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THE PSYCHOLOGY OF COLLECTIVE RESPONSIBILITY: WHEN AND WHY COLLECTIVE ENTITIES ARE LIKELY TO BE HELD RESPONSIBLE FOR THE MISDEEDS OF INDIVIDUAL MEMBERS

Steven J. Sherman and Elise J. Percy***

INTRODUCTION

On April 5, 2010 a massive explosion rocked the Upper Big Branch coal mine in Raleigh County, West Virginia, killing twenty-nine mine workers and devastating a community.¹ The incident was preceded by a large number of safety citations, demonstrating a pattern of violations by the mining company.² Later that same month, a thousand miles away in Dallas, Texas and under totally unrelated circumstances, seven-month old baby Brianna died after being forgotten all day in a locked car by a babysitter entrusted with her care.³ While these two tragic events proceeded completely independently of one another, they share some important similarities. In both cases, it could be said that innocent lives were lost because of the actions of parties

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¹ David A. Fahrenthold & Kimberly Kindy, *Safety Chief Details West Virginia Coal Mine's History of Violations*, WASH. POST, Apr. 28, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/04/27/AR2010042705268.html>.

² *Id.*

³ Jon Nielsen, *7-month-old Forgotten in Car in Red Bird Dies*, DALLAS MORNING NEWS, Apr. 30, 2010, <http://www.dallasnews.com/sharedcontent/dws/dn/latestnews/stories/043010dnmetbabydead.d3e2577.html>.

(babysitter and employer) that would traditionally be considered responsible for their safety,⁴ and in both cases, it would be difficult to convince anyone that the victims were themselves responsible for the outcomes—they were the unfortunate ones trapped to meet their mortal fate.

Psychologists are interested in one particularly important difference between these two terrible events: in the former, the potentially responsible party is a *corporate entity* (Massey Energy⁵), while in the latter it is an *individual entity* (the unnamed babysitter⁶) who would ultimately be accused of wrongdoing. The notion that individuals are held responsible and are punished for their wrongdoings is understandable from both a legal and from a psychological perspective. The question of whether collective entities can, or should be, held responsible or punished for the acts of individual members of those entities is a much more complex and debatable issue. From a legal point of view, in many ways, collective entities such as corporations have been treated in the same way that individuals are treated. They can sue and be sued,⁷ they have First Amendment rights,⁸ they can make political contributions,⁹ and they can be held responsible for crimes in both civil and criminal cases.¹⁰ But, equating collective entities with individuals has been challenged on ethical and philosophical grounds.¹¹

⁴ *Id.*; Fahrenthold & Kindy, *supra* note 1.

⁵ Fahrenthold & Kindy, *supra* note 1.

⁶ Nielsen, *supra* note 3.

⁷ See 1 U.S.C.A. §1 (West 2010) (specifying that the words “person” and “whoever” in all Acts of Congress apply to corporations as well as individuals); *Louisville, Cincinnati & Charleston R.R. Co. v. Letson*, 43 U.S. 497 (1844) (holding that a corporation is to be “treated as a citizen of [the State which created it], as much as a natural person”).

⁸ 1 U.S.C. §1; *Letson*, 43 U.S. 497.

⁹ See *Citizens United v. Fed. Election Comm’n*, No. 07-2240, 2008 WL 2788753, at *1 (D.D.C. Jul. 18, 2008) (holding that, under the First Amendment, the government cannot limit corporate funding of political broadcasts).

¹⁰ 1 U.S.C. §1; *Letson*, 43 U.S. 497.

¹¹ Peter A. French, *The Corporation as a Moral Person*, 16 AM. PHIL. Q. 207, 207 (1979). See also John Hasnas, *Where is Felix Cohen When We Need Him?: Transcendental Nonsense and the Moral Responsibility of Corporations*, 19 J.L. & POL’Y (forthcoming Fall 2010); Marion Smiley, *From Moral Agency*

This article will explore, from a psychological perspective, the issue of equating collective entities with individuals. The proceeding discussion will argue that a high level of coherence in collective entities, such as corporations, can lead to judgments of collective intentionality and responsibility; in such cases, it therefore makes legal sense to treat corporations as individuals. Part I outlines the traditional differences between perceptions of individual and group behavior from a social psychological viewpoint. Part II, however, describes how perceptions of groups can approximate perceptions of individuals when those groups are perceived to be coherent entities. Parts III, IV, and V explore the implications of such perceptions to judgments of corporate intentionality and responsibility. Finally, Part VI makes the normative point that the degree to which corporations are treated as individuals ought to be consistent across situations—regardless of whether it results in corporate benefit or detriment.

Rather than address the philosophical questions of whether it is right or wrong, ethical or unethical, to treat these two kinds of entities similarly under the law, we will examine, from a social psychological point of view, when and why individuals and collective entities are perceived in the same ways. Thus, this article will address when and why it will appear sensible to the judicial and lay population for the two kinds of entities to be treated the same under the law.

This analysis will begin by discussing how perceptions of groups and individuals differ as demonstrated by theory and research in Social Psychology. Importantly, these differences in perception are based on expectations of unity and coherence for the attributes and behaviors of *individuals*,¹² but such expectations are typically not held for *groups*.¹³ Likewise, because individuals are perceived as stable and predictable entities, they are held responsible for their bad actions—but this is generally not the case for groups.¹⁴ However, when a group is perceived as high in

to *Collective Wrongs: Re-Thinking Collective Moral Responsibility*, 19 J.L. & POL'Y (forthcoming Fall 2010).

¹² David L. Hamilton & Steven J. Sherman, *Perceiving Persons and Groups*, 103 PSYCHOL. REV. 336, 338 (1996).

¹³ *Id.* at 337.

¹⁴ *Id.* at 340–41.

entitativity (that is, as a coherent *entity*) these tendencies change—it is viewed as a single collective organism in which all members are interchangeable.¹⁵ Thus, perceptions of groups take on the qualities traditionally associated with the perception of individuals. This article will discuss research showing the effects of perceiving groups as entities. Most importantly, such perceptions allow for judgments of group-level intentionality and collective responsibility. In short, this article will identify the conditions under which groups such as corporations are perceived as entities, and thus when it makes psychological sense to hold a corporation responsible for the bad actions of its individual members.

I. PERCEPTIONS OF GROUPS VERSUS INDIVIDUALS

This exploration will begin with an analysis of the ways in which individuals and groups (i.e., collective entities) are generally perceived. A long history of theory and research in psychology indicates that groups, such as corporations, are typically perceived and treated differently from individuals.¹⁶ Such work implies that

¹⁵ Matthew T. Crawford, Steven J. Sherman & David L. Hamilton, *Perceived Entitativity, Stereotype Formation, and the Interchangeability of Group Members*, 83 J. PERSONALITY & SOC. PSYCHOL. 1076, 1089 (2002) [hereinafter Crawford et al.].

¹⁶ Early work by Asch focused on the unified impressions that people form of individuals. See Solomon E. Asch, *Forming Impressions of Personality*, 41 J. ABNORMAL & SOC. PSYCHOL. 258, 258 (1946). Similarly, Anderson proposed that social perceivers make integrated summary impressions of individuals and he quantified how such impressions would form. See generally NORMAN H. ANDERSON, *FOUNDATIONS OF INFORMATION INTEGRATION THEORY* (Academic Press 1981). Jones and Davis discussed how social perceivers infer stable dispositional aspects in individuals such as traits, motives, and attitudes. See Edward E. Jones & Keith E. Davis, *From Acts to Dispositions: The Attribution Process in Person Perception*, in 2 *ADVANCES IN EXPERIMENTAL SOCIAL PSYCHOLOGY* 219, 220–22 (L. Berkowitz ed., Academic Press 1965). More recently, researchers have discussed how these inferences about individuals are made on-line as behavioral information is received and how they are made spontaneously. See Reid Hastie & Bernadette Park, *The Relationship Between Memory and Judgment Depends on Whether the Judgment Task is Memory-Based or On-Line*, 93 PSYCHOL. REV. 258, 261, 266 (1986); Meryl Lichtenstein & Thomas K. Srull, *Processing Objectives as a Determinant of the Relationship Between Recall and Judgment*, 23 J. EXPERIMENTAL SOC. PSYCHOL. 93, 112

legally treating individuals and groups similarly does not make sense psychologically. To analyze this issue more carefully, this discussion will first focus on the perception¹⁷ of individuals and then move on to describe how the perception of groups generally differs.

