

Projecting guilty minds

Emotions and the ascription of mental states in the
context of moral and legal decision-making

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Overview

1. Project “Guilty Minds”
2. Legal responsibility
3. Two examples
4. Affective processes
5. Studies
6. Conclusion & Discussion

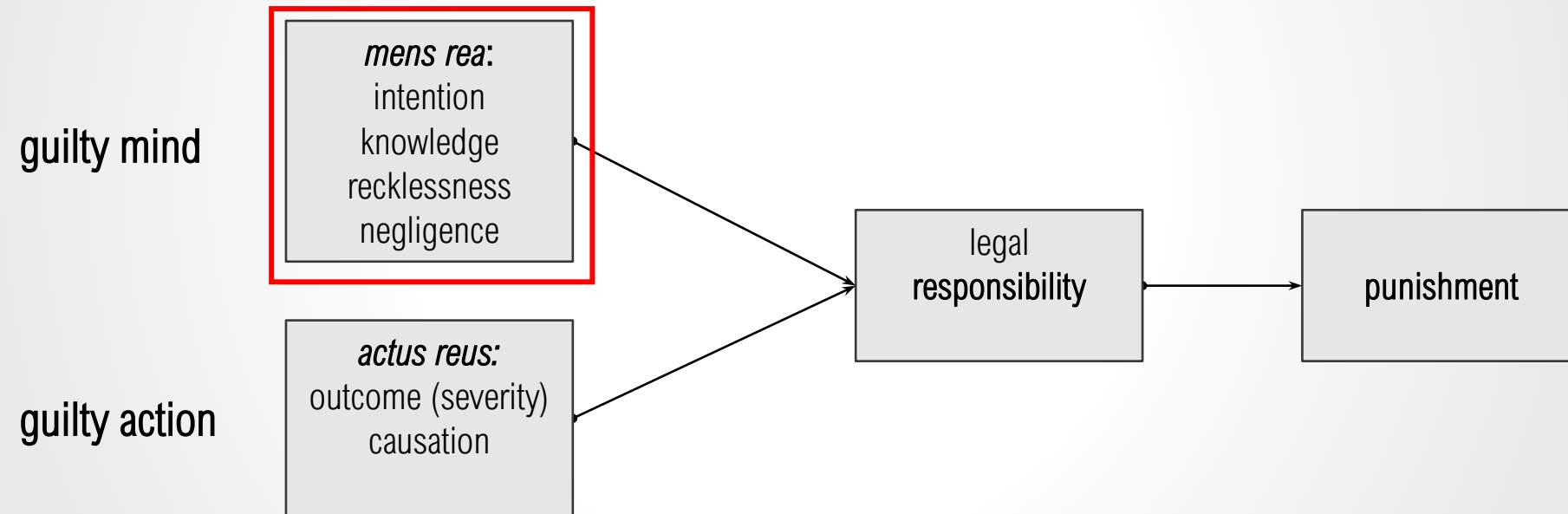
The project “Guilty Minds”

Purpose of the project

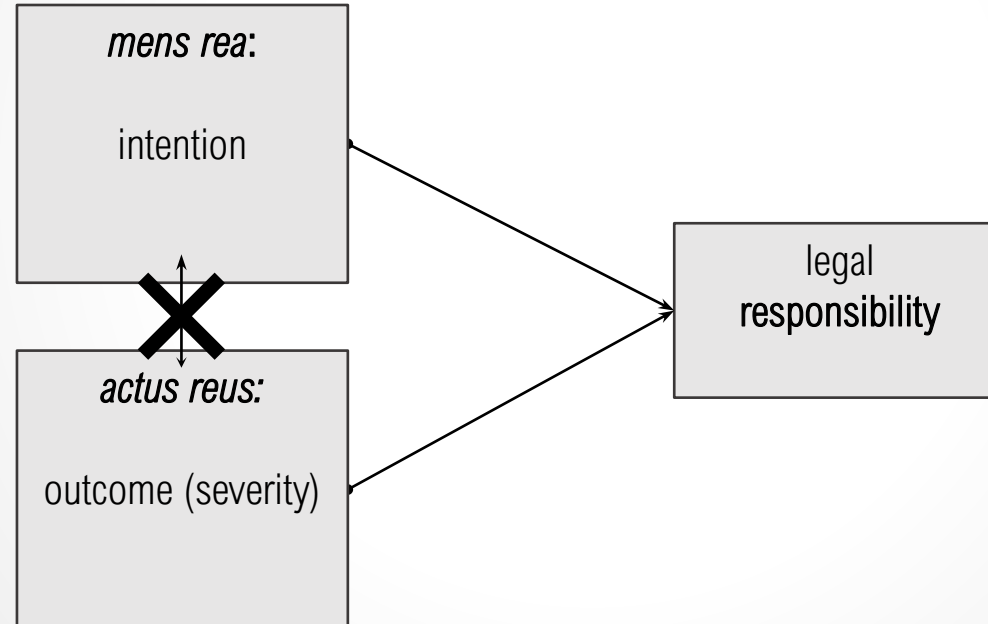
- identify biases of relevance for criminal law and torts
- develop alleviating strategies
- identify underlying processes

