Discrimination and/or Prejudice in the Criminal Justice System

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Discrimination and/or Prejudice in the Criminal Justice System

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This thesis for honors recognition has been approved for the Department of Sociology.

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Abstract:

This study investigates the possibility of discrimination and/or prejudice as it might effect the criminal justice system. The hypotheses tested are that people accused of a crime are initially perceived as criminals based on physical appearance, their occupational level in the community and that they will be perceived as deserving of longer sentences for males than for females.

A survey was conducted that included pictures of various people - young, professional, working class, underclass, black, white, male, female, etc., and a brief scenario of a hypothetical crime linked to each picture. The survey asked respondents if they believed the person was guilty or not, and if they were guilty what their sentence should be.

In addition, by comparing two Helena negligent homicide cases and a survey conducted for the use of this study, the possible incident of discrimination and/or prejudice is examined. The official data came from many sources, such as Sociology Journals, actual court documents from Lewis and Clark County District Court, Law Reviews, along with several texts related to crime, sentencing, non-participant observation and criminology.

The evidence within official data, and results from the survey indicate that there could be disparities or prejudice if the respondents who took the survey were picked to be on a jury. People are not treated equally because of these disparities and prejudices.
Introduction

The purpose of this study was to explore the possibility of discrimination in the criminal justice system. The study is to include people’s (judges, law enforcement, juries, etc.) perception or stereotyping of criminals. Specifically, I wanted to examine the following hypotheses to see whether people, in fact, perceive criminals according to their physical appearance, their position in the community, and/or their occupational level. I wanted to investigate whether or not such individuals were treated differently in the criminal justice system. In her text Crime and Criminology, Sue Titus Reid maintains that “in the United States criminal justice system wide discretion is permitted.” (Reid: 1991, p 438).
Literature Review

It appears some people have a somewhat altered view of people of different groups. Today, some people believe that a particular group is not entitled to full membership in society without necessarily believing that he or she will be corrupted by them. To make this more concrete, imagine you think that gamblers, prostitutes, drug addicts, and homosexuals are all “undesirables” in the same way, and that consequently, you don’t want to associate with any of them. This tested the hypothesis that these people would be stereotyped or discriminated against in the courtroom. “For example, data indicates that the criminal justice system is biased against the poor, and until poverty is eliminated, much must be done to assure justice for the poor people who become caught up in the criminal justice system” (Reiman: 2004. p195).

Law professor Michael Tonry reported the results of his recent analyses of race and sentencing in a 1994 publication in which he concluded that racial disparities have “steadily gotten worse since 1980.” Tonry attributes this decline primarily to the efforts of Republican administrations to increase penalties for drug violations. He alleges that they knew these changes would impact negatively on minorities, while at the same time, fail to lower crime rates. Specifically, Tonry is referring to the 100-to-1 ratio of sentence length for crack cocaine possession compared to violating laws regarding powder cocaine. Crack cocaine use is more common among African Americans, while powder cocaine use is more characteristic of whites (Tonry: 1994. p475, 483-488)

“Educated and wealthier individuals have greater access to attorneys and are more likely to know their legal rights. They are less likely to negotiate a plea or admit guilt.
They have the symbols of the middle and upper classes, and those symbols are not associated with criminal status. For example, they are more likely to have strong family ties, to have a job, to have sufficient income, to speak fluently and knowledgeably, to be poised, to be able to rationalize their behavior, to have a record of continuous employment, and to have the respect of the community and of law enforcement officials. They are more likely to have friends who may intervene at any stage in the legal process. They live in areas that are unlikely to be the target of drug raids. They are more likely to get probation if a condition of probation is that they obtain psychiatric or other professional services.” (Hills: 1971. pp. 19-21).

What is probably the largest source of injustice to the poor in the criminal justice system is unequal access to quality legal counsel. In our current system, even though lawyers are assigned to the poor, justice has a price. Those who pay get the choicest cut – those who cannot, get the scraps (Reiman: 2004. p197).

There are some antidiscrimination laws in effect that try to prevent stereotyping and discrimination in the justice system, however, they are written by the legislature who are people of the upper classes.

