would have chosen 'not guilty' if given the option, which is highly unlikely. Verdict was measured before national identification (Experiment 2) to maintain the ecological validity of the verdict measure, as well as because assessing national identity first would prime all participants' for their American identity, rather than just those assigned to the collective-guilt condition. Given that priming the shared group-identity was a central part of the manipulation, this could have artificially wiped out the effect of the manipulation. At the same time, the chosen order of measurement is also a limitation because it is possible that participants were completing the later measures differently to be consistent with their verdict (i.e., to maintain cognitive consistency; Simon, Snow, & Read, 2004; Simon, Stenstrom, & Read, 2015). Cognitive consistency in this specific instance is not a particular concern in the present experiments, however, because national identification measures an ostensibly unrelated individual difference trait (e.g., reporting the extent to which 'when I talk about Americans I usually say "we" rather than "they"' after voting 'not guilty' for a veteran), as opposed to other trial

judgments that they might be highly motivated to pull in line with their verdicts (e.g., being motivated to make high ratings of the defendant's dangerousness after voting to sentence him to death). Further, the theoretical argument does not rely solely on the national identification moderation, but on the convergence between these results and the gender results, which are not vulnerable to this issue.

Finally, by way of more general limitations, it is important to note that only one potential mediator of the veteran leniency effect was tested (i.e., collective guilt). Although it is not possible to measure all potential explanations of a manipulation in one article, there might be other possible mechanisms for this effect that could be measured and addressed in future research (e.g., other emotions such as empathy). The present experiments are vulnerable to typical criticisms of mock jury studies in that they do not represent an actual jury context (e.g., the lack of jury deliberation; Diamond, 1997). Several steps were taken to ensure ecological validity by including key components of a trial (summaries of opening and closing statements, witness testimony, jury instructions) and using non-student samples. Although research has revealed little difference between mock jurors' decisions in reaction to written scenarios versus more elaborate videotaped testimony (Bornstein, 1999; Bornstein et al., 2017), and although there are many instances of deliberation exerting minimal effect on judgments (Kalven & Zeisel, 1966; but see Salerno & Diamond, 2010), future research could investigate whether these effects generalize to more ecologically valid studies.

Conclusion

Veterans with PTSD are particularly vulnerable to interacting with the criminal justice system as defendants (Aprilakis, 2005; Elbogen et al., 2014; Sullivan & Elbogen, 2014; Wilson & Zigelbaum, 1983). Despite

scholars' assumptions that PTSD is an ineffective defense for veterans (Aprilakis, 2005), the present two experiments demonstrate that veterans who suffer from PTSD and subsequently commit violent crimes as a result might be treated with more leniency in the criminal justice system than civilians who are similarly harmed and commit the same crime. Even when people bear no personal responsibility for the harm the veteran incurred while serving his protective role, they can feel collective guilt for that harm, which motivates them to make reparations in the form of more lenient punishment when the veteran commits a violent crime. This phenomenon is dependent on the extent to which people are likely to classify the defendant as an in-group member, such as gender and national identification – even when there is no explicit attention drawn to Americans' responsibility for the veteran's PTSD. As a result, Americans' collective guilt about veterans' suffering can translate to more lenient sentences when a veteran suffering from PTSD subsequently commits a violent crime.

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Note

1. The collective-guilt questions were mistakenly preceded by the statement 'Please answer the following questions concerning how you, as an individual, feel about one's own responsibility in fulfilling their civil obligations'. This could raise the concern that this sentence might have induced individual guilt and therefore explain the leniency seen in the collective-guilt condition. It is not believed that this is the case for several reasons. First, given that the participants in this condition read a

lengthy passage inducing collective guilt and were then actually asked questions about themselves at the group level (i.e., 'as an American') it seems unlikely that the short statement included in error would induce individual guilt effectively. Second, if the statement had actually induced individual guilt effectively then this condition would represent both an individual *and* collective guilt induction and should have had a similar effect as the combined individual- and collective-guilt condition in the design. This was not the case, however, as the collective-guilt condition exhibits significantly greater leniency than the control condition, whereas the combined condition does not.

