

THE EFFECTS OF DEFENDANT AND JUROR SIMILARITY ON SENTENCING
FOR UNIVERSITY UNDERGRADUATE
RESEARCH FELLOWS

A Senior Honors Thesis

by

ROBERT WAYNE HUDSON, JR.

Submitted to the Office of Honors Programs
& Academic Scholarships
Texas A&M University
in partial fulfillment of the requirements of the

UNIVERSITY UNDERGRADUATE
RESEARCH FELLOWS

April 2003

Group: Cultural Studies I

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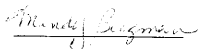
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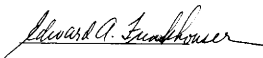
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April 2003

Group: Cultural Studies I

ABSTRACT

The Effects of Defendant and Juror Similarity on Sentencing. (April 2003)

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In every criminal case, the selection of jurors is a crucial factor in determining the outcome of the trial. The prosecution and the defense each attempt to construct a jury that will be sympathetic to their arguments. Each side interviews the prospective jurors and attempts to eliminate those people who might be partial to the opposition. Because attorneys have the opportunity to select the jurors, proper evaluation of each candidate is imperative. In many cases, the allocation of punishment is a responsibility given to the jurors. A variety of factors contribute to the decisions that individual jurors make concerning sentence severity. One of these factors may be the degree to which a juror can relate to the defendant. This research intends to analyze how the similarity between a defendant and a juror influences juror decision-making. The deep characteristic of personality and the surface characteristic of sex serve as the comparison between the defendant and jurors for this study. Furthermore, the way in which different types of crimes influence sentence severity is analyzed. This study analyzes the ways in which personality, sex, type of crime, and defendant-juror similarity affect judgments of punishment.

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TABLE OF CONTENTS

| | Page |
|------------------------|------|
| ABSTRACT..... | iii |
| ACKNOWLEDGEMENTS..... | iv |
| TABLE OF CONTENTS..... | v |
| LIST OF TABLES..... | vi |
| LIST OF FIGURES..... | vii |
| THESIS | |
| I INTRODUCTION..... | 1 |
| II METHOD..... | 7 |
| III RESULTS..... | 9 |
| IV DISCUSSION..... | 15 |
| REFERENCES..... | 19 |
| APPENDIX..... | 22 |
| VITA..... | 23 |

LIST OF TABLES

| TABLE | Page |
|-----------------------------|------|
| 1 COMPENSATORY DAMAGES..... | 10 |
| 2 PUNITIVE DAMAGES..... | 11 |

LIST OF FIGURES

| FIGURE | Page |
|---|------|
| 1 DEFENDANT CONSCIENTIOUSNESS AND TYPE OF CRIME..... | 14 |
| 2 DEFENDANT-JUROR SIMILARITY AND TYPE OF CRIME..... | 15 |

The Effects of Juror and Defendant Similarity on Sentencing

In every jury trial, the selection of jurors is a crucial factor in determining the outcome of the trial. The prosecution and the defense each attempt to construct a jury that will be sympathetic to their arguments. Each side interviews the prospective jurors and attempts to eliminate any people that might be partial to the opposition. Once the jury is intact, the two opposing attorneys attempt to influence the jurors to sympathize with their arguments. Proper evaluation of each juror candidate is imperative because the decision of guilt or innocence, as well as the allocation of punishment, are responsibilities given to the jurors, in many cases.

A variety of factors contribute to the decisions that individual jurors make concerning sentence severity, such as juror attitudes, intelligence, and social skills (Giner-Sorolla, Chaiken, & Lutz, 2002; Rotzien, 2002). Most studies have examined only how juror characteristics affect sentencing; few have examined the characteristics of the defendant or the congruence of characteristics between the defendant and the juror. These might also influence the decisions made by juries. This research begins to address these potential effects by examining multiple characteristics of defendants and jurors, as well as the similarity between a defendant and a juror, as influences in juror decision-making in assigning monetary penalties.

Specifically, this study examines the effects of a personality trait, conscientiousness, and the sex of the defendant and juror on sentence severity. Additionally, the way in which different types of crimes influence sentence severity is analyzed. Finally, this study investigates the effect of defendant-juror similarity across

sex and conscientiousness on sentencing. Thus, this study investigates the joint influences of personality, sex, type of crime, and defendant-juror on juror decision-making.

The context of this study is a civil court case, in which money is awarded to a plaintiff after a defendant has been found guilty of, or responsible for, an action. Monetary awards are of two types: compensatory and punitive. Compensatory damages are awarded to reimburse the plaintiff for any real damages incurred. Punitive damages are awarded to account for any additional pain and suffering sustained by the plaintiff. Because the juror can interpret punitive damages in a variety of ways, this study predicts that the personal biases of the jurors will affect punitive damages more than compensatory damages. Thus, it is believed that most of the significant effects will be found for punitive damages.