In a 1998 Michigan Law Review journal article advised antidiscrimination law operates by prohibiting those subject to it from taking action with respect to certain individuals on the basis of their membership in one or another group. But the legal compulsion not to discriminate – although it is designed to ensure that members of a particular group are treated in the same way as all other individuals – does not by itself create a world in which the impulse toward discrimination is extinguished. The consequence of this is the law alone cannot in all circumstances guarantee equal treatment. Rather it can provide only a second-best solution. One unintended consequence of imposing a rule of nondiscrimination upon a world that still may have the impulse to discriminate is that many of those subject to the law’s constraints are still likely to feel as though they are required to provide special treatment to members of the protected group.
Antidiscrimination laws will work most successfully—and will garner the most support—only to the extent that they operate in tandem with other forces that reinforce the view within our culture that, first, because of the importance of treating as individuals members of groups burdened by negative stereotypes, the particular discrimination at issue is wrong, and that, second the characteristic at issue is in fact not relevant to the decisions with respect to which discrimination is prohibited (Michigan Law Review). In other words, there will only be antidiscrimination if the people involved do not stereotype or discriminate against the individual being accused of a crime. (Nov 1998 v97 i2 p564(1)).

The media provides our images of all types of people for us. The mass media is a pervasive feature of the environment in which we play out our lives. The messages and information we receive through the media have extensive impact, from influencing our choice of deodorant to affecting our understanding and treatment of crime and criminal actors and actresses. Given the dominance of crime and other forms of rule breaking as a theme in media representations of reality, a variety of perspectives has been employed to judge the social repercussions of these mediated images of crime and deviance (Ferrell & Sanders p. 25-26)

Recognizing the tremendous influence that the mass media has on the development of beliefs and attitudes, and on the subsequent development of policies of criminal justice, Surette underscores that “these policies determine what behaviors we criminalize, what crimes we tolerate, how we treat criminals, and how we fight crime.” (Surette p 8). “The work of Barrile has likewise revealed an association between television viewing and a “retributive justice perspective” that supports authorities and favors punitive policies such as harsher punishments and the death penalty. (Barrile, L 1980) All of this “translates into attitudes regarding who can employ violence against
whom, who are appropriate victims of crime, and who are likely to be criminals. (Surette p 8).

A review of several decades of research confirms that violent crimes are over-represented on TV news and fictional crime shows, and that “young people, black people, and people of low socioeconomic status are under-represented as offenders or victims in television programs” – exactly opposite from the real world, in which nonviolent property crimes far outnumber violent crimes, and young, poor, black folks predominate as offenders and victims (Criminology and Justice, p. 15, Reiman 2004. p 66).

In the Criminology Journal, they stated “Because judges rarely have enough information to accurately determine an offender’s culpability or dangerousness, they develop a ‘perceptual shorthand,’” which is “based on stereotypes and attributions that are themselves linked to offender characteristics, such as race, gender, and age.” (Criminology Journal p. 455).

In the book, The Rich Get Richer and Poor Get Prison by Jeffrey Reiman, they provide great explanations of examples of data showing that if you are of lower socioeconomic status or of a different race you more likely to go to jail or prison than any other criminal convicted of a crime.

According to Jeffrey Reiman, on the morning of September 16, 1975, The Washington Post carried an article in its local new section headlined “Arrest Data Reveal Profile of a Suspect.” The article reported the results of a study of crime in Prince George’s County, a suburb of Washington, D.C. It read in part as follows:

The typical suspect in serious crime in Prince George’s County is a black male, aged 14 to 19, who lives in the area inside the Capital Beltway where more than half of the county’s 64,371 reported crimes were committed in 1974. [The study]
presents a picture of persons, basically youths, committing a crime once every eight minutes in Prince George’s County (The Washington Post, 1975.)

The portrait Reiman is painting with this quote of “the typical suspect in serious crime” is probably a pretty good rendering of the image lurking in the back of the minds of most people who fear crime in that area. In his 1993 book, How to Stop Crime, retired Police Chief Anthony Bouza writes: “Street crime is mostly a black and poor young man’s game.” And listen to the sad words of the Reverend Jesse Jackson: “There is nothing more painful to me at this stage of my life than to walk down the street and hear footsteps and start thinking about robbery – and then look around and see someone white and feel relieved. (Reiman: 2004 p58)

Reiman says, “Think of a crime, any crime. Picture the first “crime” that comes into your mind. What do you see? The odds are you are not imagining a mining company executive sitting at his desk, calculating the costs of proper safety precautions and deciding not to invest in them. Probably what you do see, with your mind’s eye, is one person attacking another physically or robbing something from another via the threat of physical attack. Look more closely. What does the attacker look like? It is a safe bet that he (and it is a he, of course) is not wearing a suit and tie. In fact, my hunch is that the reader – like me, like almost anyone else in America – picture a young, tough, lower-class male when the thought of crime first pops into your head. We picture someone like the typical criminal described above. The crime itself is one in which the typical criminal sets out to attack or rob some specific person.” (Reiman: 2004 p65).