A key characteristic of the perception of individuals is the expectation of unity and internal coherence.¹⁸ In other words, social perceivers expect individuals to be the same person, in terms of an inherent nature or personality, yesterday, today, and

(1987); Donal E. Carlston & John J. Skowronski, *Savings in the Relearning of Trait Information as Evidence for Spontaneous Inference Generation*, 66 *J. PERSONALITY & SOC. PSYCHOL.* 840, 852–53 (1994); Leonard S. Newman & James S. Uleman, *Spontaneous Trait Inference*, in UNINTENDED THOUGHT 155, 156 (James S. Uleman & John A. Bargh eds., 1989); Laraine Winter & James S. Uleman, *When are Social Judgments Made? Evidence for the Spontaneousness of Trait Inferences*, 47 *J. PERSONALITY & SOC. PSYCHOL.* 237, 249 (1984). With regard to impressions of groups, the social psychological literature draws very different conclusions: the impressions are generally not unified; see Constantine Sedikides & Thomas M. Ostrom, *Are Person Categories Used When Organizing Information About Unfamiliar Sets of Persons?*, 6 *SOC. COGNITION*, 252, 263 (1988); Joshua Susskind, et al., *Perceiving Individuals and Groups: Expectancies, Dispositional Inferences, and Causal Attributions*, 76 *J. PERSONALITY & SOC. PSYCHOL.* 181, 181–82 (1999); they are not made on-line but rather are memory-based; see David M. Sanbonmatsu, Steven J. Sherman & David L. Hamilton, *Illusory Correlation in the Perception of Individuals and Groups*, 5 *SOC. COGNITION* 1, 5–7 (1987); and they are not spontaneous; see Allen R. McConnell, Steven J. Sherman & David L. Hamilton, *On-Line and Memory-Based Aspects of Individual and Group Target Judgments*, 67 *J. PERSONALITY & SOC. PSYCHOL.* 173, 182 (1994) [hereinafter McConnell et al., *Individual and Group Target Judgments*]; Robert S. Wyer Jr., Galen V. Bodenhausen & Thomas K. Srull, *The Cognitive Representation of Persons and Groups and its Effect on Recall and Recognition Memory*, 20 *J. EXPERIMENTAL SOC. PSYCHOL.* 445, 450–51 (1984). Hamilton and Sherman discussed in greater detail how and why groups are perceived and treated differently from individuals. Hamilton & Sherman, *supra* note 12, at 339–340.

¹⁷ When this article describes “perception,” it refers generally to the way a group or individual is viewed by an observer. In the context of particular psychological studies, this is intended to refer to the way study participants view the individuals depicted in experiments. However, such “perception” in this article is also generalized more broadly to anyone psychologically considering an individual or group, be it the general public, juries, or officials in law or government.

¹⁸ Hamilton & Sherman, *supra* note 12, at 337–38.

tomorrow. Heider discusses how such expectations lead to fixed impressions of individuals as they search for invariance and stable properties in the people they perceive.¹⁹ He argues that in “person perception” (much like object perception) people are motivated to find stable characteristics, or “invariance” across conditions, and to thereby identify a “disposition.”²⁰ Such a process operates under the assumption that a singular and identifiable disposition exists and can be inferred from experience.

Hamilton and Sherman identify the “fundamental postulate” of individual impression formation: “The perceiver expects unity and coherence in the personalities of others. A person is expected to be an organized entity; he or she is the same person, with the same personality, yesterday, today, and tomorrow.”²¹ In their view, perceptions of individuals are governed by a drawing together of the elements, a drive to form a consistent picture.²² They describe four principles at work in this process.

The first focuses upon the motivations of the perceiver to learn the target’s stable disposition.²³

*Principle 1 – The perceiver seeks to draw inferences about the dispositional properties constituting the core of the person’s personality—the fundamental qualities.*²⁴

Although the information obtained about the target by the perceiver at any moment may be highly specific, it is collected under the motivation to discover underlying patterns of the target’s personality characteristics.²⁵ This tendency to move from collected information to a coherent picture of a personality often proceeds without even the conscious intent to do so.²⁶ A large body of

¹⁹ FRITZ HEIDER, *THE PSYCHOLOGY OF INTERPERSONAL RELATIONS* 80–81 (Wiley & Sons 1958). See also Daniel T. Gilbert, *Ordinary Personology*, in 2 *THE HANDBOOK OF SOCIAL PSYCHOLOGY* 89, 94–97 (Daniel T. Gilbert, Susan T. Fiske & Gardner Lindzey eds., McGraw-Hill 4th ed. 1998).

²⁰ Gilbert, *supra* note 19.

²¹ Hamilton & Sherman, *supra* note 12, at 337.

²² *Id.* at 338.

²³ *Id.* at 337.

²⁴ *Id.*

²⁵ *Id.*

²⁶ See, e.g., James S. Uleman, *Consciousness and Control: The Case of Spontaneous Trait Inferences*, 13 *PERSONALITY & SOC. PSYCHOL. BULL.* 337,

research on spontaneous trait inference has demonstrated that merely being presented bits of information about a target person quickly leads perceivers to infer stable personality characteristics, without deliberate intent to do so on the part of the perceivers.²⁷ For example, learning that a person has helped an elderly man across the street inescapably evokes the inference that this person is kind. This tendency to draw dispositional inferences is low-level and hard-wired, occurring automatically and below awareness.²⁸ These inferences are made on-line (i.e., at the time that one gathers the information) and are made spontaneously.²⁹

Hamilton and Sherman's second principle, regarding expectancies, is related to the first:

*Principle 2 – The perceiver expects consistency in the target persons' traits and behaviors. We form strong expectancies about [these traits and behaviors].*³⁰

Upon inferring dispositional characteristics, perceivers then employ that information to form expectations about future behavior, or to evaluate past behavior. In fact, these expectancies can be very strong and can wield a great deal of influence over judgment.³¹ Work by Hirt has demonstrated that much interpersonal judgment ultimately proceeds from such already-formed expectations about an actor's behavior.³² In other words, once a person's "fundamental qualities" are ascertained, those qualities guide the expectations for future behavior, because individuals are assumed to have reasonably stable and coherent

348 (1987); Winter & Uleman, *supra* note 16, at 249.

²⁷ Uleman, *supra* note 26, at 348; Winter & Uleman, *supra* note 16, at 248.

²⁸ Uleman, *supra* note 26, at 338.

²⁹ The spontaneous nature of these inferences was nicely demonstrated in a series of studies by Carlston and Skowronski. Carlston & Skowronski, *supra* note 16. They reported that subjects learned actors' traits more quickly if they had previously viewed congruent descriptive stimuli. *Id.* at 852. This savings effect occurred regardless of subjects' processing goals, persisted for a week after initial impression formation, and occurred even without conscious recognition of the stimuli. *Id.* at 845, 849, 850.

³⁰ Hamilton & Sherman, *supra* note 12, at 338.

³¹ *Id.* (citing Neil Lutsky, Pamela L. Bacon & K.L. Dawson, *The More Things Stay the Same: Stability in Person Perception* (1994) (unpublished manuscript) (on file with authors)).

³² *Id.*

personalities.³³

The third and fourth principles are related to one another and can be discussed as a set:

*Principle 3 – The perceiver seeks to develop an organized impression of the target person. It is a structured picture.*³⁴

Principle 4 – The perceiver strives to resolve inconsistencies in the information acquired about the target person.

Both of these principles relate to the human tendency to create structured, consistent views of other individuals. Information that does not fit an initial impression is not easily accommodated, and one must constantly update the impression so that it can accurately characterize the ever-increasing set of information and behaviors that are learned through interaction.³⁵ Importantly, no matter how the impression changes, this impression always reflects a cohesive, stable personality.

These four principles, regarding the human motivation to learn dispositional qualities (principle 1), the use of such inferences to form expectations (principle 2), the organized impression that ultimately results (principle 3), and the drive to resolve inconsistencies in such impressions (principle 4), all point to one large conclusion: *individuals are perceived as cohesive entities, and this perception of internal coherence dominates the impression formation process.*

Groups, however, are very different.

For groups, the above postulates and principles do not generally hold. Perceivers do not usually expect unity and coherence among group members or for group entities.³⁶ Take for example, the following statement:

Jake, a member of the football team, tends to be slow to warm up in relationships, but eventually he becomes rather clingy.

Hamilton and Sherman's principle of individual perception, the search for stability and coherence, can be applied to analyze this

³³ *Id.* at 938.

³⁴ Hamilton & Sherman, *supra* note 12, at 338.