Conscientiousness

The effects of personality similarity between jurors and defendants are based on the Five Factor Model (FFM) of Personality (Warren, 1963). Warren's research revealed five aspects to human personality: openness, conscientiousness, extroversion, agreeableness, and neuroticism. In a longitudinal study, Soldz & Vaillant (1999) found that these five facets of the personality model were stable over a forty-five year period. Thus, the FFM should be a sufficient indicator of the personality dispositions of the jurors and defendants. In this study, one facet of the FFM, conscientiousness, was selected as the personality criterion used for comparison. Conscientiousness, the act of being responsible, painstaking and careful, served as the personality variable in this

study because of its application to the legal system. The judicial system is responsible for seeking justice in a trustworthy and conscientious manner. Thus, conscientiousness was examined for both the defendant and juror to analyze how varying levels of this personality trait affect sentencing.

Drawing on research on other social relationships, it seems likely that the character of the defendant would influence the decisions of the jurors. When participants were asked to evaluate their peers, Asendorpf (1998) found that participants rated conscientious people as being more socially desirable than unconscientious people. Furthermore, conscientious people were involved in less conflict and were more likely to be loved by their peers. Conscientious defendants in this study are portrayed as responsible and dependable, and therefore accountable for their actions. Thus, this study hypothesizes that the jurors will like these defendants more and give them lighter sentences (Hypothesis 1).

This study also examined the effects of juror conscientiousness. In a study that asked participants to rate their peers on a variety of constructs, Bernardin, Cooke, and Villanova (2000) found that the conscientious participants rated their peers more harshly than the unconscientious participants. Thus, it appears that conscientious people hold others to a higher standard. Previous research indicates that conscientiousness is strongly related to healthy perfectionism (Stumpf, 2000). Apparently, people possessing the conscientious personality trait are critical of imperfections. Because crimes involve an element of imperfection, this study

hypothesizes that conscientious jurors will sentence defendants more severely (Hypothesis 2).

Sex

The effects of sex of both the juror and the defendant were analyzed to discover their influences on sentencing severity. According to the American Bar Association (1998), men commit more crimes than women. Previous research has indicated that, especially among adults, men have been arrested more and have received harsher sentences than women (Weisberg, 1982). The disproportionate number of male offenders can be explained by both genetic and social factors. Many authors have argued that males possess an intrinsic predisposition toward aggression. After an extensive review of the literature, Maccoby & Jacklin (1974) concluded that greater aggressiveness in males compared to females was a well-established finding. This difference in aggression occurred for both physical and verbal aggression and was evident across a variety of cultures. In addition to a biological tendency, society influences men to commit more crimes. Researchers have found that the gender-related differences in male aggression can be explained by the cultural norms of that society (Block, 1973). Because male criminals are more common, and therefore more familiar to jurors, this study hypothesizes that participants will judge male defendants more severely (Hypothesis 3).

Furthermore, the effects of juror gender were investigated. Previous research indicates that female jurors may have a tendency to allocate greater punishments than males (Furnham, 2001). This finding may result from women's greater sensitivity to

potential violence. In 1998, the American Bar Association published findings that suggested that women have a greater fear of victimization. This study hypothesizes that females will deliver harsher punishments than males (Hypothesis 4).

Type of crime

In addition to manipulating the variables of personality and gender, this study examines the effect of the type of crime committed by the defendant. The two crimes included in this study involved acts of either negligence or vandalism. These crimes are similar in that they both involve the destruction of property. However, these crimes differ significantly in that negligence is a passive act whereas vandalism is active.

Most previous research on the effects of crime type on sentencing involved blue-collar versus white-collar crimes. For example, previous studies found that blue-collar criminals were given harsher sentences than white-collar criminals (Dixon, Mahoney, & Cocks, 2002; Dixon, Tredoux, Durrheim, & Foster, 1994;). This finding was attributed to the active nature of blue-collar crimes. The negligent crimes in this study involved a costly, forgetful accident. Research involving unintentional crimes indicates that jurors are more lenient in cases involving accidents (Kerr, Bull, MacCoun, & Rathborn, 1985). As a result, a hypothesis of this study is that jurors will be more lenient to defendants who committed negligent crimes than to the defendants who committed the crimes of vandalism (Hypothesis 5).