Legal responsibility

Legal responsibility



Legal responsibility



Example 1

An example

somewhat bad

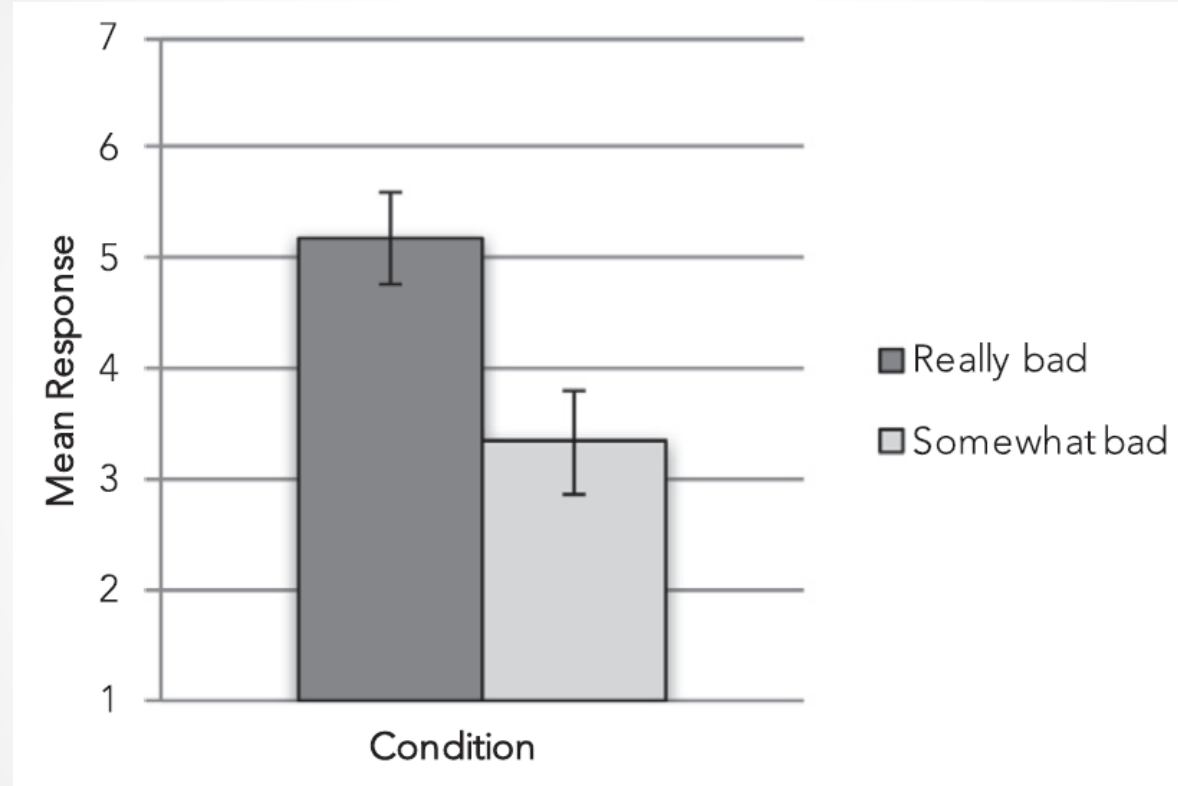
The mayor builds a new road to improve traffic. The mayor knows that During construction, the animals in the construction zone **will be disturbed**. This is only **temporary**, everything goes back to normal once construction is finished.

really bad

The mayor builds a new road to improve traffic. The mayor knows that During construction, the animals in the construction zone **will die**. This is not a temporary condition, things will not go back to normal once construction is finished.

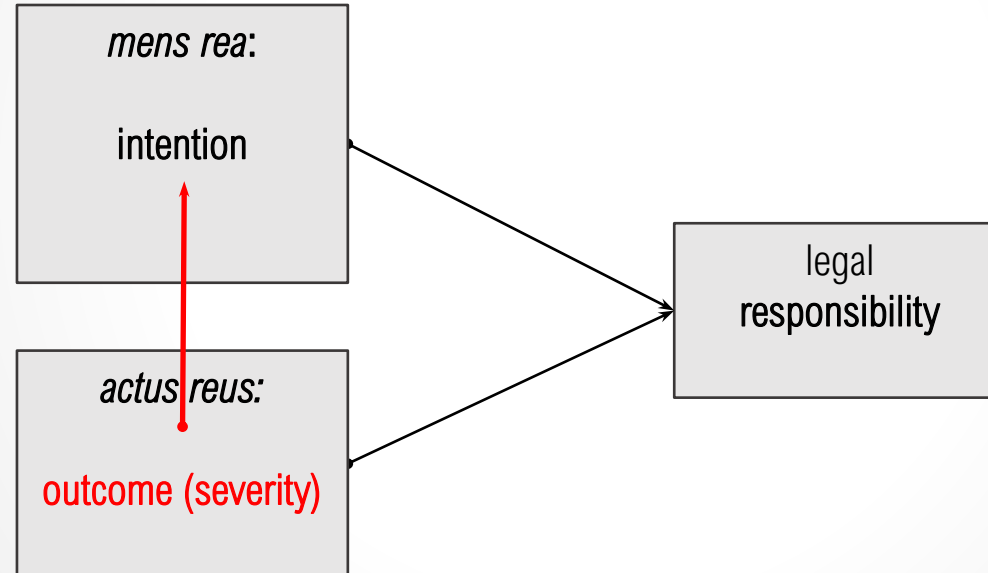
To what extent do you agree that ‘The mayor harmed the environment intentionally’?

Outcome severity



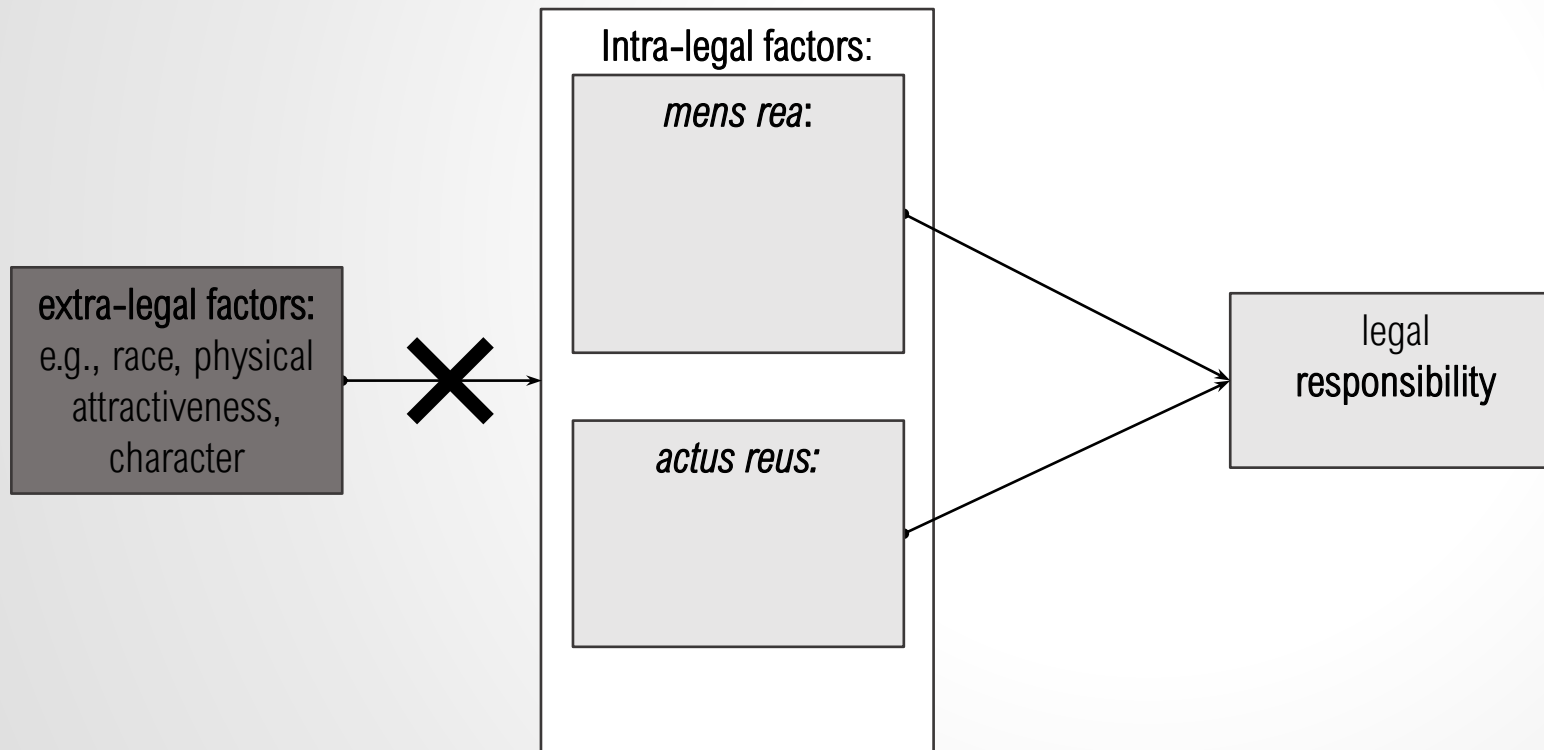
Kneer & Bourgeois-Gironde (2017, p.143)