³⁵ *Id.*

³⁶ *Id.* at 340–41.

statement.³⁷ To draw a conclusion about an individual, based on the available evidence, seems reasonable enough—it is not difficult to imagine a fellow named Jake having a particular and stable manner of interacting in relationships. As an individual, one would expect that he has a particular way of doing things and that over time he has accumulated certain experiences that lead such an inference to be possible. However, to apply such a statement to the group to which he belongs (e.g., “The members of the football team tend to be slow to warm up in relationships, but eventually become rather clingy”) seems very strange—it would appear highly unlikely that the members of a football team or the team as a whole would all have the same relationship idiosyncrasies. Even in the case of similar behaviors in team members, one might be surprised by the coincidence rather than affirmed in the expectation of coherence. In other words, people do not generally expect the same unity and consistency of a group that would be expected of a person.

In addition, people do not generally make on-line, spontaneous trait inferences about groups in the way that they do about individuals.³⁸ The impression formation process for groups, rather than being done on-line as behavioral information is available, is memory-based.³⁹ For example, people may observe the behavior of several members of a football team without forming any particular impression of what the team as a whole is like. However, when someone asks specifically what the team is like, a person will search through memory for relevant behavioral information and arrive at an impression, based on the particular behaviors that are recalled.⁴⁰ In other words, the process of spontaneous trait inference appears to be less common, or nonexistent, at the level of

³⁷ *Id.* at 337. See also *supra* notes 23–28 and accompanying text.

³⁸ McConnell et al., *Individual and Group Target Judgments*, *supra* note 16, at 182.

³⁹ Allen R. McConnell, Steven J. Sherman & David L. Hamilton, *Target Entitativity: Implications for Information Processing About Individual and Group Targets*, 72 *J. PERSONALITY & SOC. PSYCHOL.* 750, 760–61 (1997) [hereinafter McConnell, *Target Entitativity*].

⁴⁰ Hastie and Park first discussed this important distinction between an on-line impression formation process and a memory-based impression formation process. Hastie & Park, *supra* note 16, at 261.

group perception. This has important implications for differences in individual versus group perception. McConnell, Hamilton, and Sherman have reported the following differences between the impressions of individuals and groups:⁴¹

- 1) Better overall recall for behaviors of individuals than behaviors of group members
- 2) Primacy effects for recall of an individual's behaviors; recency effects for recall of a group's behaviors
- 3) Stronger trait inferences for individuals
- 4) Because impression formation of individuals is done on-line, as behaviors are observed, the impressions of individuals will generally reflect their behavior rather accurately. For groups, impressions are memory-based. Because distinctive behaviors (e.g., infrequent or rare behaviors) are most salient in memory, groups are often overly associated with traits inferred from these rare behaviors. This phenomenon is known as illusory correlation, and it generally occurs when the social targets are groups but not when they are individuals.⁴²

Drawing on the findings outlined above, Sherman, Beike, and Ryalls investigated differences in the ways in which people process information and think about individual versus collective entities.⁴³ One of their conclusions is that people experience more extreme emotional reactions to individuals than to collectives of individuals.⁴⁴ For example, people feel more sadness and empathy for, and they donate more money to save, a single whale stranded off the coast than to "save the world's whale population" (even though the single whale is unlikely to survive). They feel very

⁴¹ McConnell et al., *Individual and Group Target Judgments*, *supra* note 16, at 181–84.

⁴² *Id.* at 183.

⁴³ Steven J. Sherman, Denise R. Beike & Kenneth R. Ryalls, *Dual-Processing Accounts of Inconsistencies in Responses to General Versus Specific Cases*, in *DUAL PROCESS THEORIES IN SOCIAL PSYCHOLOGY* 203, 205–206 (Shelly Chaiken & Yaacov Trope eds., Guilford Press 1999).

⁴⁴ In addition to concluding that people react more emotionally to individuals than to collectives, Sherman, Beike, and Ryalls suggest that attitudes, non-evaluative judgments, and behavioral consequences will also be different in the case of individual versus group social targets. *Id.* at 207–08.

badly about an individual girl who is trapped in a well, and they donate lots of money to her family (even though they don't need the money).⁴⁵ The same individuals donate little to diminish hunger in the world's children. Sherman et al. propose that different psychological processes are involved in the ways in which people process information and make judgments about individuals versus collectives.⁴⁶ Similarly, Small and Loewenstein found that people compensate individuated victims far more than they compensate victims who are not individuated.⁴⁷ This is in part due to the fact that individuals are more salient and identifiable than are collections consisting of less identifiable individuals.⁴⁸

Tyler and Mentovich add that it is very difficult to infer the intentionality, motivation, or character of collective entities, and it is thus much more difficult to justify punishing such an entity from either a legal or a psychological point of view.⁴⁹ Their research, which investigated the extent to which evaluations of ethical wrongdoing predict punishment for individuals and for corporate entities, strongly supported such a conclusion. They found that such perceptions of ethical wrongdoing predicted punishment for individuals, but not for corporate entities.⁵⁰ In other words, assessing punishment for individuals is contingent upon the perception of ethical violation committed, while for corporate entities it appears that ethical judgments play a much smaller role in such decisions. Likewise, when participants evaluated individual New York City Police Department ("NYPD") officers, motives were the primary factor, whereas when participants evaluated the

⁴⁵ *Id.* at 204–05.

⁴⁶ *Id.* at 215–17.

⁴⁷ Deborah A. Small & George Loewenstein, *Helping a Victim or Helping the Victim: Altruism and Identifiability*, 26 *J. RISK & UNCERTAINTY* 5, 5 (2003). We would suggest that analogous results would be observed in the case of punishment for perpetrators as opposed to compensation for victims. That is, individual criminals should be perceived as more despicable and more deserving of harsh punishment than should collective entities. However, we know of no empirical work that has addressed this issue.

⁴⁸ *Id.* at 14.

⁴⁹ Tom R. Tyler & Avital Mentovich, *Punishing Collective Entities*, 19 *J.L. & POL'Y* (forthcoming Fall 2010).

⁵⁰ *Id.*

NYPD as a whole, the primary factors in such evaluations were neutrality and respect. Such findings imply that people generally infer motives for individuals but not for corporate entities. For the task of assigning punishment and responsibility, people attend to motives for individuals, but they attend to other factors for corporate entities.

The evidence presented thus far all implies that the process of perceiving and making judgments about individuals is very different from that of doing so for groups. A person is a coherent unit, expected to possess stable qualities and thus capable of being judged and held blameworthy.⁵¹ A group, however, is typically not seen as a coherent unit, and so generally attributions of group-level blame for the acts of individual members should not occur.⁵² In light of this, it makes little psychological sense, and thus perhaps little legal sense, to treat individuals and collective entities in the same way when it comes to responsibility and punishment. However, one very important characteristic can completely alter this individual-group difference in perceptions. The following discussion shall explore this characteristic and use it to help understand when and why it does make both legal and psychological sense to treat individuals and collective entities the same when it comes to responsibility and punishment.

II. ENTITATIVE GROUPS: WHEN COLLECTIONS OF INDIVIDUALS ARE SEEN AS A UNIT

The preceding discussion has characterized the process of impression formation of individuals, how it proceeds from an assumption of stability and coherence, and how it can spontaneously and automatically lead to a unified impression of individuals, capable of driving expectations and judgment. The important ways in which group perception traditionally differs from this process (in that groups are generally perceived as

⁵¹ Brian Lickel, Toni Schmader & David L. Hamilton, *A Case of Collective Responsibility: Who Else Was to Blame for the Columbine High School Shootings*, 29 PERSONALITY & SOC. PSYCHOL. BULL. 194, 194 (2003) [hereinafter Lickel, Schmader & Hamilton, *A Case of Collective Responsibility*]; Tyler & Mentovich, *supra* note 49.

⁵² *Id.*

heterogeneous collections of entities rather than as a single collective organism) have also been discussed. A group might have members that are socially quiet, for example, but one would generally not presume that such must be the case for the other group members or the group as a whole based on interactions with only a few. Now that the territory has been defined, however, the proceeding discussion, which contains the main thrust of the message in this paper, will somewhat complicate matters. The key point is as follows: *The difference between perceptions of individuals and groups virtually disappears when a group is high in perceived entitativity.*

Entitativity is the perception that a group is a unified and coherent whole in which the members are tightly bound together.⁵³ The notion is similar to the perception of essentialism, or the belief that group members share a similar substance or essence.⁵⁴ A collection of individuals standing in line at a supermarket, for example, represents a group low in perceived entitativity. A close-knit immediate family, however, will be high in perceived entitativity. All groups can be characterized as having some degree of entitativity, on a continuum from very low (heterogeneous, little connection between group members) to very high (strong group-level impression, high cohesiveness among group members).⁵⁵

⁵³ See Donald T. Campbell, *Common Fate, Similarity, and Other Indices of the Status of Aggregates of Persons as Social Entities*, 3 BEHAV. SCI. 14, 17 (1958); Hamilton & Sherman, *supra* note 12, at 344–45.