This last point mentioned above is important. It indicates that we have a mental image not only of the typical criminal but also of the typical crime. If the Typical Criminal is a young, lower-class male, the Typical Crime is one-on-one harm--where
harm means either physical injury or loss of something valuable or both. (Reiman: 2004 p.65)

Reiman also states, “The criminal justice system functions from start to finish in a way that makes certain that the offender at the end of the road in prison is likely to be a member of the lowest social and economic groups in the country.” For the same criminal behavior, the poor are more likely to be arrested; if arrested, they are more likely to be charge; if charged, more likely to be convicted; if convicted, more likely to be sentenced to prison; and if sentenced, more likely to be given longer prison terms than members of the middle and upper classes. In other words, the image of the criminal population one sees in our nation’s jails and prisons is distorted by the shape of the criminal justice system itself. It is the face of evil reflected in the carnival mirror, but it is no laughing matter (Reiman: 2004. p104).

Any number of reasons can be offered to account for the differences in police treatment of poor versus well-off citizens. Some argue that they reflect that the poor have less privacy. For example, it is believed what others can do in their living rooms or backyards, the poor do on the streets. Others argue that a police officer’s decision to book a poor youth and release a middle-class youth reflects either the officer’s judgment that the high-class youngster’s family will be more likely and more able to discipline him or her than the lower-class youngster’s, or it reflects differences in the degree to which poor and middle-class complainants demand arrest. Others argue that police training and police work help to condition police officers to be suspicious of certain kinds of people, such as lower-class youth, blacks, Mexicans, and so on, and thus, are more likely to detect their criminality. Still, others hold that police mainly arrest those with the least
political clout, those who are least able to focus public attention on police practices or bring political influence to bear, and these happen to be the members of the lowest social and economic classes (Reiman p 113).

Regardless of which view one takes, and probably all have some truth in them, one conclusion is inescapable: One of the reasons the offender “at the end of the road in prison is likely to be a member of the lowest social and economic groups in the country” is that the police officers who guard the access to the road to prison make sure that more poor people make the trip than well-to-do people (Reiman: 2004. p113).

The Montana Law specifically addresses the issues under discussion. For example, it states sentencing practices must be neutral with respect to the offender’s race, gender, religion, national origin, or social or economic status. Data indicates these guidelines are not always followed.

Article II, Section 28 of the Montana Constitution states: “Laws for the punishment of crime shall be founded on the principles of prevention and reformation.”

46-18-101. Correctional and sentencing policy. (1) It is the purpose of this section to establish the correctional and sentencing policy of the state of Montana. Laws for the punishment of crime are drawn to implement the policy established by this section.

(2) The correctional and sentencing policy of the state of Montana is to:

(a) punish each offender commensurate with the nature and degree of harm caused by the offense and to hold an offender accountable;

(b) protect the public, reduce crime, and increase the public sense of safety by incarcerating violent offenders and serious repeat offenders;

(c) provide restitution, reparation, and restoration to the victim of the offense; and

(d) encourage and provide opportunities for the offender's self-improvement to provide rehabilitation and reintegration of offenders back into the community.

(3) To achieve the policy outlined in subsection (2), the state of Montana adopts the following principles:

(a) Sentencing and punishment must be certain, timely, consistent, and understandable.

(b) Sentences should be commensurate with the punishment imposed on other persons committing the same offenses.

(c) Sentencing practices must be neutral with respect to the offender's race, gender, religion, national origin, or social or economic status.

(d) Sentencing practices must permit judicial discretion to consider aggravating and mitigating circumstances.

(e) Sentencing practices must include punishing violent and serious repeat felony offenders with incarceration.

(f) Sentencing practices must provide alternatives to imprisonment for the punishment of those
nonviolent felony offenders who do not have serious criminal records.

(g) Sentencing and correctional practices must emphasize that the offender is responsible for obeying the law and must hold the offender accountable for the offender’s actions.