Legal responsibility



Examples 2

Legal responsibility



Moral character

Character

Nathan [...] works as a ski lift operator on Vail Mountain in Colorado.[...]

good

Nathan is considered a **model employee** [...]. **responsible and reliable**. [...], Nathan spends his time **volunteering** at a local animal shelter, [...].

bad

Nathan is not considered a good employee. [...] **irresponsible and unreliable**. [...], Nathan spends his time **loafing around** town and watching TV [...].

Character

One day in April, after finishing his shift, Nathan left his post at the top of the mountain and headed down the hill. He was skiing very fast. [...]

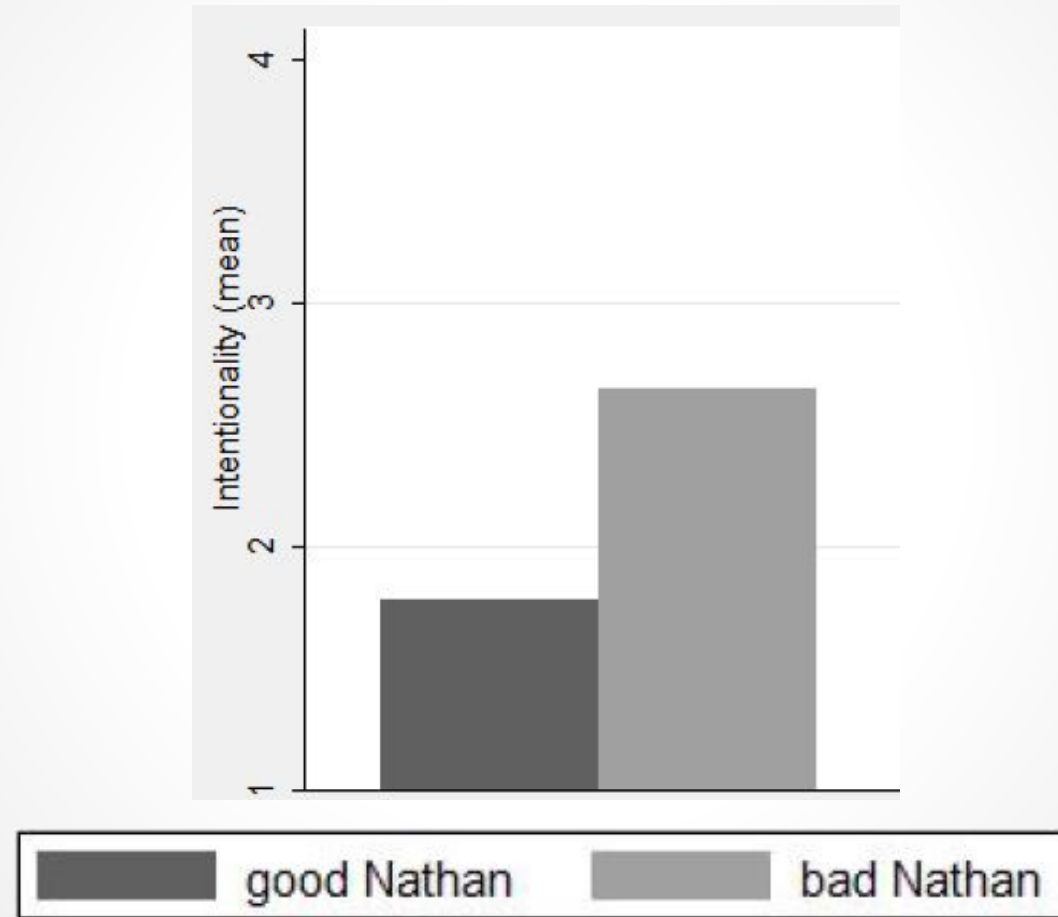
Nathan knew there was a risk he might hit someone but he didn't care, and then he lost control. [...]

He took flight off of a knoll, [...] and [his] ski collided with the head of [...] Alan. Unfortunately, Alan suffered a severe brain injury and died a few days later. [...]

How intentional were Nathan's actions?