⁵⁴ See Nick Haslam et al., *Essentialist Beliefs About Social Categories*, 39 BRIT. J. SOC. PSYCHOL. 113, 114 (2000); Vincent Yzerbyt, Olivier Corneille & Claudia Estrada, *The Interplay of Subjective Essentialism and Entitativity in the Formation of Stereotypes*, 5 PERSONALITY & SOC. PSYCHOL. REV. 141, 142–43 (2001) [hereinafter Yzerbyt et al., *Essentialism and Entitativity*]; Vincent Y. Yzerbyt, Anouk Rogier & Susan T. Fiske, *Group Entitativity and Social Attribution: On Translating Situational Constraints into Stereotypes*, 24 PERSONALITY & SOC. PSYCHOL. BULL. 1089, 1092 (1998) [hereinafter Yzerbyt et al., *Group Entitativity and Social Attribution*].

⁵⁵ Lickel et al. obtained ratings of the entitativity of forty groups that differed in a variety of ways. Subjects were asked the extent to which they would consider each to be a real group. The ratings varied from very low in the case of people in line at a bank to very high for members of a family and members of a professional sports team. Brian Lickel et al., *Varieties of Groups and the Perception of Group Entitativity*, 78 J. PERSONALITY & SOC. PSYCHOL.

Lickel and colleagues have developed a taxonomy of group types as a function of this characteristic.⁵⁶ Using clustering and multidimensional scaling analyses of participant entitativity ratings for a wide variety of groups, results indicated the existence of four distinct group types: intimacy groups, task groups, social categories, and loose associations.⁵⁷ Intimacy groups, representing the highest level of entitativity, include individuals who are romantically involved or members of the same close-knit family or group of friends.⁵⁸ Such associations are personally important and play a central role in daily life. Task groups, in which individuals come together to reach collective goals, appear next on the continuum.⁵⁹ A corporation is a prototypic example of a task group; membership in such groups involves cooperation and subordination of individual goals to those of the group. Immediately beneath task groups are social categories, which are defined by common features such as nationality, gender, or ethnicity. At the lowest point of the entitativity continuum are loose associations, in which individuals are associated by happenstance, such as when people share a similar interest in classical music or happen to be in the same place at the same time (e.g., people in a particular movie theater).⁶⁰

Importantly, this research also demonstrated that perceptions of group entitativity were determined by the degree to which the groups exhibited certain features: interaction (amount of personal

223, 227 (2000) [hereinafter Lickel et al., *Perception of Group Entitativity*].

⁵⁶ *Id.* at 227–31.

⁵⁷ *Id.* at 229; Sherman, Castelli, and Hamilton demonstrated that this group typology was used spontaneously in encoding information about various social groups. Subjects saw faces with labels indicating group membership. Then they had to recall the group memberships when shown only the faces. There were far more within-group-type errors than between-group-type errors. For example, subjects were more likely to recall a Presbyterian as a Frenchman (both social categories) than as a jury member (a task group). Steven J. Sherman, Luigi Castelli & David L. Hamilton, *The Spontaneous Use of a Group Typology as an Organizing Principle in Memory*, 82 J. PERSONALITY & SOC. PSYCHOL. 328, 331 (2002).

⁵⁸ Lickel et al., *Perception of Group Entitativity*, *supra* note 55, at 229.

⁵⁹ *Id.*

⁶⁰ *Id.* at 230.

contact between group members);⁶¹ common goals (shared aspirations between group members);⁶² common outcomes (collective experiences of success or failure);⁶³ group-member similarity (shared qualities between group members);⁶⁴ and importance of the group (centrality or prominence of group membership in daily life).⁶⁵ Additionally, group size (number of members); group duration (length of time the group exists); and permeability (ease of joining and leaving the group) were cited as other factors in perceptions of group entitativity, though they were found to only weakly predict such judgments.⁶⁶ On the whole, the more that group members spend time together, want the same things, share a similar fate, exhibit similar characteristics, and consider the group to be an important part of life, the more entitative that group is perceived to be.

When a group is perceived as entitative it is conceived to be a coherent *entity*, that is, an abstracted impression of the group is formed in a similar manner to the formation of impressions of individuals.⁶⁷ Similar to cognitions about individuals, when groups are entitative, judgments take place on-line, as behavioral information is received.⁶⁸ When group characteristics lead to expectations of entitativity, group impressions are formed in an integrative fashion such that information is abstracted to form a single, coherent representation.⁶⁹ As a result, later judgments about these groups derive from this general impression that is formed at

⁶¹ *Id.* at 232.

⁶² See also Jennifer L. Welbourne, *The Impact of Perceived Entitativity on Inconsistency Resolution for Groups and Individuals*, 35 J. EXPERIMENTAL SOC. PSYCHOL. 481, 501 (1999).

⁶³ Lickel et al., *Perception of Group Entitativity*, *supra* note 55, at 232.

⁶⁴ See also Nilanjana Dasgupta, Mahzarin R. Banaji & Robert P. Abelson, *Group Entitativity and Group Perception: Associations Between Physical Features and Psychological Judgments*, 77 J. PERSONALITY & SOC. PSYCHOL. 991, 1001 (1999).

⁶⁵ Lickel et al., *Perception of Group Entitativity*, *supra* note 55, at 232.

⁶⁶ *Id.*

⁶⁷ McConnell et al., *Individual and Group Target Judgments*, *supra* note 16, at 182.

⁶⁸ *Id.* See also Hastie & Park, *supra* note 16, at 261.

⁶⁹ McConnell et al., *Individual and Group Target Judgments*, *supra* note 16, at 182–83.

the time of encoding.⁷⁰

When little entitativity is expected, information about different group members is stored in a diffuse manner. In such cases, judgments made about groups are constructed at the time such judgments are required, necessitating an evaluation of the individuated information stored in memory.⁷¹ Conversely, research on cognitive representation has shown that entitative groups are stored as a group prototype (that is, a mental conception of the group in terms of a singular prototypical group member) rather than as a multiplicity of individuals.⁷²

As an illustration of these findings, one might conceive of the mental representation of a non-entitative group to be somewhat like a group photograph, in which the set of individuals maintain their individual characteristics and are depicted independently. When the need to make a judgment about such a group arises (e.g., how attractive are members of this group?), one must recall the full picture of all group members, evaluate this information, and then integrate it to draw a conclusion. On the other hand, when making judgments about an entitative group, the integrative work has already been done—one needs only to evaluate this group prototype to reach a conclusion. For such highly entitative groups, people not only extract traits but also develop a “group character.”⁷³ While such would not be the case for a random set of individuals waiting at a traffic light, one might characterize a highly entitative group as “snobby” or “artistic” or “concerned about the environment.” The more a group is perceived to be a cohesive unit, the more likely inferences about the group and its members become.⁷⁴

In sum, when a group is perceived as entitative, all the principles that apply to impression formation for individuals apply to the group as well. Impressions of entitative groups are

⁷⁰ *Id.* at 183.

⁷¹ *Id.* at 182.

⁷² Marilynn B. Brewer & Amy S. Harasty, *Seeing Groups As Entities: The Role Of Perceiver Motivation*, in 3 HANDBOOK OF MOTIVATION & COGNITION 347, 353 (Richard M. Sorrentino & E. Tory Higgins eds., Guilford Press 1996).

⁷³ *Id.* at 351–52.

⁷⁴ McConnell et al., *Individual and Group Target Judgments*, *supra* note 16, at 182.

characterized by strong and spontaneous trait inferences, enhanced memory for behaviors of group members, primacy effects in the memory of these behaviors, on-line processing of information about the group and its members, and the absence of the usual illusory correlation that occurs for groups of low entitativity.⁷⁵

One aspect of impressions for entitative groups is extremely important for understanding issues of collective blame and responsibility. This aspect involves the interchangeability of group members when the group is perceived as highly entitative. One study in particular demonstrated how entitative group members come to be perceived as interchangeable. This study by Crawford, Sherman, and Hamilton investigated the effects of the perceived entitativity of a group on the processing of information about individual group members and the extent to which such information is transferred to other group members.⁷⁶ Their findings expanded upon a well-known finding in the literature, the savings-in-relearning effect.⁷⁷

The savings-in-relearning effect was demonstrated through the following study method: Pictures of (unrelated) individuals were shown to participants. Each picture was accompanied by a behavioral description of something that the person did (e.g., describing a picture of Tom: “I have this certain knack for mathematical problems. I can usually calculate relatively complex problems in my head faster than most people can do them with a calculator. It’s just something I do well.”). Each description clearly implied a trait—intelligent in the above example. Other implied traits were aggressive, lazy, etc. After participants saw the pictures and the accompanying behavioral descriptions, they had to learn to associate each previously seen picture with a single trait.⁷⁸ Thus, the picture of Tom might be paired with the trait “lazy” or “intelligent.” Participants were better at learning these associations when the pictures were paired with the trait that had been implied by the previously seen behavioral description (e.g., learning to pair

⁷⁵ *Id.* at 181–84.