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Appendix 1: Trial Stimulus

In their opening statement, the prosecution stated that they would show that the defendant admitted to beating the victim, thereby causing the victim's death. They also stated that they would demonstrate that he did so knowingly and that his actions were unreasonable given the victim's actions. They argued that these facts would be demonstrated and support the more serious charge of murder in the second degree.

In their opening statement, the defense stated that they would demonstrate that a traumatic event in the defendant's history led the defendant to react to the victim's actions in a heat of passion. They also stated they would demonstrate that, given the defendant's history, the defendant's reaction to the victim's provocation was reasonable. They argued that these facts would be demonstrated and support the less serious charge of manslaughter.

Prosecution's Case

The prosecution's case included evidence from the defendant, police reports, eyewitness testimony, etc. that described the incident in question. The prosecution is calling for a verdict of murder in the second degree, given that the defendant willfully beat the victim to death, not in the heat of passion, but with full awareness of the consequences of their actions.

On a Saturday evening, the defendant went to the local shopping mall to run some errands. After approximately one hour of shopping, the defendant exited the mall. While walking in the parking lot, the defendant and victim accidentally bumped into each other. Following the initial contact, witnesses claim that the victim uttered a profane insult toward the defendant in an aggressive manner. The defendant took great offense to this, and proceeded to verbally assault the victim, shouting multiple expletives. After shouting at one another in an increasingly hostile fashion, the defendant shoved the victim. The victim shoved the defendant back. After a few moments, the shoving escalated into physical violence. The defendant punched the victim in the face and body. Although the victim tried to defend himself, witnesses report the defendant quickly had the upper hand. The victim became bloodied and staggered. The defendant tossed the victim onto the ground and continued to assault the victim. The punches to the face of the defendant continued mercilessly. Mall security arrived and intervened, pulling the defendant off of the victim. Emergency services were called and arrived a short while later. The defendant had minor injuries as a result of the conflict. Paramedics report the victim was unconscious with lacerations to the face and weak vital

signs. The defendant was taken into custody. The victim ultimately died from injuries sustained during the fight.

Defense's Case for Veteran Defendant

The defense's case included evidence from the defendant, eyewitness testimony, etc. that described a series of events previously experienced by the defendant. The defense is calling for a less serious verdict of manslaughter, given that the defendant reacted to the victim's provocation in the heat of passion, as a result of his past history.

Defense witnesses described a series of events previously experienced by the defendant. The defendant and a close friend were on patrol in a relatively safe area in Helmand Province, Afghanistan. Following a brief patrol, the two approached a checkpoint. As they approached, four men in masks burst from a nearby vehicle. The masked men began shouting and making demands. As a member of the Afghan Army attempted to intervene, the masked men opened fire. Most people nearby dove for cover, several were paralyzed with fear. The defendant and friend sought cover behind a nearby shack. The masked men soon targeted the shack that the defendant and friend were seeking cover behind. The masked men opened fire and both were wounded from the gunfire. The defendant was struck in the shoulder and the leg. The friend of the defendant was struck in the chest. The masked men continued firing at the Afghan military and civilians. The masked men fell back to their vehicle and continued to fire as they retreated, striking several other people. The ground was covered with the blood of the dead and wounded. The defendant attempted to give aid to the friend despite being wounded himself. Before the reinforcements arrived on scene both men lost consciousness. The defendant awoke in the hospital and discovered that his efforts to save his friend were unsuccessful. The defendant's friend was pronounced dead at the hospital along with seven others.

Additional testimony revealed that shortly after this traumatic event the defendant began suffering from several impairments. The defendant has continuous problems with sleep disturbances, and is often quick to anger. The defendant has continuous thoughts about the event despite his attempts to avoid them, and no longer spends time with anyone who is associated with the event. The defendant no longer enjoys many of the activities he once did, is easily startled, and is constantly on alert. The defendant feels at fault for the death of a friend and reports a persistent negative emotional state.