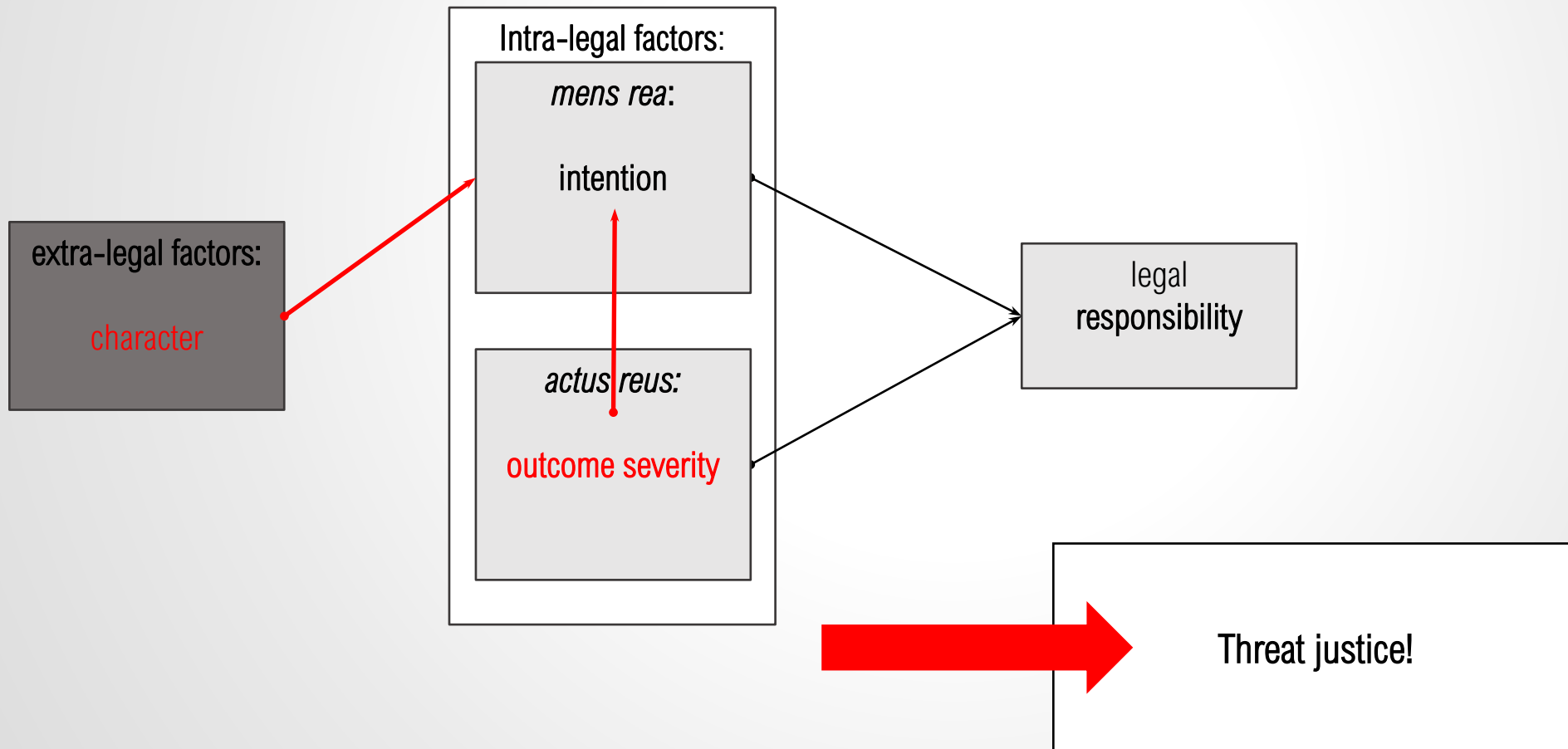
Nadler (2012, p.21)

Character



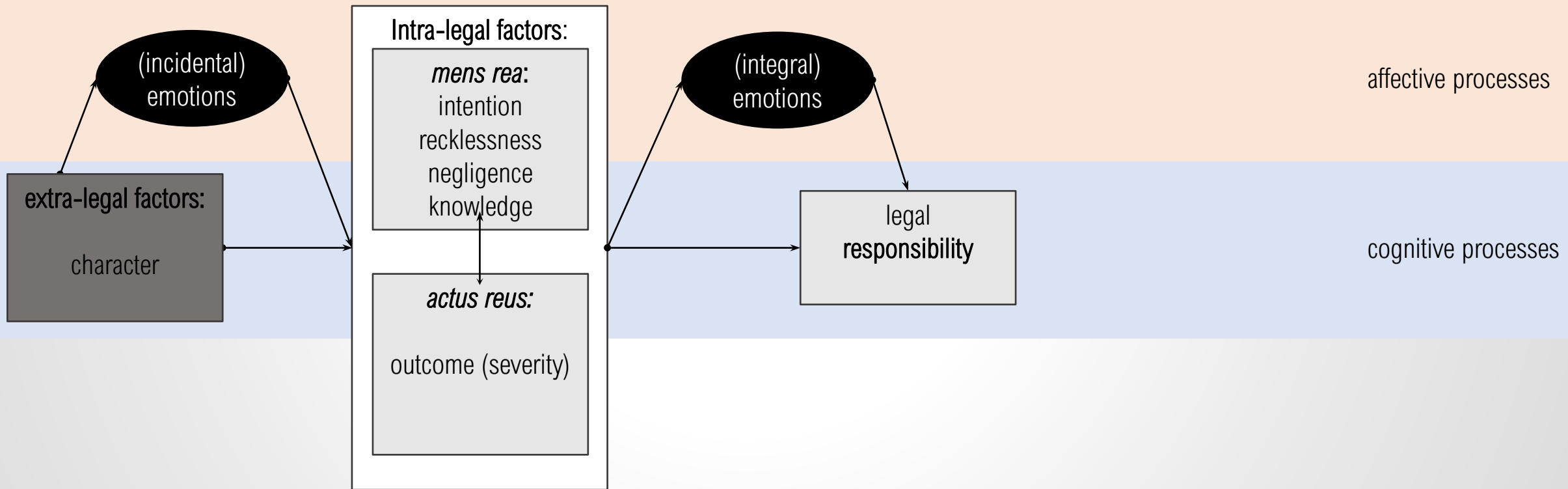
Nadler (2012, p.21)