⁷⁶ Crawford et al., *supra* note 15, at 1076.

⁷⁷ Carlston & Skowronski, *supra* note 16, at 842; John J. Skowronski et al., *Spontaneous Trait Transference: Communicators Take on the Qualities They Describe in Others*, 74 *J. PERSONALITY & SOC. PSYCHOL.* 837, 842 (1998).

⁷⁸ Carlston & Skowronski, *supra* note 16, at 844.

the trait “intelligent” with the photograph after that photograph had been paired with a behavioral description implying intelligence). Thus, participants learned to associate Tom with intelligent more quickly than with lazy or aggressive. These results showed that people spontaneously extract trait inferences from observed behaviors in the case of individuals.⁷⁹

Crawford, Sherman, and Hamilton expanded upon these findings to investigate whether the effect emerged in the case of groups of individuals.⁸⁰ To do this, as the pictures of individuals were shown, they were designated as belonging to either Group A or Group B.⁸¹ All the different members of a group engaged in behaviors that indicated one or the other of two traits (e.g., honest or aggressive; lazy or intelligent). The perceived entitativity of the groups was manipulated. For low entitative groups, participants were told that the individuals in the group were in the same introductory psychology course, that they saw each other only in the classroom, and that they did not interact outside the classroom.⁸² High entitative groups were described as close friends for many years, who spent a great deal of time together and were very much connected to each other.⁸³ Pictures of members of two groups (both either high or low in entitativity) were shown along with the behavioral descriptions that indicated some trait. After this, participants engaged in the trait-learning task, in which they had to learn to associate each picture with a specific trait.⁸⁴ Sometimes the trait was the one implied by the behavior of that specific person. Sometimes the trait was the one implied by the behaviors of other members of that person’s group, but not by the person’s own behavior. Sometimes the trait was implied by the behaviors of members of the other group.

For low entitative groups, the results were exactly the same as they had been for individuals—savings-in-relearning when an

⁷⁹ *Id.* at 852. See also Jamie DeCoster & Eliot R. Smith, *Savings in Relearning Through Exposure to Same-Group Exemplars*, 5 CURRENT RES. IN SOC. PSYCHOL. 17, 18 (2000).

⁸⁰ Crawford et al., *supra* note 15, at 1079.

⁸¹ *Id.* at 1080.

⁸² *Id.* at 1082.

⁸³ *Id.*

⁸⁴ *Id.* at 1080.

individual was paired with the trait that was implied by his own behavior.⁸⁵ There were no savings when learning to pair a person with the trait implied by the behaviors of other members of the low entitative group.⁸⁶ Members of low entitative groups were thus treated as a collection of unconnected individuals.

The results for high entitative groups were strikingly different. In this case, there was savings-in-relearning whether the trait was implied by the behavior of the specific group member or the behavior of some other group member.⁸⁷ Thus, if Tom was a member of a high entitative group and behaved in an intelligent way, there was savings-in-learning for learning Tom–intelligent. There was equal savings-in-learning for learning Tom–lazy *if* other members of Tom’s highly entitative group had done lazy things. In fact, there were no differences in the degree of savings, suggesting that all members of a highly entitative group are treated as interchangeable parts.⁸⁸ In other words, if some members of the group have a particular trait, it is assumed that all members have the trait, and the trait spontaneously spreads to all other members of the group. Once the perception of interchangeability is made, one cannot recall exactly which member engaged in which kind of behavior.⁸⁹ All members of an entitative group are treated in a unitary way and are assumed to share the same attributes.

Does it make sense to hold collective entities such as corporations responsible for the acts of individual members? The answer is “yes” from a psychological point of view—but only if the group is perceived as entitative. If members are indeed perceived as interchangeable parts, the bad acts of any members will be seen as applying to all members. Thus, it is the group as a whole that is seen as blameworthy rather than (or at least in addition to) the specific individuals who behaved badly. This important issue of collective responsibility will be addressed further in a subsequent section.

⁸⁵ *Id.* at 1083–84.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.* at 1084.

⁸⁹ *Id.* at 1089.

III. ENTITATIVITY AND PERCEPTIONS OF GROUP-LEVEL INTENTIONALITY

Entitativity has important implications for the attribution of responsibility to groups. Group-level inferences of intentionality are a precondition to any perception of group level blame, and only an entitative group will be perceived as having group-level intentions, particularly intentions that relate to the nature and characteristics of the group. Tyler and Mentovich claim that the reason that responsibility is not easily attributed to groups is that it is difficult to infer intentionality on the part of the group.⁹⁰ The preceding discussion in this paper would suggest that this is true only as long as the groups are non-entitative ones. For high entitative groups, however, the inference of group-level intentionality, and thus causality, ought to be similar to such inferences for an individual actor. As a result, groups that are highly entitative can be seen as having intentions, and such intentionality makes it possible to attribute blame to them and to punish them. Such blame and punishment to these groups will seem psychologically sensible and sustainable.

There has been some research that offers good empirical evidence that inferences about group-level motivations, intentions, and causality are made in the case of high entitative but not low entitative collections of individuals. Dasgupta, Banaji, and Abelson employed “greebles” (objects made to look like creatures with particular characteristics) to investigate the effects of perceived entitativity on group-level judgments.⁹¹ Their research demonstrated that groups that are seen as entitative (e.g., groups of greebles in which the members are similar in appearance and physically close to each other) are assumed to share more psychological (personality) similarities among members.⁹² More relevant to intentionality, Abelson et al. also demonstrated that these entitative groups were considered to be more capable of

⁹⁰ Tyler & Mentovich, *supra* note 49.

⁹¹ Dasgupta, Banaji & Abelson, *supra* note 64, at 998–99; *see also* Robert P. Abelson, Nilanjana Dasgupta, Jaihyun Park & Mahzarin R. Banaji, *Perceptions of the Collective Other*, 2 PERSONALITY & SOC. PSYCHOL. REV. 243, 243 (1998).

⁹² Dasgupta, Banaji & Abelson, *supra* note 64, at 998–99.

retaliation.⁹³ In other words, such groups were more likely to be seen as possessing negative motivations and intentions as well as the capability to successfully act on such intentions.⁹⁴ Other work by Abelson, Park, and Banaji demonstrated that, after being primed with group words like “they” (leading to more entitative group perceptions), negative behaviors by a group were evaluated more negatively than the same negative behaviors attributed to an individual.⁹⁵ However, after being primed with individualized words like “he” (leading to less entitative group perceptions), the pattern reversed: negative behaviors by a group were evaluated less negatively than the same negative behaviors attributed to the individual.⁹⁶

Another way in which group entitativity and thus perceptions of group-level intentionality can be increased is by de-individuating the members of the group. The less the individual group members can be identified or be seen as unique individuals with different qualities, the more the group will be perceived in a unitary way and be perceived as having a higher level of entitativity.⁹⁷ One way to de-individuate the members is to have them physically hide their identities.⁹⁸ Research on the de-individuation process in fact shows that, when group members have their faces hidden by masks, individual members are held less responsible for negative outcomes and acts.⁹⁹ For example, it may be that by having members wear hoods, the Ku Klux Klan can reduce the individuality of the members. If so, this increased perceived entitativity of the Klan may make it easier to attribute evil intentions to the group as a whole and to justify punishing the

⁹³ *Id.* at 1001.

⁹⁴ *Id.*

⁹⁵ Abelson, Dasgupta, Park & Banaji, *supra* note 91, at 244–45.

⁹⁶ *Id.*

⁹⁷ See Leon Festinger, Albert Pepitone & Theodore M. Newcomb, *Some Consequences of De-Individuation in a Group*, 47 J. ABNORM. SOC. PSYCHOL. 382, 389 (1952); Phillip G. Zimbardo, *The Human Choice: Individuation, Reason, and Order Versus Deindividuation, Impulse, and Chaos*, in 17 NEB. SYMPOSIUM ON MOTIVATION 237, 303 (William J. Arnold & David Levine eds., 1969).

⁹⁸ See Zimbardo, *supra* note 97, at 266–67.