Defendant-juror similarity

The theorized effects of similarity are derived from the similar-to-me hypothesis. Byrne (1971), conducting research on attraction, discovered that

participants were more attracted to people who were similar to themselves. Bryne theorized that because participants thought favorably of themselves, they would show preferential treatment to those who resembled themselves. This finding encouraged a significant amount of research on the similar-to-me bias. In general, the studies exploring the similarity hypothesis have concluded that this bias does exist. Much of this research has involved performance ratings in the work environment. For example, research by Strauss, Barrick, & Connerley (2001) found that perceived personality similarity was related to liking, and liking was related to performance ratings. The link between personality similarity and performance ratings becomes particularly interesting when the conscientious personality trait is analyzed alone. Antonioni and Park (2001) found the similarity bias to be particularly strong when participants were asked to evaluate their peers based on conscientiousness. Studies pertaining to the courtroom atmosphere have found analogous results.

Previous research on the similarity between defendants and jurors indicates that jurors, in fact, are more lenient toward defendants who resemble themselves. Kerr, Hymes, Anderson, & Weathers (1995) found that jurors showed leniency in their evaluations of defendants who shared a common religion with the juror. This study indicates that ideological similarity between the juror and defendant may induce a more favorable outcome for the accused. Furthermore, research suggests that attitude similarity may influence juror decisions (Mitchell & Byrne, 1973). With regard to similarity, this study focuses primarily on sex and personality. This study hypothesizes that jurors will render the most lenient sentences for defendants who resemble

themselves in both sex and level of conscientiousness, followed by defendants who resemble jurors on one characteristic (either sex or conscientiousness), with defendants who are totally dissimilar to the jurors receiving the harshest punishments (Hypothesis 6).

Method

Participants

Three hundred and sixty-two Texas A&M University undergraduate students between the ages of eighteen and twenty-two participated in this experiment. All of the students were enrolled in an introductory psychology course and participated in order to meet a course requirement. Two hundred and fifty-six females (70.7%) and 106 males (29.3%) participated in the study. Based on a mean split on the measure of conscientiousness described below, 54.1% of the participants were found to be conscientious while 45.9% of the participants were unconscientious. The demographic distribution was as follows: 87.8% Caucasian, 6.9% Hispanic, 2.5% African American, and 2.8% other.

Materials and Procedures

This experimental study used scenarios to examine the relationships between variables (see Appendix). Eight different scenarios were created to describe a fictional crime committed by a fictional defendant. Participants randomly received one of the eight scenarios. The participant's task was to assume the role of a juror in the case and allocate a financial award to the plaintiff. The scenarios differed on three variables: defendant personality (conscientious/unconscientious), defendant sex (male/female),

and type of crime committed (negligence/vandalism). The brief scenarios gave information about the crime, the individual, and the result of the trial. All of the scenarios described the direct damage from the incident as totaling \$5000, with an additional \$5000 in damages resulting from the plaintiff being injured while cleaning up the damage from the crime.

After reading the scenario, the participants were asked to award a financial sum to the plaintiff. This allocation was divided into both punitive and compensatory damages, totaling a final verdict. Additionally, participants filled out a survey regarding their level of conscientiousness and a manipulation check on the level of conscientiousness of the defendant in the scenario.

Measures

Compensatory damages awarded. A monetary value decided upon by the participant to counterbalance the actual losses of the plaintiff.

Punitive damages awarded. A monetary value decided upon by the participant to punish the defendant for any pain and suffering sustained by the plaintiff.

Conscientiousness. Twenty items taken from Goldberg's (1992) unipolar personality markers measured the level of the participants' conscientiousness. Respondents rated themselves on a Likert-type scale ranging from 1 ("not at all like me") to 9 ("very much like me").

Manipulation check. As a check of the manipulation of the personality depicted in the scenarios, respondents rated the defendant in the scenario on a single item,

"Overall, how conscientious do you think the defendant is?" Responses were made on a Likert-type scale ranging from 1 ("not very") to 9 ("very") scale.

Analysis of the manipulation check revealed that participants who randomly received a scenario portraying a conscientious defendant rated that defendant significantly more conscientious (mean = 4.88) than participants who received a scenario with an unconscientious defendant (mean = 3.54). Thus, the participants understood how the defendants were being depicted in the scenarios, $t(351) = 6.091$, $p < .01$.

Results

In their sentencing decisions, participants were asked to distinguish between compensatory and punitive damages. Thus, the predictions from each hypothesis were analyzed according to both monetary allocations. Table 1 shows means and standard deviations for the compensatory allocations; Table 2 shows means and standard deviations for punitive allocations. All of the following analyses were conducted using one-way ANOVAs, except where noted.

Table 1.