Legal theory



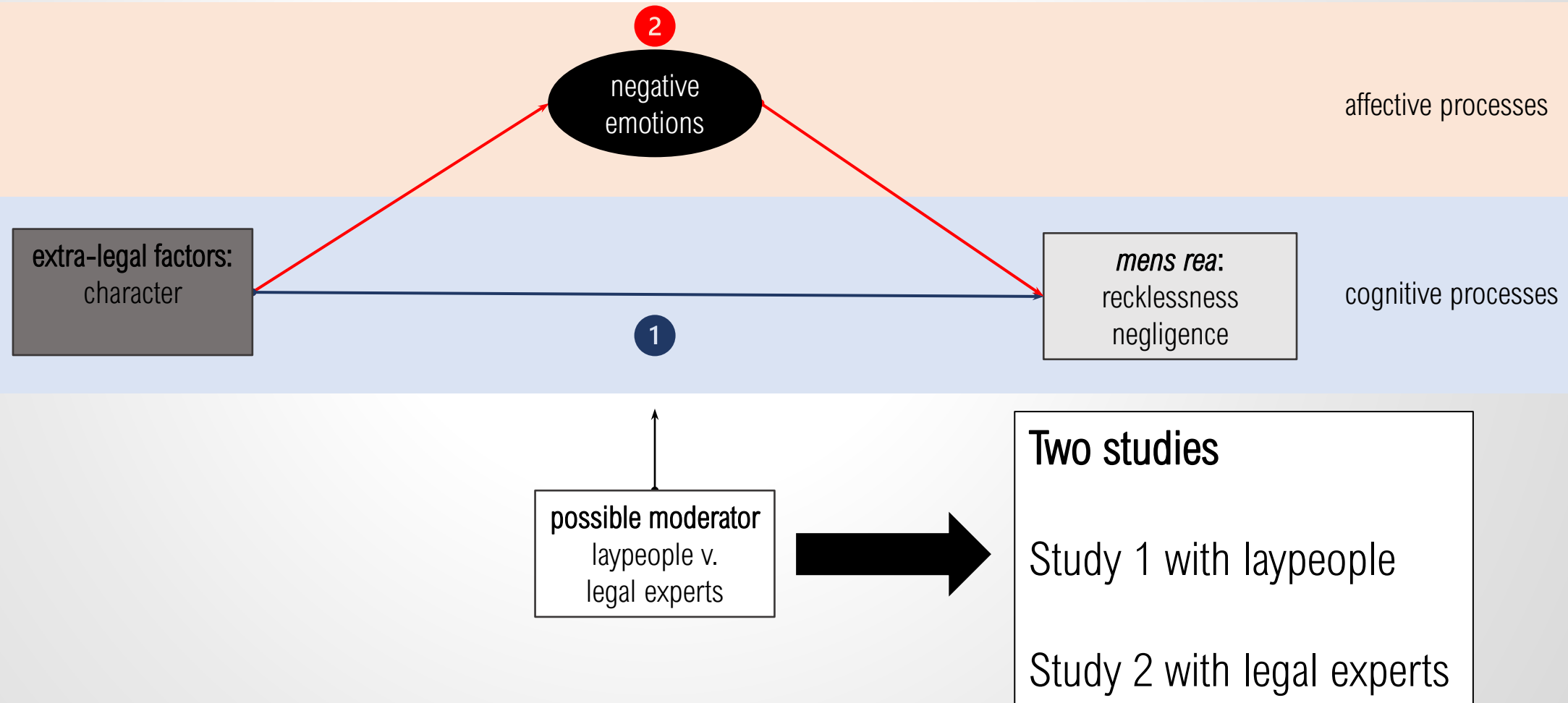
Affective v. cognitive
processes

Affective-driven judgment



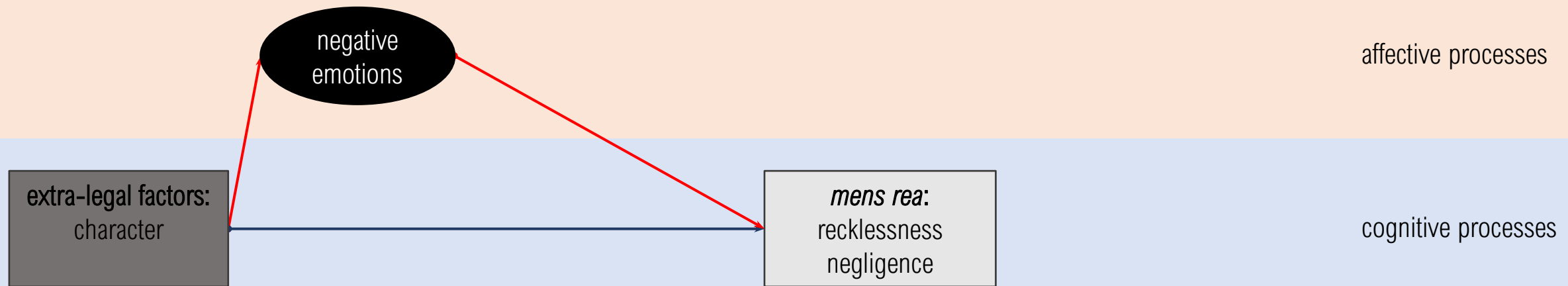
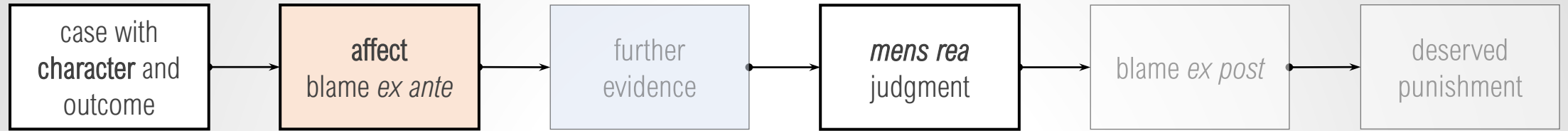
Hypotheses