(h) Sentencing practices must emphasize restitution to the victim by the offender. A sentence must require an offender who is financially able to do so to pay restitution, costs as provided in 46-18-232, costs of court-appointed counsel as provided in 46-8-113, and, if the offender is a sex offender, costs of any chemical treatment.

(i) Sentencing practices should promote and support practices, policies, and programs that focus on restorative justice principles.

Theories

Sociological theories are important in helping understand why individuals act the way they do and are treated the way they are by others. Conflict theory maintains where laws are enacted by the group in power as a means of controlling those not in power. Furthermore, criminals do not differ necessarily from noncriminals. The difference may be in the way society reacts to their behavior (Reid: 1997: p. 159). One school of thought in Marxist criminology is that in a capitalist society the state is the instrument used by those in power to control those they dominate, a position called instrumental Marxism. Those who espouse this approach believe that “the state, law and the ruling class are one: the economic, social and political interest of the ruling class find expression in law, which is constructed and used by the ruling class to the advantage of that class and that class alone. (Lynch & Groves: p2 3). In other words, the powerful class controls the legislature who make the laws and the powerless and the ones that are mostly effected by these laws.

I also be examined the effect of Labeling theory. A 1938 statement by Frank Tannenbaum describes the labeling concept as follows:

“The process of making the criminal is a process of tagging, defining, identifying, segregating, describing, emphasizing, making conscious and self-conscious; it becomes a way of stimulating, suggesting, emphasizing and evoking the very traits that are complained of. The
person becomes the thing he is described as being” (Tannenbaum: 1938: pp 19-20).

Labeling does not seek to explain underling “causes” of deviant behavior, but describes a process whereby individuals are labeled by others and adopt the label as a self-concept. The development of the self-concept is likely to result in increased deviance in what becomes a self-fulfilling prophecy (Lowney: 2001: p191). Reid, also defines labeling theory as an attempt to explain deviance as a social process by which some people who commit deviant acts come to be known as deviants and others do not. Deviance is seen as a consequence of society’s decision to apply that term to a person, and deviant behavior is behavior that society labels as deviant (Reid 1997: p210). Later I provide an example of a case in Helena that exemplifies the effects of being “labeled”.

The media has a big influence and supports the labeling theory. While retaining the basic focus of labeling -- that deviance is not a characteristic of particular behaviors but, instead, is located in social reactions to actual or presumed behaviors -- we can move toward an understanding of labeling as part of a larger cultural dynamic. Media presentations have an impact upon labeling and social reaction at an interpersonal level by shaping the macro-cultural processes that provide the context for immediate social interactions. The labeling perspective on crime and deviance is further extended by cultural criminology through its focus on style and symbolism within deviant and criminal subcultures. Permanent body alterations, distinctive clothing, uniquely meaningful hand gestures, and other subculture symbolic elements are directly connected to, and help fix, the socially constructed deviant or criminal identities of those who belong or profess allegiance to insubordinate groups. As voluntarily assumed symbols of
stigmatized status, these symbols both set members apart from conventional society and are used by control agents and others to identify the unconventional, and thereby aid in targeting societal reactions. (Ferrell & Sanders: 1995. pp. 309-310)

Official data

I investigated the official data provided by the Criminal Justice and Corrections Advisory Council (CJCAC). I was exploring the possibility of discrimination in the criminal justice system. The Criminal Justice Corrections Advisory Council did a study of Montana sentencing practices. The goal of this report was to study: “consistency of sentencing practices, the role of the Sentence Review Division…the impact of inconsistency on the prison population, [and a] review of the sentencing practices of other states” (Byorth 1990, p 1). CJCAC advised there are four basic rationales for sentencing: 1) to deter crime; 2) to incapacitate the offender; 3) to vindicate the social order; and 4) to rehabilitate the offender (Byorth: 1990, p 1).

“The sentencing [practiced in Montana] is different from many states which have indeterminate sentencing, in that the judge does specify a fixed term (i.e., 10 years with 5 suspended). The sentencing options include a prison sentence, a suspended sentence, a deferred sentence, fines, community service, restitution or a combination” (Byorth: 1990, p 4). The judges in Montana are given more freedom to make the final decision on sentencing practices in Montana.

