
Natural Observations of the Links Between Attractiveness and Initial Legal Judgments

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Employing natural observations, female and male courtroom judges set the fines or bail amounts in misdemeanor and felony cases for 915 female and 1,320 male defendants. These persons varied widely in attractiveness and were unable to alter their appearance before presentation to their judges. Police officers, acting as confederates, rated the defendants' attractiveness levels. These levels were compared with bails and fines set by the judges. Defendant attractiveness levels were important only in bail and fine amounts for misdemeanor charges, not for felonies. Implications of the results for additional inquiry in ecologically justifiable litigation settings are presented.

Many investigations have focused on the impact of litigants' attractiveness levels in simulated jury trials. The standard finding in these studies is that, with few exceptions (e.g., Sigall & Ostrove, 1975), attractiveness tends to modify jurors' judgments in favor of the more attractive, compared with the less attractive, litigant (e.g., Berry & Zebrowitz-McArthur, 1988; Deitz, Littman, & Bentley, 1984; Efran, 1974; Jacobson & Berger, 1974; Kerr, 1978; Michelini & Snodgrass, 1980; Thornton & Ryckman, 1983). Although most of these studies include caveats against generalization of findings to actual trial settings, most of what is known about courtroom litigation seems to be based on laboratory analogs. Extrapolations from mock jury studies to litigation processes involving real-world judges, juries, and litigants are troublesome (Wilson & Donnerstein, 1977), especially because very few in vivo investigations have been conducted to corroborate them.

The present investigation addressed five issues that may help to clarify the role of attractiveness in real-world litigation processes. We focused on (a) judges rather than jurors, (b) defendants who were unable to alter their appearance levels prior to court appearances, (c) a full range of attractiveness levels, (d) six levels of crime, de-

finied by state statutes, and (e) the initial intake phase of litigation rather than the phases at which guilt/innocence is judged and punishment is set.

The first issue concerned the study of courtroom judges rather than (mock or real) juries. Most previous attractiveness-litigation research has centered on the judgments of jurors, most often undergraduates, rather than those of actual judges. Moreover, juries are typically asked to focus on the criminal or civil actions of a single, usually small, set of litigants. Court judges, in contrast, are repeatedly faced with diverse litigants who vary widely in the crimes of which they are accused (Hogarth, 1971; Partridge & Eldridge, 1974). Apparently, an unstated assumption of the earlier laboratory research is that juries are groups of paralegal judges and that what is found for juries very likely reflects an expected pattern for judges. This assumption is highly doubtful because trained court judges tend to be much older and more experienced than juries and may hold entirely different penal philosophies than juries (e.g., Hogarth, 1971). Because a very large proportion of the outcomes of criminal and civil trials are adjudicated by judges rather than by juries, any assumption that judges mirror the attractiveness-based decisions made by mock juries at any phase of litigation deserves close inspection.

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Stewart (1980, 1985) appears to have conducted the only direct observations of attractiveness vis-à-vis juridic decisions by courtroom judges. Stewart (1980) initially studied 70 male and 4 female criminal court defendants charged with various felonies whose cases were heard by 19 judges in Pennsylvania. Stewart found that although the seriousness of the defendants' felonies and the sentences imposed on them were inversely correlated with observers' ratings of the defendants' attractiveness levels ($r_s = -.32$ to $-.40$), attractiveness was *not* related to judgments of conviction or acquittal. Stewart's (1985) second study, with 56 male and 4 female felony defendants and an unknown number of judges, replicated the earlier study, including the finding that attractiveness was related only to the sentences imposed upon felony conviction, not to decisions of conviction or acquittal.

The second issue of concern in the present study is the manipulation of the attractiveness levels of litigants. That is, litigants in genuine courtroom circumstances are typically groomed and dressed so as to maximize their chances of appearing attractive (e.g., Stewart, 1980). Without question, lawyers go to great lengths to make their clients appear attractive (e.g., Bull, 1982). In mock trials, litigants are usually made to look very attractive *or* very unattractive. It is important to remember, however, that several critical legal decisions are made without the opportunity for any manipulation of appearance (Stewart, 1980). Indeed, Stewart (1980) has suggested that the early portions of litigation, which would include plea bargaining and bail setting, could be particularly important, even crucial, aspects of any attractiveness-litigation relationship. In these circumstances litigants often do not have the opportunity to clean and dress themselves for the purpose of looking their most attractive, and subsequent legal decisions could easily be permanently influenced by initial judgments based on appearance (Stewart, 1980, 1985).