Hypotheses

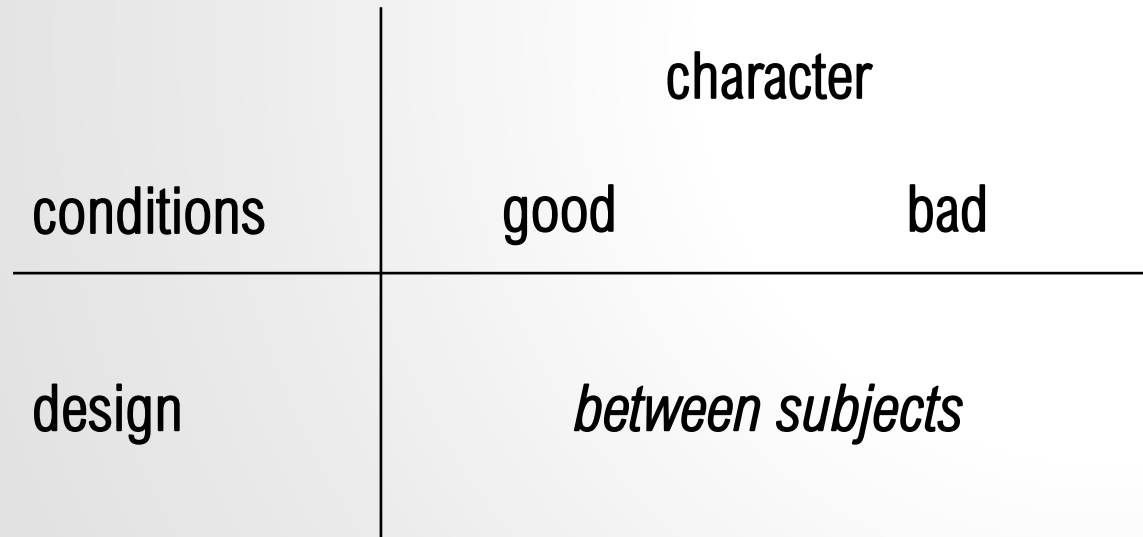
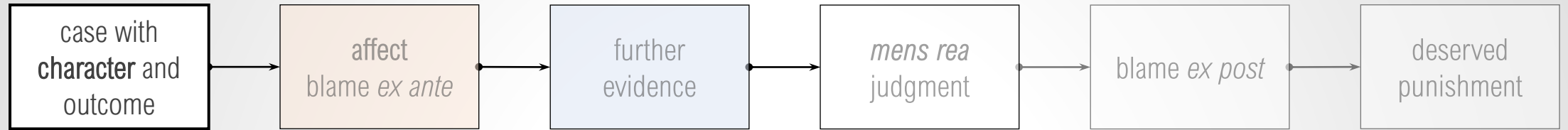


Methods

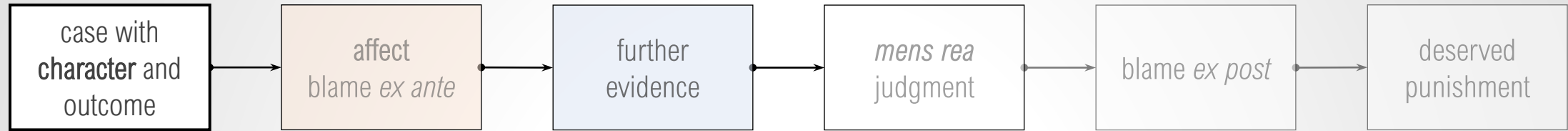
Methods



Methods



Methods



Ms. Miller moved from Nashville to Atlanta and asked **her neighbor, Mr. Smith**, for help.

Character of Ms. Miller

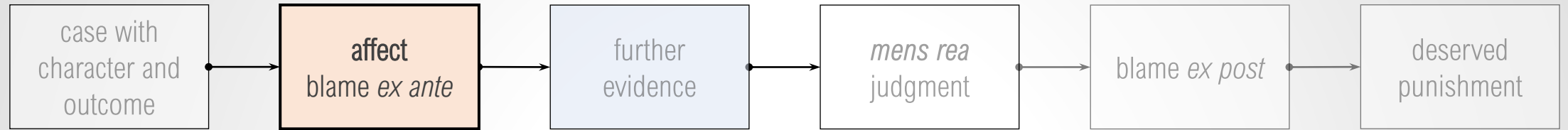
good: **volunteer, honest**

bad: **selfish, takes coworkers' credits**

To clean the attic, Ms. Miller went up to the attic and packed her things into moving boxes. She then handed the boxes over to Mr. Smith, who took them from her hands while standing on the small staircase.

Ms. Miller packed one box full of old books and as she turned the box over to Mr. Smith, she let it fall onto his shoulder. Mr. Smith lost his balance, fell down the staircase and got injured.

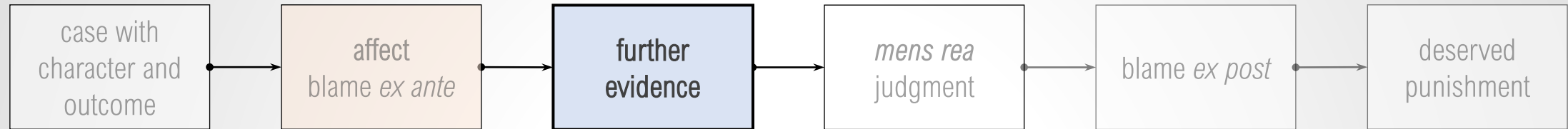
Methods



Has reading this scenario evoked any negative emotions?

To what extent is Ms. Miller morally blameworthy for her actions?

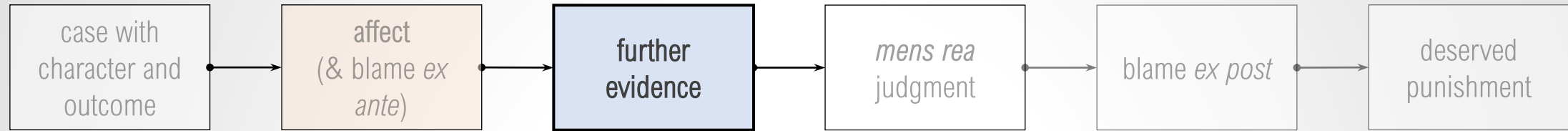
Methods



Which would you like to consult first?

- Defendant's Evidence:** Testimony of Ms. Miller explaining why she believed that the box would not be too heavy for Mr. Smith
- Plaintiff's Evidence:** Testimony of a police officer about the suspicious content of the box involved in the incident
- Defendant's Evidence:** Testimony of a neighbor indicating that Ms. Miller had a very positive attitude toward Mr. Smith
- Plaintiff's Evidence:** Testimony of a forensic expert explaining that traces on the wall indicate that the box caused Mr. Smith to fall

Methods

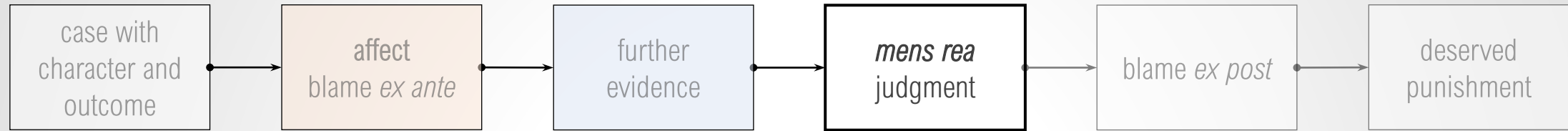


Plaintiff's Evidence: Testimony of a police officer [...]

weight-training equipment in the box [...]

home gym setup [...] stored in the basement.