CJCAC advised the judge receives a pre-sentence investigation (PSI) completed by the probation and parole office. The PSI consists of an offender’s past record, both juvenile and adult, the official and the defendant’s versions of the crime, social history,
medical history, a psychological profile, and a recommendation for a sentence. This information is supplied to facilitate the judge’s sentencing decision (Byorth: 1990, p 4). I think the PSI could potentially have a negative effect of the sentencing. The PSI reflects juvenile records and individual characteristics that the judge could use to discriminate against someone. (When I went to get a copy of court documents that I will discuss later in this research they advised me that PSI’s are not public record in Montana).

The Montana sentencing policy is a form of indeterminate sentencing based on the premise that each offender must be dealt with according to their individual circumstances. Part of the indeterminacy lies in statutes which give wide ranges from which a judge may sentence an offender (Byorth: 1990, p 4). In all of the studies done by CJCAC, when compared to other states, Montana judges have more power in the final sentencing decisions.

**In a Specific Example**

An example of possible discrimination in the Helena criminal justice system was in the cases of Shane Hedges and Kimberly Watne were both charged with negligent homicide and sentenced so differently. They were both involved in a drinking and driving accident which killed the passengers of the vehicles while they were driving under the influence of alcohol. With sentencing approximately only six months apart, and by two different Helena Judges, the fate of each of these individuals would be far different. I will compare and contrast the sentencing difference between these individuals.
Watne was sentenced to 10 years with the Montana Department of Corrections with 7 years suspended, and attached an additional 5 years suspended for hurting another passenger in the incident. The sentences are to be served concurrently. Annette Carter, Probation and Parole officer filed a placement warrant advising that Watne was not accepted into the Pre-Release center and should be transported to the Montana Women’s Prison at the earliest possible date. She also received a fine of $1500.00 to be paid to the D.A.R.E. Program and was to provide 100 hours of community service per year of supervision. She must also attend the Cognitive Principles and Structuring Class along with following all orders of being on probation. The report also indicated she was currently pregnant.

Hedges was given a six-year deferred sentence and a six month commitment to the Helena Pre-release center. He also received a fine of $1000.00 to the D.A.R.E. Program and provide 80 hours of community service per year of supervision, along with following all orders of being on probation.

So why the sentencing differences? Could it be what their status was in the community? In a written statement from Deputy County Attorney, Jorge Quintana he advised when he entered the hospital to interview Hedges, Governor Judy Martz, Lt. Governor Ohs and Chief of Staff/Chief Legal Counsel Ed Bartlett were in the family waiting room and immediately introduced to him. Attorney Quintana advised after Montana Highway Patrol Officer Mike Swingley interviewed Hedges he was transported to the Governor’s mansion. Officer Swingley and Quintana had to proceed to the Governor’s mansion for a few more questions and when they arrived Hedges was sitting in bed eating chicken soup. It is obvious Hedges, Chief Policy Advisor for the Governor,
was associated as an upper-class individual. When the officers arrived at the hospital to interview Watne, there was no indication in their report she had any other individuals with her for support or that they questioned. And when she filled out her indigency questionnaire and request for appointment of counsel she indicated she lived with her father and was currently unemployed. The last job she listed was for Ricks Cleaning Service and she received $400/month for wages. She currently did not have a vehicle, real estate, cash or savings account, etc. She was obviously thought of as a lower class citizen.

Could another reason for the sentencing differences be the difference in attorneys? Because of Watne’s financial situation she was not able to afford an attorney so she was appointed public defender Randi Hood. On the other hand, Hedges had two of the best attorney’s in the state of Montana, Greg Jackson and Jim Hunt.

Was there a difference because Watne had one character witness letter in her file and Hedges had an entire separate file filled with over 300 character witness letters? Hedges’ were from every type of citizen that you could imagine ranging from a previous Governor, legislators, parents of the victim, and the wife of the victim.

The question probably will never be answered fully but there is definitely a difference in how these two individuals were treated and sentenced.
Hypotheses

There were 3 hypotheses that I wanted to test regarding the possibility of discrimination in the criminal justice system. In addition to examining data, I completed a survey to see if there was any evidence of such attitudes and what the 100 individuals I surveyed.

1.) Within this sample, people involved in the criminal justice system are likely to be perceived as criminals based on physical appearance.

2.) Within this sample, individuals would tend to judge others according to their occupational level in the community.

3.) Within this sample, individuals will tend to impose longer sentences on males they believe to be guilty, than females they believed to be guilty of the same crime.
Survey

I conducted a survey at five different locations around Helena. They were at a large insurance company, bowling alley, outside of a grocery store, at a fundraiser for a volunteer fire department and a local coffee shop. I provided a brief scenario of a possible crime on the survey & a picture of different types of people.