The third issue of the present study concerns the range of litigants' attractiveness levels in research of this sort. As Solomon and Schopler (1978) have persuasively argued, most litigants could be expected to be only moderately attractive. Unfortunately, the previous attractiveness-litigation literature focuses almost exclusively on the extremes of attractiveness rather than on persons representing a full range of attractiveness. If, as Downs and Abshier (1982) have argued, attractiveness levels are normally distributed, most of the earlier evidence on attractiveness-litigation links would apply only to a very small proportion of litigants.

The fourth issue considered here focuses on the severity of crime. Although the development and use of adequate indexes of crime severity have been hotly debated (e.g., Deschner, Plain, Terhune, & Williamson,

1981; Thomas, Cage, & Foster, 1976), most attractiveness-litigation research has focused on single crimes, and most often these crimes are felonies. In contrast, very little is known about the relationship between attractiveness and litigation when a variety of crimes, including misdemeanors, are involved. It seems entirely possible that when a full range of crimes is studied, exceptions to the traditional finding that greater attractiveness is associated with greater leniency could be uncovered.

The last issue of concern in the present study is the fact that virtually nothing is known of the impact of attractiveness on the initial, intake phase of litigation. Some information exists on the second (conviction or acquittal) and third (sentencing) phases of litigation, but the initial arrest and bond- or fine-setting processes have apparently received no empirical scrutiny. However, this earliest phase of juridic processing offers a unique glimpse of the possible consequences of defendants' attractiveness levels, consequences that may carry over to the conviction or acquittal and sentencing phases of litigation (Stewart, 1980, 1985).

The study of the initial intake process as it relates to attractiveness yields important information on all the issues addressed earlier: During the bail- and fine-setting process, the decision makers are court judges, not juries. Incoming defendants have no opportunity to alter their attractiveness levels, they ostensibly represent a full range of attractiveness levels, and they are arrested for a wide variety of crimes. Consequently, in the present investigation, actual female and male courtroom judges set the fines or bail amounts in misdemeanor and felony cases for female and male defendants who varied widely in attractiveness and who were unable to alter their appearance prior to appearing before their judges. Given the lack of previous inquiry using natural observations, the sole hypothesis was that the more attractive the defendant, the lower the bail or fine she or he would be required to pay.

METHOD

Subjects

Over an 18-month period, 915 women and 1,320 men were arrested by police officers in numerous communities along the Texas Gulf Coast. By specific agreement with representatives of each police department, the exact locations of these communities and the personnel involved in the study were to remain completely anonymous. The persons arrested were charged with one of three classes of misdemeanors or with one of three degrees of felonies. Another 144 persons (30 females, 114 males) were charged with more than one misdemeanor or felony or with both a misdemeanor and one or

TABLE 1: Characteristics of the Defendants

	Male Judges						Female Judges					
	Black (N = 2)		Hispanic (N = 2)		Caucasian (N = 18)		Black (N = 2)		Hispanic (N = 2)		Caucasian (N = 14)	
	Women	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women	Men
Felonies												
1st degree	5	10	7	13	10	16	5	9	5	12	7	15
2nd degree	10	18	8	15	12	21	6	13	7	16	8	23
3rd degree	12	20	10	23	13	46	9	19	8	17	11	34
Misdemeanors												
Class A	57	55	41	61	50	98	31	31	36	37	39	71
Class B	40	48	44	54	59	105	34	39	35	38	41	63
Class C	35	37	42	30	57	90	35	36	36	33	50	54
Age (years)	27.3	29.1	26.4	25.6	28.1	27.3	27.0	25.9	29.1	28.3	29.8	30.2
N	159	188	152	196	201	376	120	147	127	153	156	260

more felonies. These subjects were not included in this study, because their multiple offenses raise the controversial issue of how to compute the severity of crime (see Deschner et al., 1981; Thomas et al., 1976). Moreover, none of the subjects used in this study were charged with a capital felony, a crime for which bail may be denied in Texas. No information on the prior arrest history of the defendants was used by judges in setting bails or fines, nor was this information available for the present study. The defendants represented both genders, Black, Hispanic, and Caucasian ethnicities, and a broad age range (17-74 years). The characteristics of the sample and the charges pressed against them are shown in Table 1. Unfortunately, because of guarantees of anonymity and privacy, it was not possible to record specific types of offenses within each misdemeanor or felony class. Thus, only the six general classes of crime were available for study.