⁹⁹ *Id.* at 256.

group and all of its members. In this way, uniforms, badges, slogans, and symbols may lead to de-individuation, increased perceived entitativity, and group-level intentionality.

In other words, to the extent that a group is perceived as entitative, it can be seen as possessing intentionality—specifically, the intention to engage in negative action. Moreover, an entitative group is presumed to be likely to engage in such behaviors—that is, the members are conceived to be more able to carry out the malevolent intentions of the group.¹⁰⁰ As Tyler and Mentovich rightly argue, perceptions of collective intentionality are integral to whether a group is seen as culpable for its actions—that is, for judgments of group-level responsibility.¹⁰¹

IV. ENTITATIVITY AND PERCEPTIONS OF COLLECTIVE RESPONSIBILITY

The next important step in the present line of argument is to directly link perceived group entitativity to collective responsibility. The greater attribution of collective blame to entitative groups compared to non-entitative groups has been directly demonstrated in research that Lickel, Schmader, and Hamilton have conducted on perceptions of collective responsibility for the Columbine killings, in which two high school shooters killed twelve of their classmates.¹⁰² Collective responsibility, as treated in this work, refers to “the perception that others, besides the wrongdoers themselves, are responsible for the event.”¹⁰³

Lickel, Schmader, and Hamilton assessed such judgments by collecting data on the study participants’ beliefs about the role of the Trenchcoat Mafia (to which both of the shooters belonged) in the killings as well as the role of the shooters’ parents, posing questions about the perceived entitativity and collective

¹⁰⁰ Dasgupta, Banaji & Abelson, *supra* note 64, at 1001.

¹⁰¹ Tyler & Mentovich, *supra* note 49.

¹⁰² Lickel, Schmader & Hamilton, *A Case of Collective Responsibility*, *supra* note 51, at 194.

¹⁰³ *Id.*

responsibility of each group.¹⁰⁴ They also posed questions assessing the magnitude of errors of commission and omission perceived in the group's actions that made the group share in the responsibility. Errors of commission refer to actual actions of group members, other than the two shooters, that led the shooters to decide to engage in the assault. Errors of omission refer to things that group members, other than the shooters, might have done (but didn't) and should have done that would have prevented them from their killings.¹⁰⁵ Importantly, collective responsibility was determined differently for each of the two groups. For the Trenchcoat Mafia, acts of commission (contributing to the acts of the shooters) were key, such that ratings of contribution to the acts statistically predicted judgments of group-level responsibility for the outcome. However, for the parents, acts of omission (failure to prevent the shooters' acts) were key, such that ratings of failures to prevent the outcome predicted responsibility attributed to the family.¹⁰⁶ Additionally, and more importantly, the degree of perceived entitativity of the Trenchcoat Mafia group was found to be correlated with attributions of responsibility to that group for the tragedy itself.¹⁰⁷ In other words, the more the young men in trench coats were perceived to be a cohesive unit, the more they as a group bore the blame for the outcome.

The research of Denson et al. demonstrated a similar pattern.¹⁰⁸ They had participants evaluate various kinds of groups (intimacy groups, task groups, social categories, loose associations) as to how much the group should be blamed for the actions of individual members, and measured perceptions of entitativity and essentialism for the various groups.¹⁰⁹ They showed that groups were rated differently for entitativity,¹¹⁰ and that these ratings of

¹⁰⁴ *Id.* at 196–97.

¹⁰⁵ *Id.* at 197.

¹⁰⁶ *Id.* at 198.

¹⁰⁷ *Id.*

¹⁰⁸ Thomas F. Denson et al., *The Roles of Entitativity and Essentiality in Judgments of Collective Responsibility*, 9 *GROUP PROCESSES & INTERGROUP REL.* 43, 55–56 (2006).

¹⁰⁹ *Id.* at 47–53.

¹¹⁰ Different entitativity ratings for groups revealed a pattern reminiscent of Lickel et al.'s original taxonomy. Lickel et al., *Perception of Group Entitativity*,

entitativity were found to be positively correlated with ratings of collective responsibility.¹¹¹ That is, the more entitative a group was seen to be, the more participants considered that the group should be held responsible for the actions of the individual members. Again, task groups such as corporations are perceived as high in entitativity and thus are, from a psychological perspective, likely to bear collective responsibility.

As one might expect, given that perceptions of entitativity enhance collective blame for wrongdoing, research has demonstrated that entitative groups engender more dispositional, rather than situational, attributions for negative actions.¹¹² Yzerbyt et al. presented groups as aggregates of individuals or as cohesive entities, and then had participants evaluate the behavior of group members with regard to dispositional (internal) or situational (external) causation.¹¹³ The behavior of entitative group members was attributed to their dispositional characteristics, whereas the behavior of non-entitative groups was attributed to situational factors.¹¹⁴ Such findings have important implications for blame. Specifically, when a group is low in entitativity, people use situational explanations to excuse wrong behaviors. On the other hand, when a group is high in entitativity, people explain actions based on dispositional characteristics. Intentionality and blame attribution are usually associated with such dispositional (rather than situational) explanations.

There is also evidence that perceived entitativity is related not only to collective blame but to retributive intergroup aggression.¹¹⁵ Specifically, the more entitative a group is perceived to be, the more likely group members will be to receive retribution for acts committed by other group members.¹¹⁶ That is, once again, to the

supra note 55, at 241.

¹¹¹ Denson et al., *supra* note 108, at 46–53, 55.

¹¹² Yzerbyt et al., *Group Entitativity and Social Attribution*, *supra* note 54, at 1098.

¹¹³ *Id.* at 1093–94.

¹¹⁴ *Id.*

¹¹⁵ Brian Lickel et al., *Vicarious Retribution: The Role of Collective Blame in Intergroup Aggression*, 10 PERSONALITY & SOC. PSYCHOL. REV. 372, 378–80 (2006).

¹¹⁶ *Id.*

extent that a group is entitative, individuals are more likely to be held responsible, and thus punished, for the actions of their fellow members.

How do group members feel about the bad behaviors of other group members? Do they feel shame and guilt, and thus feel that they deserve some of the blame and responsibility for those bad behaviors? Lickel, Schmader, Curtis, Scarnier, and Ames demonstrated that individuals feel the most guilt for a fellow group member's actions when they perceive themselves to be highly interdependent with the group of shared membership.¹¹⁷ Individuals felt the most shame when the particular negative behavior of the group member was seen as relevant to their common identity.¹¹⁸ Together, these results suggest that shame and guilt for the wrongdoing of one's group (particularly when it is a wrongdoing that is relevant to the group's identity itself) are related to the extent to which the group is entitative. Thus, members of entitative groups should be more willing to accept responsibility, blame, and punishment for the actions of other members.

The degree of entitativity of a group is also related to the relational style of the group,¹¹⁹ that is, the rules of interaction by which group members relate to each other and interact with each other.¹²⁰ As has been described earlier in this article, entitativity is also related to perceptions of collective responsibility,¹²¹ and therefore understanding the ways in which entitativity, relational style, and collective responsibility interact is important for understanding when and why it makes psychological sense to blame and punish the group as a whole for the transgressions of individual members of the group.

Fiske has identified four basic types of relational style—the social rules and principles used to regulate the social interactions and relationships within a group and to characterize the way in

¹¹⁷ Brian Lickel et al., *Vicarious Shame and Guilt*, 8 *GROUP PROCESSES & INTERGROUP REL.* 145, 147 (2005).

¹¹⁸ *Id.* at 152.

¹¹⁹ *Id.* at 241.

¹²⁰ Alan Page Fiske, *The Four Elementary Forms of Sociality: Framework for a Unified Theory of Social Relations*, 99 *PSYCHOL. REV.* 689, 689 (1992).

¹²¹ Denson et al., *supra* note 108, at 50–52, 55.

which resources are shared.¹²² “Market pricing” is characterized by a calculation of the utility of interaction—efficiency and maximization of resources are the key motivations, and there is a capitalistic search for individual gains.¹²³ In an “equality matching” style, the goal is to maintain balance among the group members, and reciprocity and turn taking characterize the interactions.¹²⁴ “Communal sharing” involves the fusion of the self to the group; generosity is the key motive in exchange, resources are shared, and decisions are made unanimously.¹²⁵ Finally, “authority ranking” involves interactions that are guided by status differences among members, where decisions are made by a leader, and orders follow a clear chain of command.¹²⁶

Lickel, Rutchick, Hamilton, and Sherman assessed the relation between perceived entitativity and relational style for the four basic group types (intimacy, task, social categories, and loose associations).¹²⁷ Most important for the purposes of this paper are the findings regarding task groups, the group type of corporations. They reported that task groups were characterized by interactions that were regulated by high levels of market pricing and to some extent authority ranking.¹²⁸ In an earlier study, Lickel, Hamilton, and Sherman outlined those aspects of perceived entitativity that were most related to collective responsibility.¹²⁹ Particularly important in the association of high levels of perceived entitativity and collective responsibility was the extent to which group members are interpersonally interdependent on each other.¹³⁰

These factors very well characterize the social relational style that exists within many corporations. For corporations that are

¹²² Fiske, *supra* note 120, at 690.