On June 30, 2003 a casino employee was held at gunpoint while the suspect was robbing the safe. The suspect got away with approximately $35,000. The person pictured above is a possible suspect of armed robbery because he was reported depositing $35,000 in cash at a nearby bank.

If you were on a jury, how would decide

____ Guilty
____ Probably Guilty
____ Probably Not Guilty
____ Not Guilty

If guilty, what should the sentence be?

____ Release on probation
____ 1 year or less in jail
____ 1 – 5 years in prison
____ More than 5 years in prison

Your age ___________________________
Your gender _______________________
Your race _________________________
Your occupation ___________________
The results regarding this person were:

Guilty or Probably Guilty - 9

Probably Not Guilty or Not Guilty - 11

Of the guilty and probably guilty responses:

Release on probation - 1

1-5 years in prison - 1

More than 5 years in prison - 7

Average age of respondents taking the survey 39.7 years old

Gender:

Males - 3

Females – 17

Lower occupational level - 2

Middle occupational level - 16

Higher occupational level - 2

All respondents were Caucasian
I administered this survey outside of a large insurance company building. Substantially, far more females participated in the survey. This could be for several reasons. There may be a higher female to male ratio in this company. Females may have been more comfortable with me when I asked if they would fill out the survey, or the customers walking in were more likely to be females taking care of the families insurance business.

I determined the occupational levels of individuals by the Hollingshead’s two-factor index of social class standing. For example, the 2 higher occupational levels were a manager for large insurance company and the other was PCA head trauma specialist. These 2 respondents answered probably not guilty and not guilty. The two lower occupational levels were a drunk bartender and older than average unemployed student. The bartender wrote on her survey that she was a “drunk” bartender but did not appear to be intoxicated when she filled out her survey. These two respondents answered probably not and not guilty. All the other occupations fell somewhere in between.
The results regarding this person were:

Guilty or Probably Guilty - 10

Probably Not Guilty - 10

Of the guilty and probably guilty responses:

1-5 years in prison - 4

More than 5 years in prison - 6

Average age of respondents taking the survey 45.4 years old

Gender:

Males - 15

Females - 5

Occupational Level:

Lower occupational level – 4

Middle occupational level – 12

Higher occupational level - 4
18 respondents were Caucasian, 1 Mexican and 1 Native American.

This survey was administered at a bowling alley. Again, in this survey the gender difference of respondents taking the survey were very different with far more males answering the survey this time. There were far more males bowling that evening than females.

Again, the occupational level of individuals was determined by the Hollingshead chart. The four individuals with higher occupational levels answered 2 guilty and 2 probably not guilty. The 4 in higher occupational levels had occupations of an accountant, engineer, owner of a large restaurant/casino, retired teacher who now owns his own successful business.
The results regarding this person were:

Guilty or Probably Guilty - 13

Probably Not Guilty or Not Guilty - 7

Of the guilty and probably guilty responses:

Release on probation - 3

1 year or less in jail - 1

1-5 years in prison - 5

More than 5 years in prison - 4

Average age of respondents taking the survey 38.8 years old

Gender:

Males - 5

Females - 15

Occupational level:

Lower occupational level - 0
Middle occupational level - 17
Higher occupational level - 3
All respondents were Caucasian.

I administered this survey at a local coffee shop in downtown Helena. Again, far more females answered this survey than males. There could be many reasons but no concrete evidence as to why more women where in the coffee shop than men. Were women more willing to accept and complete the survey than men? Could it have been that I was a women was I more approachable to other women? The only facts we have is that 15 females answered the questions compared to the 5 men.

I again determined the occupational level of individuals based on the Hollinghead chart. The 3 higher occupational levels were an executive director, dentist and a foundation director. These respondents answered 2 guilty and 1 probably not guilty. I didn’t find any occupations that were listed in a lower occupational level. They were all of medium levels and I took the place I was handing out the survey into consideration. Most of the cups of coffee were about $3.50 a cup.
The results regarding this person were:

Guilty or Probably Guilty - 15

Probably Not Guilty - 5

Of the guilty and probably guilty responses:

Release on probation - 1

1-5 years in prison - 6

More than 5 years in prison - 8

Average age of respondents taking the survey 44.75 years old

Gender:

Males - 14

Females - 6

Occupational Level
Lower occupational level - 2
Middle occupational level - 16
Higher occupational level - 2

19 respondents were Caucasian and 1 Native American.