Procedure

Experimental confederates, who were police officers (19 men, 12 women; 1 Hispanic, 1 Black, 29 Caucasians) not involved in the arrest of the defendants and who were naive concerning the actual purpose of the study, escorted the arrested persons before 1 of 40 judges (22 men, 18 women; 4 Hispanic, 4 Black, 32 Caucasian) for bail posting or fine setting (*bail/fine*). Before bail/fine was set, the confederates rated the accused on a 1 (lowest) to 5 (highest) attractiveness scale, and afterward they noted the level of charge and amount of bail/fine set by the judges. Use of a restricted, 1-5, rather than wider-range scale was based on pilot work with other police officers who had indicated that the 1-5 range was more suitable and comfortable for their use. Confederates and accused persons were the same gender. Judges were unaware that the confederates were making attrac-

tiveness ratings. By routine police arrest procedure, the defendants were not allowed to alter their appearance prior to coming before the judges. The courtrooms in which defendants appeared varied widely in size, decor, and audience. No attempt was made to control for these factors.

In order to ensure that the confederates would take the rating procedure seriously, each was told that about 50% of his or her attractiveness ratings would be compared with similar ratings made by a second, independent confederate. In reality, interrater reliability assessments were conducted on only 12% (or 268) of confederates' ratings. These interrater reliabilities were secured by having one or two others (students working for the authors; $N = 11$; 3 women, 8 men, all Caucasian) rate the same defendants as the confederates. Given the unusual nature of the setting and experimental procedure, this interrater reliability process was difficult and required a ruse: The students would "arrive" ostensibly to "pick up today's/tonight's ratings" outside the prisoner detention area just after the confederate left with the defendant to see the judge. When the confederate and the defendant returned to the detention area, students immediately rated the defendant. Students were instructed to rate defendants only if they could get a clear, full-face view of them; otherwise they made no rating. In addition, students were asked not to rate a defendant they recognized.

In sum, confederates never knew when their ratings would be compared with the independent ratings made by the outside observers. Moreover, the importance of "accurate" ratings of the defendants was stressed repeatedly by the authors. Interrater reliability across the confederates and students was high ($r = .75-.93$) and consistent with research of this type (e.g., Downs & Abshier, 1982). Given the restricted range of attractiveness ratings (1-5) used in this study, supplemental interrater reliabil-

ity coefficients were calculated employing an agreement divided by agreement-plus-disagreement formula for exact matches in attractiveness ratings. The range (73% to 90%) of these reliability figures remained high.

At the conclusion of data collection, the confederates were asked to guess about the true purpose of the study. All but three confederates indicated no awareness of the purpose. In the three exceptions, the officers indicated that they thought the point of the study was to see how accurate their ratings would be when compared with the other, independent assessments of the defendants. Although it is still possible that the officers guessed the true nature of the study, the high interrater reliabilities obtained, plus the fact that confederates' ratings occurred *prior to* bail/fine assessments levied by separate judges, together seem to guard against any systematic biasing of the results.

After the interviews, all confederates were individually and fully debriefed concerning the actual purpose of the study and were once again guaranteed complete anonymity for themselves and for their supervisors (who had granted permission for the officers to participate). Because at no time were the judges observed or directly engaged in the study, they received no debriefing. Finally, after consultation with the appropriate law enforcement and legal authorities, it was deemed neither prudent nor necessary to involve the defendants in the debriefing process.