Based on these symptoms, the defendant was diagnosed with Post-Traumatic Stress Disorder (PTSD) by a licensed Psychotherapist.

The defense argued that this traumatic event has caused great distress in the defendant's life. This past event ultimately contributed to the outcome of his altercation with the victim by rendering the defendant less able to control himself when provoked.

Defense's Case for Civilian Defendant

The defense's case included evidence from the defendant, eyewitness testimony, etc. that described a series of events previously experienced by the defendant. The defense is calling for a less serious verdict of manslaughter, given that the defendant reacted to the victim's provocation in the heat of passion, as a result of his past history.

Defense witnesses described a series of events previously experienced by the defendant. The defendant and a close friend entered a bank to deposit a check. Following a brief wait in line, the two approached the counter. As they approached, four men in masks burst through the door of the bank. The masked men began shouting and demanding money. As a security guard attempted to intervene, the masked men opened fire. Most people dove for cover, several were paralyzed with fear. The defendant and friend sought cover behind a nearby desk. The masked men soon targeted the desk that the defendant and friend were seeking cover behind. The masked men opened fire and both were wounded from the gunfire. The defendant was struck in the shoulder and the leg. The friend of the defendant was struck in the chest. The masked men continued firing at the customers and staff. The robbers jumped the counter, took the money and continued to fire as they exited the bank, striking several other people. The floor was covered with the blood of the dead and wounded. The defendant attempted to give aid to the friend despite being wounded himself. Before the paramedics arrived on scene both men lost consciousness. The defendant awoke in the hospital and discovered that his efforts to save his friend were unsuccessful. The defendant's friend was pronounced dead at the hospital along with seven others.

Additional testimony revealed that shortly after this traumatic event the defendant began suffering from several impairments. The defendant has continuous problems with sleep disturbances, and is often quick to anger. The defendant has continuous thoughts about the event despite his

attempts to avoid them, and no longer spends time with anyone who is associated with the event. The defendant no longer enjoys many of the activities he once did, is easily startled, and is constantly on alert. The defendant feels at fault for the death of a friend and reports a persistent negative emotional state.

Based on these symptoms, the defendant was diagnosed with Post-Traumatic Stress Disorder (PTSD) by a licensed psychotherapist.

The defense argued that this traumatic event has caused great distress in the defendant's life. This past event ultimately contributed to the outcome of his altercation with the victim by rendering the defendant less able to control himself when provoked.

Closing Arguments

The prosecution argued that their evidence and witnesses demonstrate that the defendant knowingly and purposely killed the victim and is guilty of murder in the second degree. There was no reasonable provocation to justify the killing, and the defendant deserves to be found guilty of the more serious charge of 2nd degree murder, and the more severe sentence that comes along with that charge.

The defense argued that their evidence and witnesses demonstrate that the defendant was provoked by the victim, and that the traumatic experience in his past caused him to react in the heat of passion. They argued that his reaction to the provocation was reasonable, given his past, and the defendant deserves to be found guilty of the less serious charge of manslaughter, and the less severe sentence that comes along with that charge.

Post-Trial Jury Instructions

Please read the following instructions carefully and use them in your decision-making.

The fact that an unlawful killing took place is not in question. Your decision is whether the facts of the crime constitute murder in the second degree or manslaughter.

MURDER IN THE SECOND DEGREE

A person is guilty of murder if you believe beyond a reasonable doubt that he:

- (1) caused the victim's death or serious bodily injury that then resulted in death; and

- (2) the defendant did so purposely or knowingly; and
- (3) the defendant did not act in a Heat of Passion resulting from a reasonable provocation.

VOLUNTARY MANSLAUGHTER

A person is guilty of manslaughter if you believe that the defendant acted in a Heat of Passion resulting from a reasonable provocation.

The defendant (not the prosecution) must show, to a preponderance of the evidence, that he committed the crime while he was in a Heat of Passion.