Methods



To what extent do you agree or disagree with the following claims:

Recklessness: "Ms. Miller was **aware of a substantial risk of harming** Mr. Smith by packing the box full of books and letting it fall onto his shoulder."

Negligence: "Ms. Miller **should have been aware of a substantial risk** of harming Mr. Smith by packing the box full of books and letting it fall onto his shoulder."

Results

Study 1 laypeople

N=384 ($M_{age}=43$, 45% female)

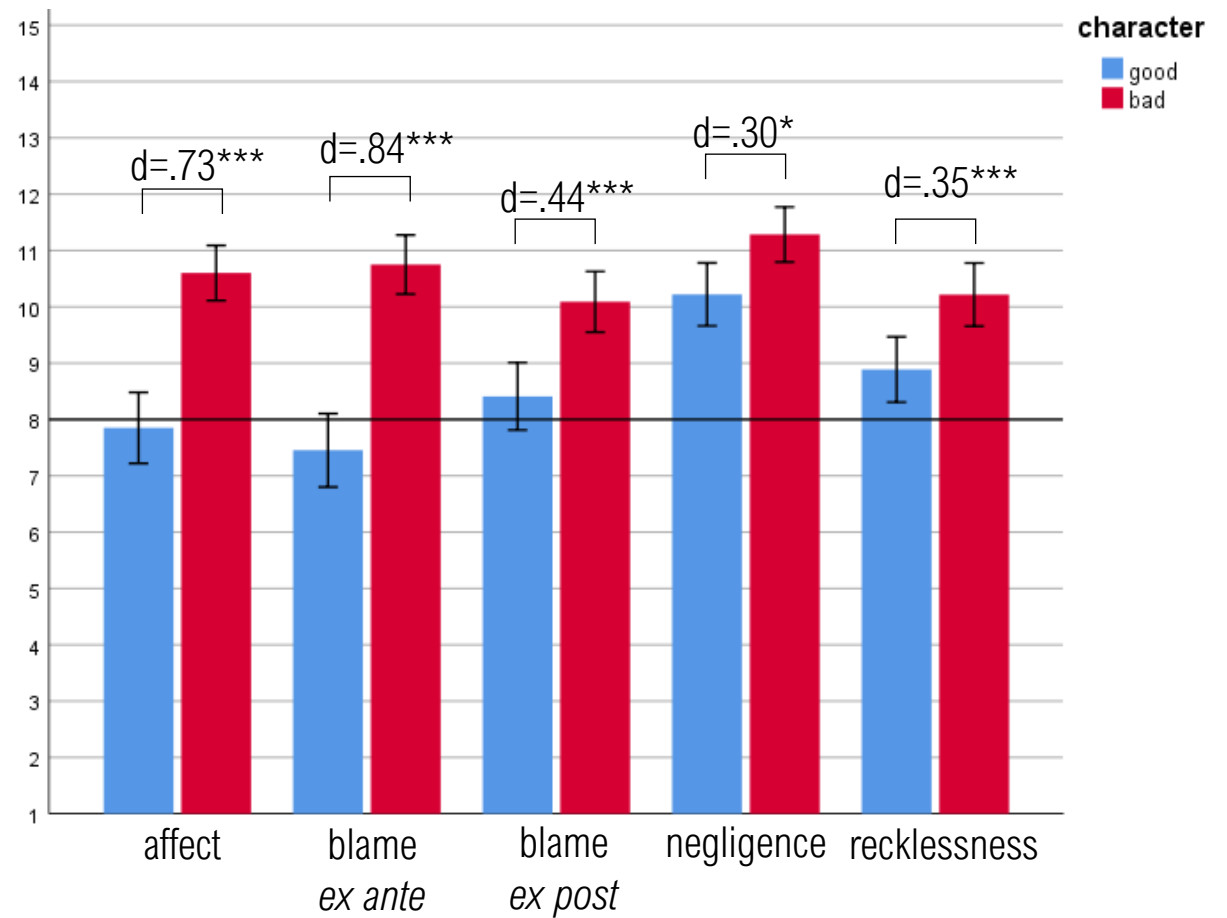


Figure 4 Direct effects of character (good v. bad)

Note: two-tailed ***sig.<.001, *sig.<.05

Study 1 laypeople

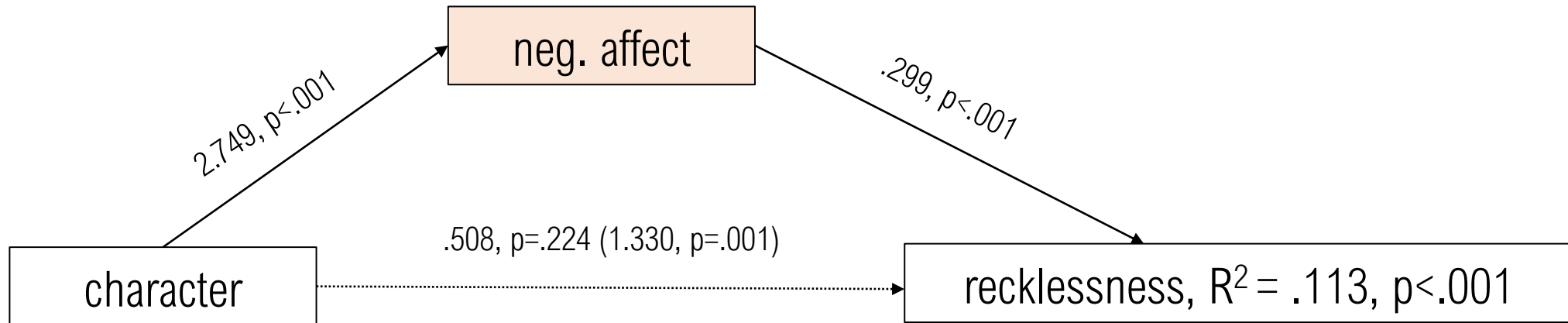


Figure 5 Mediation Analysis

N=384 ($M_{\text{age}}=43$, 45% female)

Study 2 legal experts

N=123 ($M_{\text{age}}=57$, 22% female)