RESULTS

Background and Preliminary Analyses

State law defines the maximum bails and fines that can be imposed for various misdemeanor offenses during the arrest phase: \$2,000 bail for Class A misdemeanors, \$1,000 bail for Class B misdemeanors, and \$200 bail or fine for Class C misdemeanors. Judges are permitted to impose only bails, not fines, during the arrest phase for Classes A and B misdemeanors. They may impose a fine (maximum \$200) if a plea of guilty is entered during a Class C misdemeanor arrest; if no guilty plea is entered, a bail is set (maximum \$200). Maximum bails are also set by state statute for various degrees of felonies during the arrest phase (fines are not allowed for felonies during this phase): first-degree felony, \$20,000; second-degree, \$10,000; and third-degree, \$5,000. Because a distinction between setting bail and imposing a fine could be important to the present study, the relevant analyses described below initially included bail versus fine as a variable. Neither main nor interaction effects for this variable were obtained. Consequently, all subsequent analyses excluded the bail/fine distinction. In addition, analyses

of the attractiveness levels of those receiving bails compared with those receiving fines within Class C misdemeanors yielded no differences based on attractiveness ratings.

General Statistical Analyses

The data for felony and misdemeanor cases were analyzed and are reported separately because they are not directly comparable data sets (Deschner et al., 1981; *Texas Penal Code*, 1985; Thomas et al., 1976). A 2 (Gender of Defendant) \times 3 (Ethnicity) \times 2 (Gender of Judge) \times 5 (Attractiveness Level) \times 3 (Degree) unequal-*N*, between-groups ANOVA on bail/fine amounts for felonies yielded neither main nor interaction effects for any of the variables, except for an expected main effect for degree of felony, $F(2, 305) = 512.21, p < .0001$. Thus, the only result of this analysis was that those charged with greater-degree felonies received higher bail/fine amounts (first, degree, $M = \$11,417.32$; second degree, $M = \$6,924.39$; third degree, $M = \$3,497.96$). Supplemental tests for linear trends in the relationship between attractiveness and these felony data failed to produce any significant ($p < .05$) results.

A 2 (Gender of Defendant) \times 3 (Ethnicity) \times 2 (Gender of Judge) \times 5 (Attractiveness Level) \times 3 (Class) unequal-*N*, between-groups ANOVA on bail/fine amounts for misdemeanors yielded main effects for class of misdemeanor, $F(2, 1554) = 830.06, p < .0001$, and for physical attractiveness, $F(4, 1554) = 84.50, p < .0001$. The class of misdemeanor main effect and a Scheffé posttest comparison of the means confirmed that defendants charged with Class A misdemeanors ($M = \$1,024.30$) received higher bail/fine amounts than those charged with Class B misdemeanors ($M = \$424.29$), who, in turn, received higher bail/fine amounts than those charged with Class C misdemeanors ($M = \$88.76$).

The physical attractiveness main effect and a Scheffé comparison of the means revealed that those rated low (Rating 1, $M = \$772.00$) or below average (Rating 2, $M = \$658.51$) in attractiveness received higher bail/fine amounts than those rated moderate in attractiveness (Rating 3, $M = \$534.54$). Moreover, all three of the lower attractiveness ratings received significantly higher bail/fine amounts than those rated above average (Rating 4, $M = \$387.85$) or high (Rating 5, $M = \$247.67$) in attractiveness. Bail/fine amounts for those in the two highest attractiveness groups were not significantly different.

A Class of Misdemeanor \times Attractiveness interaction effect, $F(8, 1554) = 16.79, p < .0001$, suggested that defendants lowest in attractiveness and charged with a Class B misdemeanor ($M = \$664.80$) received a higher bail/fine than defendants high in attractiveness but charged with

TABLE 2: Mean Bail/Fine Amounts for Class A, B, and C Misdemeanor Defendants at the Five Attractiveness Ratings

Misdemeanor	Attractiveness Ratings				
	1	2	3	4	5
Class A	\$1,384.18 (110)	\$1,235.85 (124)	\$1,130.78 (156)	\$754.02 (122)	\$503.74 (95)
Class B	664.80 (105)	558.35 (127)	417.94 (172)	255.59 (107)	164.34 (89)
Class C	134.69 (88)	108.32 (107)	89.68 (164)	63.15 (94)	41.46 (82)

NOTE: Numbers in parentheses represent numbers of defendants. For attractiveness ratings, 1 = low, 5 = high.

a Class A misdemeanor ($M = \$503.74$). No other differences based on the interactive effects of misdemeanor class and attractiveness were apparent.