This survey was administered at a fundraiser for a volunteer fire department. Interestingly, more males answered the survey than did females. I did not observe many more males at this fundraiser than females. The difference I noticed here is that alcohol was served and it may have been easier for males to approach me in this atmosphere compared to the other places I conducted the survey.

The occupational level was again determined by the Hollingshead guide. The 2 with higher level’s were a certified public accountant and a loan manager. These respondents answered 1 guilty and 1 probably guilty. The 2 with lower level’s were a janitor and a cook at a casino. They both answered probably not guilty. All other respondents had a median occupation listed.
The results regarding this person were:

Guilty or Probably Guilty - 14

Probably Not Guilty or Not Guilty - 6

Of the guilty and probably guilty responses:

1-5 years in prison - 3

More than 5 years in prison - 11

Average age of respondents taking the survey 38 years old

Gender:

Males - 9

Females - 11

Occupational Level

Lower occupational level - 2

Middle occupational level - 16

Higher occupational level - 2
All respondents were Caucasian.

This survey was taken outside of a local Helena grocery store. The gender ratio of respondents was much more even on this survey.

Again, the occupational level was determined by the Hollingshead guide. There were 2 with high levels and their occupations were a pharmacist, a Head Registered Nurse. Both respondents answered guilty. The 2 lower levels were unemployed & a cook at a fast food restaurant. One answered not guilty and the other was probably not guilty. Again, the rest of the respondents occupations fell within the medium level.

Conclusion —

My first hypothesis was that within this sample, people involved in the criminal justice system are likely to be perceived as criminals based on physical appearance. First, I compared 40 total pictures of a professional male and a nice looking young female and 19 found them to be guilty or probably guilty and only 21 said probably not guilty or not guilty. These results were much closer than one might anticipate. It appears that a potential juror would not base their decision about the way the professional man and nice young looking female looked, but would actually take more into consideration. There were very different results for the 3 other pictures tested that were not dressed in the same attire and rougher looking. I had 3 other pictures, 60 total, of a teenager dressed in a letter jacket with his head shaved, a women who was not very feminine looking (no makeup, hair not curled, no smile, almost a hardened look so to speak) and of a black man. Of the 60 respondents, 42 people stated they would conclude that one or the other of these people were guilty or probably guilty of this hypothetical crime. The other
finding is based on the pictures comparing the results of the African America and the white male who appeared a little rougher looking. The responses were very even on answering that they were guilty or probably guilty. It was not until the sentencing that the results differed. For the white male they responded with 8 giving more than 5 years in prison, 1 giving 1-5 years in prison and 1 release on probation. For the African American male they responded with 11 giving more than 5 years in prison and 3 giving 1-5 years in prison. This supports the hypotheses that people involved in the criminal justice system are more likely to be perceived as criminals by their physical appearance.

My second hypotheses was that within this sample, individuals would tend to judge others according to their occupational level in the community. The data indicated that the nicer looking and better dressed people where found not guilty or probably not guilty by 4 of the 6 higher occupational level individuals. Because most were found not guilty or probably not guilty, I was not able to determine if they served on a jury, they would have sentenced them longer based on their occupational level, because they didn’t have to answer the part of the questions dealing with sentencing. It might be surprising to some, that individuals who responded to the sentencing question for the African American male were more likely to sentence him to the maximum of more than 5 years in prison. Unfortunately, I was unable to have much diversity when giving the survey because Helena, Montana does not have much of a ethnic diverse population.

The data I received supported the third hypothesis, that within this sample, individuals will tend to impose longer sentences on males they believe to be guilty than females they believed to be guilty of the same crime. Of the respondents to the survey who stated the males were either guilty or probably guilty, indicated that 60% would
sentence them to more than 5 years in prison 32% to 1–5 years in prison and 8% to release on probation. The respondents who stated that the women were guilty, indicated only 41% would sentence the women to more than 5 years in prison, and another 41% to 1–5 years in prison, 4% to 1 or less years in jail & 14% release on probation. The men were given longer sentences for the same crimes that the women committed, by the 100 respondents who filled out the survey.

Whether the discriminatory treatment is conscious or unconscious, whether it is based on actual probabilities or on distorted racist stereotypes, the law thus usually will be unable to alter in any immediate way an individual’s impulse to discriminate.
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