Including 17 judges, 51
attorneys and 23 prosecutors

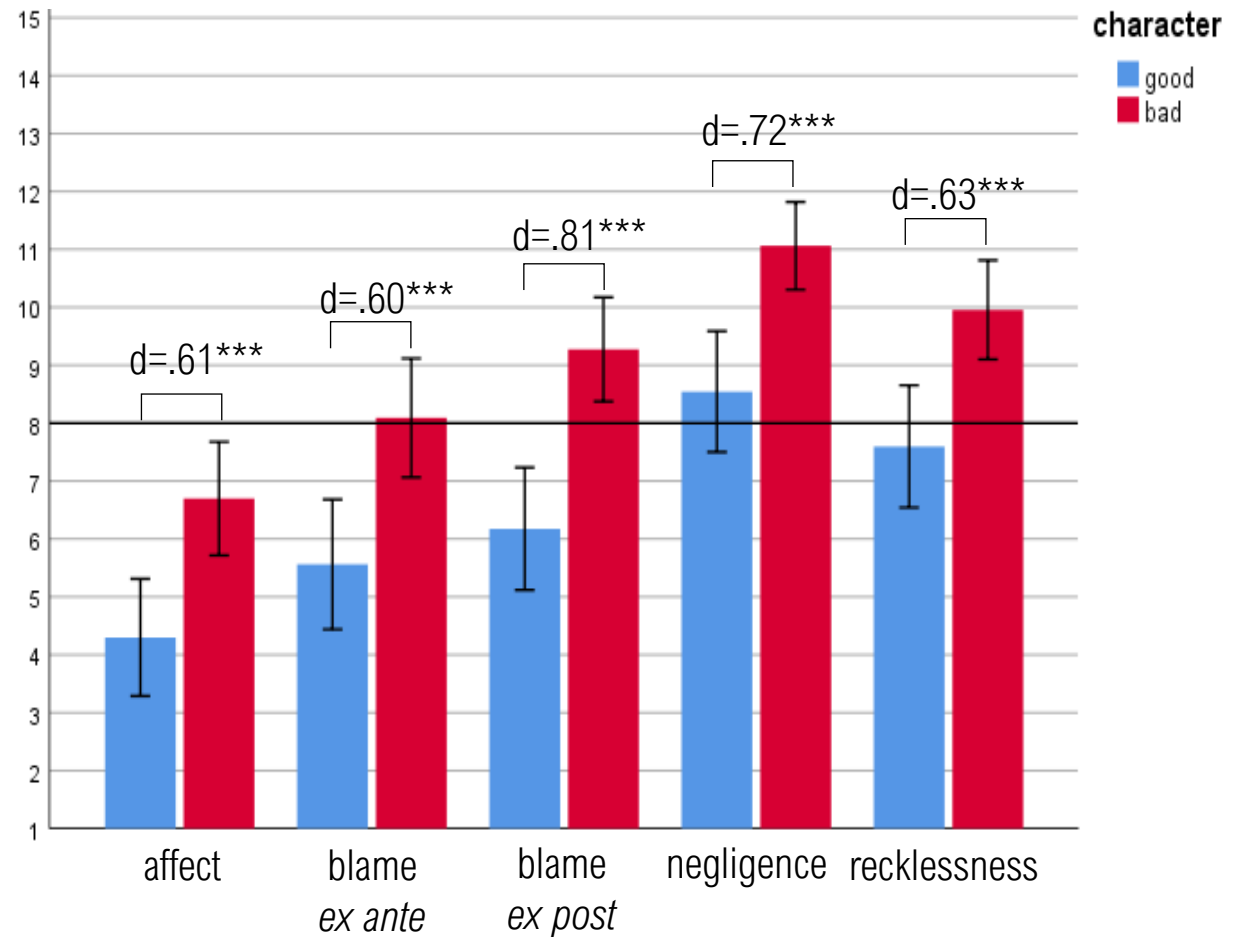


Figure 6 Direct effects of character (good v. bad)

Note: two-tailed ***sig.<.001

Study 2 legal experts

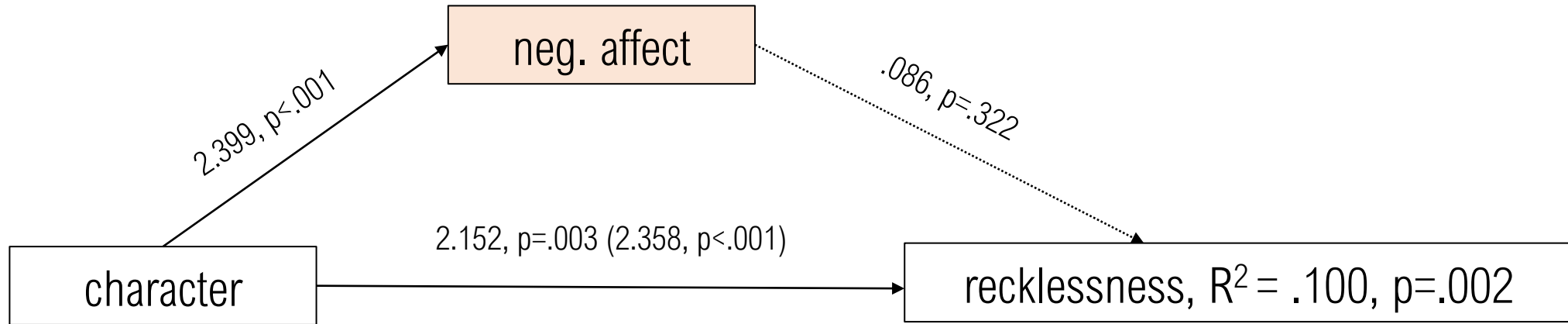


Figure 7 Mediation Analysis

N=384 ($M_{age} = 43$, 45% female)

Conclusion

Purpose of the project

- identify biases of relevance for criminal law and torts
 - **Character has an influence** on the ascription of *mens rea*, for both **laypeople** and **legal experts**
- identify underlying processes
- develop alleviating strategies

Purpose of the project

- identify biases of relevance for criminal law and torts
- **identify underlying processes**
 - we seem to have **two routes**
 - laypeople: affective processes
 - legal experts: ?
- develop alleviating strategies

Purpose of the project

- identify biases of relevance for criminal law and torts
- identify underlying processes
- **develop alleviating strategies**
 - simply getting rid of affect doesn't work for experts
 - **Implication:** The law should make sure to instruct lay juries carefully on this point

Thank you for your attention.

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