Analysis of Individual Felony and Misdemeanor Classes

Separate 2 (Gender of Defendant) \times 3 (Ethnicity) \times 2 (Gender of Judge) \times 5 (Attractiveness Level) unequal- N , between-groups ANOVAs for bail/fine amounts were performed for each felony degree and misdemeanor class. No significant effects, including linear trends as judged by post hoc tests, were found for any of the three felony degrees. In all three classes of misdemeanor, however, significant main effects due to attractiveness level were produced: Class A, $F(4, 547) = 38.55, p < .0001$; Class B, $F(4, 540) = 54.15, p < .0001$; Class C, $F(4, 475) = 61.603, p < .0001$. The means resulting from these analyses are shown in Table 2.

For Class A misdemeanors, those lowest in attractiveness had significantly higher bail/fine amounts than those at the moderate, above-average, and high attractiveness levels. In addition, those rated below average in attractiveness and those rated moderately attractive had higher bail/fine amounts than those at the above-average and high attractiveness levels. Finally, those rated high in attractiveness had lower bail/fine amounts than those rated above average. Generally, bail/fine amounts decreased as attractiveness increased, those highest in attractiveness receiving the lowest bail/fine for Class A misdemeanors.

For Class B misdemeanors, those low and below average in attractiveness received higher bail/fine amounts than those having any of the other attractiveness ratings, and moderately attractive defendants received higher bail/fine amounts than defendants having the two higher attractiveness ratings. Amounts for above-average and highly attractive defendants were not significantly different.

For Class C misdemeanors, each decrease in attractiveness rating was directly associated with a significant ($p < .05$) increase in bail/fine amount. An interaction effect was obtained from the ANOVA for Class C misdemeanors. An Ethnicity \times Gender of Defendant \times Gender of Judge interaction effect, $F(2, 475) = 3.50, p < .031$, yielded a puzzling array of mean bail/fine amounts. Close inspection of the pattern of means suggested only that Black women appearing before female judges received lower Class C fines ($M = \$72.00$) than Caucasian men appearing before male judges ($M = \$98.20$). This finding was neither expected nor readily amenable to plausible explanation.

Supplementary Analyses

In the original conception of the study, the chronological age of the defendants had not been thought to be of importance. Nonetheless, supplementary ANOVAs, including three levels of age (defined post hoc as <20 , $20-40$, >40), were conducted and produced no main or interaction effects. The significant correlation between age and attractiveness ($r = -.20, p < .0001$) suggested that the effects for attractiveness might be due, at least in part, to a covarying effect of age. All the ANOVAs reported above were repeated as ANCOVAs, with age as a covariate. None of the results reported above were affected.

DISCUSSION

The role of litigants' physical attributes in juridic proceedings has intrigued researchers for decades. The largest portion of empirical work in the area has been conducted in university settings, with students making assessments (typically of supposed felons) in staged juridic analogs. That research led to a general conclusion that the more attractive the litigant, the more favorable the outcome. The present study abandoned controlled laboratory environs and focused on judges rather than juries, live defendants representing unaltered and wide-ranging attractiveness levels, both major and minor criminal accusations, and the initial intake phase of litigation. In brief, the findings revealed that judges administered differential levels of fines or bails for persons accused of misdemeanors but did not exhibit a parallel pattern for those accused of felonies.

Stewart's (1980, 1985) earlier work with judges in felony cases indicated that defendants' attractiveness levels were unrelated to judgments of conviction or acquittal but that these levels strongly influenced the length of sentences imposed on those convicted of felonies. The present findings complement Stewart's results. That is, Stewart suggested that attractiveness was important only in the final disposition, or sentencing, of felony

cases. Attractiveness seemed to play no role prior to sentencing. Coupled with Stewart's work, our findings suggest that, for accused felons, judges are uninfluenced by litigants' appearance levels during the initial intake or conviction/acquittal phase of litigation. Only upon conviction does attractiveness seem to matter.