‘Preponderance of the evidence’ means evidence favors one side more than the other. If you believe that the evidence more likely than not supports the defendant’s claim that he acted in a heat of passion resulting from a reasonable provocation, then you must render a verdict of manslaughter.

‘Reasonable provocation’ means that the provocation was sufficient to arouse the heat of passion for an ordinary, reasonable person such that he or she could have lost self-control under the circumstances in this case.

Appendix 2: Guilt Manipulations

No-Guilt Control/Introduction

In cooperation with the Center for Civilian and Veteran Issues, we have agreed to ask participants to read information and answer some questions about their attitudes. Please read the following information and answer the questions.

Operation Iraqi Freedom began in March 2003. By May President Bush had declared major combat operations over. However this was certainly by no means the end. In December 2003 Saddam Hussein was captured during operation Red Dawn. Four months later in April the first battle of Falujah began. It was realized here that the major opposition was no longer forces loyal to Saddam but instead insurgents. The war continued for 6 more years. By early 2009 troop levels began to be reduced as more were sent home. By mid-2010 all combat troops had left Iraq.

During operation Iraqi Freedom the troops were well equipped with their standard issue rifles. These reliable firearms included the m4 carbine, m16, m14 and FN SCAR. The M4 and the M16 use NATO 5.56 × 45 mm round. While the SCAR and M14 use 7.62 × 51 mm.

The forces involved in the invasion and occupation of Iraq came from all branches of the military. The Army made up the majority of the total troops deployed to Iraq at approximately 54%, next Navy at 17%, then Air Force at 14% and finally Marines at 13%.

Individual-Guilt Condition

Although many brave soldiers served, we needed not only many more men, but also many more women to step up and fight for their country in order to be successful. Post-war reports suggest that had more men and women actually joined the war effort, the number of casualties would have been significantly reduced. For example, with more individual men and women on the ground the chance of being outnumbered in certain battles would have been reduced and troops requiring reinforcement would have received assistance much more quickly. As of 2010, nearly all troops have returned from Iraq. Reports indicate a shortage of volunteers at home to assist with supporting the returning veterans. According to survey data, returning veterans believe that more individuals should have volunteered to help them after they returned from war. Additionally, they report feeling disappointed that despite all of the individuals who were in favor of the war effort, they have little support from individuals when they return home.

Please answer the following questions concerning how you, as an individual, feel about one’s own responsibility in fulfilling their civil obligations.

As an Individual, I believe it is important that Individuals fulfill their civil obligations.

Strongly disagree—————Strongly agree

As an Individual, I believe it is important to be indebted to those who fulfill their own civil duties.

Strongly disagree—————Strongly agree

As an Individual, I believe it is important to provide adequate support to those who serve their country.

Strongly disagree—————Strongly agree

Have you served, or do you currently serve, in the military?

Yes/No

If not, do you personally feel like you should have served?

Yes/No

Collective-Guilt Manipulation

According to the Center for Civilian and Veteran Issues a considerable proportion of returning veterans struggle with war-related mental problems and disabilities, and many are homeless or on the verge of homelessness. Post-war reports suggest that America has failed to provide adequate services to returning veterans. Survey data indicate Veterans feel that they do not have access to mental health and other essential services that they need to deal with the trauma they experienced when fighting for our country. The majority of veterans feel that America, as a society, has failed to properly care for veterans who stepped up and defended America's freedom – despite America's overwhelming support for the war initially and America's willingness to send the soldiers into a situation that America knew would be dangerous, traumatic, and likely to cause the post-war difficulties that they are currently experiencing.

Please answer the following questions concerning how you, as an individual, feel about one's own responsibility in fulfilling their civil obligations.

As an American, I believe it is important that America fulfills its civil obligations to its soldiers.

Strongly disagree————Strongly agree

As an American, I believe it is important to be indebted to soldiers who perform their civil duties.

Strongly disagree————Strongly agree

As an American, I believe it is important to provide adequate support for those who serve their country.

Strongly disagree————Strongly agree

Do you believe America has done enough to support veterans returning from war?

Yes/No

If not, as an American, do you feel like America should?

Yes/No