¹²³ *Id.* at 691–92.

¹²⁴ *Id.* at 691.

¹²⁵ *Id.* at 690–91.

¹²⁶ *Id.* at 691.

¹²⁷ Brian Lickel et al., *Intuitive Theories of Group Types and Relational Principles*, 42 J. EXPERIMENTAL SOC. PSYCHOL. 28, 28 (2006) [hereinafter Lickel et al., *Intuitive Theories of Group Types and Relational Principles*].

¹²⁸ *Id.* at 32.

¹²⁹ Lickel, Schmader & Hamilton, *A Case of Collective Responsibility*, *supra* note 51, at 200.

¹³⁰ *Id.*

highly competitive with other corporations and where pressures exist to succeed and realize a profit, cooperation among group members is key. The members must work together as a unit, share goals, and have a great deal of commitment to the group. These are all necessitated by the strong market pricing relational style of these corporations. Thus, for corporations that are highly competitive and have a strong market pricing style, one would predict high levels of perceived entitativity and a high degree of collective responsibility for any wrongdoing. Thus, again, it appears to make psychological sense to hold such corporations collectively responsible for the crimes of individual members.

As to the degree of legal responsibility attributed to individual members of groups, perceived entitativity may ultimately have varying kinds of effects. As has been described, high perceived entitativity will lead groups as a whole to be viewed as more responsible for the actions of their members, and thus at a group level they will be punished more. As a result, individual group members not directly responsible for the wrongdoing will likely experience greater retribution than they would in a less entitative group, as they come to bear the misdeeds of their fellow group members. However, as to the case of any individual group member who commits wrongdoing, high perceived entitativity of the group may dilute, and thereby mitigate, responsibility and punishment to that individual as some of the blame is shifted to the group as a whole.

With regard to people in positions of power, we speculate a number of possibilities. In some cases, it may be that people in positions of authority will be blamed more under conditions of high entitativity, because they will take responsibility for the acts of those below them in the chain of command. For example, this may be most true in task groups, where there is role differentiation.¹³¹ However, in some circumstances the responsibility for the behavior of individuals may not be generalized to the group (e.g., the military, or the government, as a whole).¹³² Importantly, one of the main methods to keep this

¹³¹ Lickel et al., *Intuitive Theories of Group Types and Relational Principles*, *supra* note 127, at 30.

¹³² E.g., the Abu Ghraib abuse scandal. *Investigation of Intelligence*

responsibility from moving upstream is to argue against the level of connection of the offenders to the rest of the group.¹³³ The “few bad apples” are argued not to be part of the group.¹³⁴ They are *others*. And, as such, the rest of the group members claim that the behavior of the bad apples should not be considered the collective behavior, or the collective responsibility, of the larger group. This method of shielding other group members and the group as a whole from responsibility and punishment is called the black sheep effect.¹³⁵ It may be that even an entitative group can protect its members by casting out, as black sheep, those who have transgressed. In this way, the group can maintain its high level of entitativity while avoiding the responsibility and punishment that usually spreads through the membership of such groups. Thus, the effects of entitativity upon responsibility for any particular group member or the group as a whole are complex and depend on the particular role of that individual in the group action, as well as the response of the group to that member’s behavior.

V. CORPORATIONS AS ENTITIES

The discussion will now move to addressing the question of how corporations become entities in the minds of perceivers.

Lay, or folk theories are beliefs that develop within a culture in order to make sense of human experience, and they have particular relevance for inferences of group-level intentionality and responsibility.¹³⁶ An important component of the process by which groups come to be viewed as coherent entities are the intuitive

Activities at Abu Ghraib, CENTER FOR DEFENSE INFORMATION (Aug. 25, 2004), <http://www.cdi.org/news/law/fay-report.pdf>.

¹³³ José M. Marques, Vincent Y. Yzerbyt & Jacques-Philippe Leyens, *The “Black Sheep Effect:” Extremity of Judgments Towards Ingroup Members as a Function of Group Identification*, 18 EUR. J. SOC. PSYCHOL. 1, 4–5 (1988).

¹³⁴ *Id.* at 4.

¹³⁵ *See id.*; Amy C. Lewis & Steven J. Sherman, *Perceived Entitativity and the Black Sheep Effect: When Will We Denigrate Negative Ingroup Members?*, 150 J. SOC. PSYCHOL. 211, 212–14 (2010).

¹³⁶ Steve Guglielmo, Andrew E. Monroe & Bertram F. Malle, *At the Heart of Morality Lies Folk Psychology*, 52 INQUIRY 449, 449 (2009); Bertram Malle, *The Social and Moral Cognition of Group Agents*, 19 J.L. & POL’Y (forthcoming Fall 2010).

beliefs people have about the nature of groups themselves.¹³⁷ That is, people have beliefs about what particular types of groups are “like,” and such preconceptions influence how people make judgments about the groups they encounter.¹³⁸

Among these beliefs are perceptions of essentialism of particular types of groups.¹³⁹ Entitative groups (in this case, generally groups in which the members share characteristics) are seen as sharing a similar essence, or underlying quality.¹⁴⁰ Such essentialist lay theories about entitative groups are part of what leads group members to be treated as interchangeable,¹⁴¹ and to be judged as responsible for wrong acts.¹⁴²

In addition to the sense of a group essence, humans are also inclined toward anthropomorphism, the attribution of human characteristics to non-humans. For example, humans attribute human characteristics to pets,¹⁴³ machines,¹⁴⁴ spiritual beings,¹⁴⁵ and even moving shapes.¹⁴⁶ For the same reason, in the case of entitative groups, people are inclined to infer human characteristics for the group, such as intentions, motivations, and even

¹³⁷ See Sheri R. Levy, Chi-yue Chiu & Ying-Yi Hong, *Lay Theories and Intergroup Relations*, 9 GROUP PROCESSES & INTERGROUP REL. 5, 14–16 (2006); Brian Lickel, David L. Hamilton & Steven J. Sherman, *Elements of a Lay Theory of Groups: Types of Groups, Relational Styles, and the Perception of Group Entitativity*, 5 PERSONALITY AND SOC. PSYCHOL. REV., 129, 130 (2001) [hereinafter Lickel et al., *Elements of a Lay Theory of Groups*].

¹³⁸ *Id.*

¹³⁹ Yzerbyt et al., *Essentialism and Entitativity*, *supra* note 54, at 142–43.

¹⁴⁰ *Id.* at 144–45. See also Haslam et al., *supra* note 54, at 115–16.

¹⁴¹ Crawford et al., *supra* note 15, at 1091.

¹⁴² Denson et al., *supra* note 108, at 55.

¹⁴³ See generally Nicholas Epley, Adam Waytz & John T. Cacioppo, *On Seeing Human: A Three-Factor Theory of Anthropomorphism*, 114 PSYCHOL. REV. 864 (2007).

¹⁴⁴ Tanya L. Chartrand, Gráinne M. Fitzsimons & Gavan J. Fitzsimons, *Automatic Effects of Anthropomorphized Objects on Behavior*, 26 SOC. COGNITION 198, 199 (2008).

¹⁴⁵ Andrew Shtulman, *Variation in the Anthropomorphization of Supernatural Beings and its Implications for Cognitive Theories of Religion*, 34 J. EXPERIMENTAL PSYCHOL., LEARNING, MEMORY, & COGNITION 1123, 1123 (2008).

¹⁴⁶ Fritz Heider & Marianne Simmel, *An Experimental Study of Apparent Behavior*, 57 AM. J. PSYCHOL. 243, 258–59 (1944).

consciousness.¹⁴⁷ Such inferences are part of what makes it possible to conceive of responsibility at the group level.

Lay theories are an important step by which individual cognition comes to be reflected in legal doctrine. It has been argued elsewhere that metaphoric lay theories of emotion have played an important role in the development of the legal doctrine of voluntary manslaughter.¹⁴⁸ Specifically, linguistic metaphors for anger (“boiling,” “burning,” “exploding”) and fear (“freezing,” “chilled”) can be linked to lay theories of the operation of anger and fear. The lay theory for anger, as it involves exploding and heat, is consistent with violent aggression. The lay theory for fear, as it involves freezing and stillness, is not consistent with a “heat of passion” murder. It is no wonder, then, that killings out of anger often benefit from the voluntary manslaughter doctrine whereas killings out of fear (e.g., battered wives) do not.¹⁴⁹

Although lay theories play a role in the process by which groups come to be perceived as entities, this phenomenon may also be explained by the particular characteristics of the group itself. Specifically, corporations may be likely to be perceived as entities and receive blame because of their inherent characteristics. The following discussion will delineate this concept.