The obvious question is why judges would exhibit a strong attractiveness-related bias for persons accused of misdemeanors but not felonies in the present study. Although some of the necessary supporting data do not seem to exist in the published literature, we are prepared to advance a tentative hypothesis about the general role of attractiveness in judges' decisions in both felonies and misdemeanors. In felony cases, final disposition of cases typically occurs as the result of three steps: intake, acquittal/conviction, and upon conviction, sentencing. It is in the final phase of felony litigation that defendants' attractiveness levels seem to influence judges. In many misdemeanor cases litigation rarely proceeds beyond the initial phase. Indeed, many defendants in misdemeanor cases simply (a) pay a fine and are released or (b) plead guilty after bail is determined. The crucial, missing set of data concerns those misdemeanor cases that do move into the acquittal/conviction and sentencing phases of litigation. We are unaware of evidence on attractiveness that addresses these missing data. However, despite the lack of such evidence, we would tentatively argue that attractiveness plays a significant role in litigation involving judges only during the actual (or probable) end of litigation. For felonies, that end comes during sentencing upon conviction. For most misdemeanors, the end of litigation is the imposition of a fine or a guilty plea immediately after bail is set. If additional evidence corroborated such a hypothesis, it would suggest that even trained, older judges *are* influenced by litigants' appearance levels, but only when the judges are in the position of finally disposing of the case. Prior to final (or probably final—as in the cases of Classes A and B misdemeanors in Texas) disposition, judges would seem uninfluenced by appearance variables.

Complicating the hypothesis advanced above, however, is the strong possibility that judges differ in their penal philosophies (Hogarth, 1971). Those holding retribution, rehabilitation, deterrence, or other views of litigants (e.g., McFatter, 1978) could vary in the degree to which litigants' appearance levels affect them. For instance, Hogarth (1971) found that Canadian magistrates gave differential sentences to litigants on the basis of their penal philosophies. The interface of penal philosophy with links between attractiveness and litigation deserves closer scrutiny with both live and laboratory-based judges and juries in order to evaluate the hypothesis advanced above.

A persistent problem in research on attractiveness-litigation links concerns causal direction of effects between the two variables. The relationship of attractiveness to litigation processes may be of four basic types. First, it may be that persons who are less attractive commit more serious crimes than those who are more attractive (Agnew, 1984). This view suggests that unattractive people are more inclined toward crime, especially violent crime. The second view is that criminal actions elicit differential perceptions of objective attractiveness, so that attractiveness estimates are modified by prior knowledge of the actions of the persons being judged. Third, attractiveness and antisocial/criminal behaviors are tightly pleached, probably from an early age (e.g., Langlois & Downs, 1979). Because their associations are routinely high, it is probable that the direction of effects between attractiveness and such behavior will remain unknown. Finally, it may be possible that a third variable affects the relationship of attractiveness and criminal accusations/activities. Socioeconomic status, ethnicity, and developmental advantages (e.g., nutrition, schooling) might be such factors. The only empirical strategy for assessing these possible explanations involves longitudinal and *in vivo* research on attractiveness and criminal activity. In addition, although computation of severity-of-crime indexes is controversial, knowledge of crime severity and types of crimes within crime class (e.g., types of crimes within misdemeanor class) could be very useful in analyzing directions of effect between crime and attractiveness. Such data were unavailable in the present study; future inquiry should attempt to quantify severity of crime and types of crime within crime class. Finally, the present study examined, presumably for the first time, a full range of unaltered attractiveness levels. Perhaps when this range is included in research of this sort, a clearer picture of the impact of attractiveness can be discovered. For instance, specific, level-by-level attractiveness differences were found in the present investigation among the misdemeanor classes. Such information could weigh heavily in research on real-world links between appearance and litigation.

A major empirical advance would be made by investigations that follow accused persons from intake through the entire litigation process. Indeed, it seems at least possible that appearance factors could affect the litigation process differentially as that process unfolds. Though not the full, longitudinal approach needed to fully address the possible direction of effects issues involving appearance and criminality, such study could provide much-needed clarification on which longitudinal research could be built.

Despite the problems in disentangling the attractiveness and criminality variables, the necessity of observa-

tions of real juries and judges and real litigants in real settings now seems paramount in further inquiry into any attractiveness-litigation links. Closer inspection of all phases of litigation (from intake to final disposition), severity and nature of offenses, and types of judges/juries is all seriously needed. Over 10 years ago, Wilson and Donnerstein (1977) issued a strong appeal for researchers to move out of the controlled university laboratory setting and into the real-life environment of the legal system. We would echo that appeal even more strongly now. Unless researchers employ innovative means of on-site observation of the litigation process, knowledge in this area will remain confined primarily to the results of an assembly of artificial, perhaps even specious, and typically experimentally driven findings.

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