First, as task groups, corporations occupy the second most entitative group type.¹⁵⁰ These task groups involve a great deal of interdependence as the group approaches its work.¹⁵¹ As the employees of a corporation work together to advance their interests, they come to form a group that is relatively high in entitativity.

Second, corporations bear many of the other specific attributes associated with entitative groups.¹⁵² Corporations involve a great deal of mutual interaction (usually in the physically shared work

¹⁴⁷ *Id.*

¹⁴⁸ Elise J. Percy, Joseph L. Hoffmann & Steven J. Sherman, “*Sticky Metaphors*” and the Persistence of the Traditional Voluntary Manslaughter Doctrine, 44 U. MICH. J.L. REFORM (forthcoming 2011).

¹⁴⁹ *Id.*

¹⁵⁰ Lickel et al., *Perception of Group Entitativity*, *supra* note 55, at 240.

¹⁵¹ Lickel et al., *Intuitive Theories of Group Types and Relational Principles*, *supra* note 127, at 30.

¹⁵² Lickel et al., *Perception of Group Entitativity*, *supra* note 55, at 240.

environment, though also through technologically-mediated communication). They also experience common outcomes (benefits and losses shared by employees as a function of the gains and losses of the company). Additionally, employees of corporations share various similarities, from their common experience with the same corporate culture, to their shared affiliation with the particular company brand identity, and to their shared logos and symbols. Finally, the corporate context is one of great group importance, as the group represents the members' very livelihood.

Third, collective goal pursuit, a characteristic clearly associated with corporations (i.e., the advancement of the company's interests), is central to perceptions of entitativity.¹⁵³ Welbourne has demonstrated that sharing a common purpose is among the strongest determiners of group entitativity perception.¹⁵⁴ Similarly, Hong, Levi, and Chiu have demonstrated that entitativity is partly determined by structural characteristics of the group, which include common goals.¹⁵⁵ Ip, Chiu, and Wan demonstrated that such collective action is particularly important in determining perceptions of group entitativity.¹⁵⁶

Fourth, the usual relational style for members of corporations involves high levels of interaction and communication, behavioral influence among members, strong identification with the group, common goals and outcomes, strong interpersonal bonds, and market pricing principles. These are exactly the relational style aspects that are associated with a high level of perceived entitativity.

Fifth, and perhaps most strikingly, groups that compete are seen as more entitative.¹⁵⁷ Certainly competition is one of the

¹⁵³ Welbourne, *supra* note 62, at 501.

¹⁵⁴ *Id.*

¹⁵⁵ Levy, Chiu & Hong, *supra* note 137, at 10, 17. *See also* Yzerbyt et al., *Essentialism and Entitativity*, *supra* note 54, at 142.

¹⁵⁶ Grace Wai-man Ip, Chi-yue Chiu & Ching Wan, *Birds of a Feather and Birds Flocking Together: Physical Versus Behavioral Cues May Lead to Trait-Versus Goal-Based Group Perception*, 90 J. PERSONALITY & SOC. PSYCHOL. 368, 379 (2006).

¹⁵⁷ Marilynn B. Brewer, Joseph G. Weber & Barbara Carini, *Person Memory in Intergroup Contexts: Categorization Versus Individuation*, 69 J.

hallmarks of corporate existence, and a central aspect of participation in corporate enterprise is engaging in competition with other corporate entities.

For these reasons (and surely others exist), corporations are likely to be perceived as entitative, and as such, they are likely to be attributed collective responsibility for wrongdoing. Despite the fact that corporations constitute groups of people rather than individuals, the entitativity of such groups leads them to be viewed much like cohesive individuals—individuals who can be held responsible for their crimes.

VI. BITTER WITH THE SWEET: CONSISTENCY IN LEGAL PERCEPTIONS OF CORPORATION ENTITATIVITY

Lay theories and phenomenological psychology can be very important in the development of legal doctrine and legal principles.¹⁵⁸ Lay theories about causality, intentionality, premeditation, and foreseeability have been important for legal principles involving whether or not a crime has been committed, what kind of crime has been committed, how much responsibility one has for that crime, and how much punishment should be associated with the crime.¹⁵⁹ As outlined earlier, lay theories about the operation of the emotions of anger and fear may well have been involved in the development, maintenance, and application of the voluntary manslaughter doctrine. This paper has focused on the ways in which lay theories about group entitativity can lead to judgments of collective intentionality and responsibility, and thus how it makes legal sense to treat corporations as individuals. Indeed, the development of these legal principles can no doubt be traced in part to the operation of these lay theories.

The question remains whether corporate entities *should* be imbued with such human qualities and expectations? Should they

PERSONALITY & SOC. PSYCHOL. 29, 35 (1995).

¹⁵⁸ Percy, Hoffmann & Sherman, *supra* note 148; see also Steven J. Sherman & Joseph L. Hoffmann, *The Psychology and Law of Voluntary Manslaughter: What Can Psychology Research Teach Us About the "Heat of Passion" Defense?*, 20 J. BEHAV. DECISION MAKING 499, 499 (2007).

¹⁵⁹ Percy, Hoffmann, & Sherman, *supra* note 148; Sherman & Hoffmann, *supra* note 158, at 499.

bear the responsibility and penalties for the acts of individuals?

Rather than directly addressing the normative question of whether corporations should be held responsible for their actions as coherent entities, we have, as psychologists, dealt with the reasons why such perceptions might occur and what one should expect from such perceptions given the existing research. However, there is a normative point to be made.

From a psychological point of view, it is understandable that corporations came to be viewed as entities, and thus that it feels natural to hold them responsible for the wrongdoing of individual members. While this article does not take a position on whether or not this *should* be true per se, we do believe strongly in the normative argument for consistency in such conceptions of the corporation. Specifically, if corporations are to be treated as individuals regarding, for example, free speech rights,¹⁶⁰ then they must be treated as individuals regarding corporate wrongdoing. That is, if corporations are to benefit from perceptions of entitativity, they must also accept the downside of being perceived as entitative—collective responsibility. If corporations are to be allotted the rights of individuals (e.g., free speech), they must be allotted the responsibilities of individuals (that is, the ability to be held responsible as a cohesive entity) as well. Likewise, if such rights are refused, then they ought not be held responsible as entities.

This viewpoint stands in tension with the two sides generally represented in the debate over corporate legal issues—one that stands for the defense of corporate entities and advocates for corporate rights and yet also wants corporate protection from responsibility; and the other that stands for significant corporate responsibility for wrongdoing, yet advocates against corporate rights and against corporate power. Both such camps are inconsistent in their agendas. Either corporations should be conceptualized as entities, with the rights and responsibilities of individuals, or they should be conceptualized as nonentities, and be imbued with neither.

Importantly, such an issue hinges on the degree to which the

¹⁶⁰ See *Citizens United v. Fed. Election Comm'n*, No. 07-2240, 2008 WL 2788753, at *1 (D.D.C. July 18, 2008).

corporation is conceived of as an *entity*. As has been shown here, such perceptions of entitativity are central to any question of corporate responsibility. Despite the fact that corporations are certainly distinct from individual humans (that is, that they are not entities in the organismic sense), conceptualizing groups as coherent entities is a natural and psychologically understandable response to certain kinds of groups. However, the extent to which a corporation is legally conceived to be an entity should be consistent across both the costs and benefits of entitative existence.

With that in mind, this discussion will return to the two events described at the beginning of this paper: both the tragic stories of the Upper Big Branch coal mine disaster¹⁶¹ and the death of baby Brianna.¹⁶² For the purposes of this article, the central question is whether Massey Energy ought to be evaluated for their role in the mining disaster in the same manner as Brianna's neglectful babysitter. Can Massey Energy be seen as a figure in the line of causal events, possessing intention, committing wrongdoing, moving through space as a coherent entity? Can such an organization, like an individual entrusted with the care of an infant, fail to protect those who depend on it and in so doing endanger lives? Drawing from the theoretical and empirical work regarding the consequences and correlates of perceived entitativity, we believe that the answer is yes.

¹⁶¹ Fahrenthold & Kindy, *supra* note 1.

¹⁶² Nielsen, *supra* note 3.