Means and standard deviations, by study variable, for compensatory damage awards

| Variable | Condition | Mean | Standard Deviation |
|-----------------------------|-----------------|---------|--------------------|
| Defendant conscientiousness | Conscientious | 5417.16 | 1916.19 |
| | Unconscientious | 6407.22 | 2628.39 |
| Juror conscientiousness | Conscientious | 5977.04 | 2350.28 |
| | Unconscientious | 5915.66 | 2412.49 |
| Defendant sex | Male | 6000.00 | 2252.87 |
| | Female | 5893.44 | 2490.83 |
| Juror sex | Male | 5528.30 | 2156.75 |
| | Female | 6118.68 | 2440.01 |
| Type of crime | Negligence | 5593.02 | 2325.82 |
| | Vandalism | 6264.40 | 2376.31 |
| Juror-defendant similarity | High | 5898.94 | 2277.96 |
| | Medium | 6045.45 | 2477.83 |
| | Low | 5839.81 | 2312.81 |

Note: Entries in table are in dollars.

Table 2.

Means and standard deviations, by study variable, for punitive damage awards

| Variable | Condition | Mean | Standard Deviation |
|-----------------------------|-----------------|---------|--------------------|
| Defendant conscientiousness | Conscientious | 2486.43 | 2775.56 |
| | Unconscientious | 3957.73 | 3218.91 |
| Juror conscientiousness | Conscientious | 3413.59 | 3212.20 |
| | Unconscientious | 3159.95 | 3020.93 |
| Defendant sex | Male | 3458.89 | 2935.29 |
| | Female | 3089.65 | 3260.54 |
| Juror sex | Male | 3065.11 | 3567.24 |
| | Female | 3358.39 | 2895.91 |
| Type of crime | Negligence | 2658.15 | 2924.92 |
| | Vandalism | 3826.20 | 3164.84 |
| Juror-defendant similarity | High | 3079.31 | 2918.06 |
| | Medium | 3032.44 | 2988.07 |
| | Low | 3846.60 | 3408.06 |

Note: Entries in table are in dollars.

As predicted by Hypothesis 1, the personality of the defendant affected sentencing. Conscientious defendants received lighter sentences than unconscientious defendants for both compensatory ($F(1, 349) = 12.129, p < .01$) and punitive damages ($F(1, 349) = 18.479, p < .01$). This indicates that participants expected unconscientious defendants to pay more for the actual damage that they caused as well as for punishments for their behavior.

Juror conscientiousness failed to affect sentencing. When the personality of the juror was considered, no significant effects for compensatory damages ($F(1, 349) =$

.091) or punitive damages ($F(1, 349) = .189$) were found. Both conscientious and unconscientious jurors punished defendants equally. Thus, these results do not support Hypothesis 2.

The sex of both the defendants and the jurors failed to have a significant effect on sentencing severity in this study. Male and female defendants received comparable sentences for compensatory damages ($F(1, 349) = .305$) and punitive damages ($F(1, 349) = .041$), regardless of their sex. Furthermore, both male and female jurors allocated similar sentences to defendants for compensatory ($F(1, 349) = 2.501$) and punitive damages ($F(1, 349) = .001$). Thus, Hypotheses 3 and 4 were not supported.

When the type of crime was examined, the anticipated significant effects were found for both compensatory ($F(1, 349) = 4.629$ $p < .05$) and punitive damages ($F(1, 349) = 13.823$ $p < .01$). Participants tended to assign more lenient penalties for crimes of negligence rather than vandalism; the “passive” crimes were judged less harshly than the “active” crimes. Thus, Hypothesis 5 was fully supported.

In regards to Hypothesis 6, similarity of the juror and the defendants were examined. Defendant-juror similarity was assessed in the following way. First, sex of the defendant and sex of the juror was compared. Additionally, juror’s responses on the conscientiousness scale were split at the mean. Those higher than the mean were considered to be conscientiousness; those below the mean were considered unconscientious. When jurors and defendants matched on either sex or conscientiousness, they received a “point” for similarity. For example, male unconscientious jurors who judged male unconscientious defendants would have 2

points for similarity; female conscientious jurors judging male conscientious defendants would have one point. This similarity rating ranged from 0-2 points. Respondents were then classified according to their similarity ratings. This grouping was used to analyze the propositions of Hypothesis 6: higher juror-defendant similarity would result in lower monetary allocations. This hypothesis was supported for punitive damages ($F(2, 349) = 4.096, p < .05$) but not for compensatory damages ($F(2, 349) = .253$).

A 2X2 ANOVA was computed to examine the interaction effects of defendant conscientiousness and type of crime. There was a significant interaction between these variables for punitive damages ($F(1, 349) = 4.436, p < .05$). Unconscientious defendants were punished similarly for committing crimes of negligence and vandalism. However, conscientious defendants received more lenient punishments for committing crimes of negligence when compared to crimes of vandalism (Figure 1). Furthermore, an interesting trend was found when the interaction between defendant-juror similarity was analyzed with type of crime committed. In all categories of similarity, defendants who committed crimes of negligence were given lighter punishments than defendants who committed crimes of vandalism. However, defendants in the low similarity category who committed crimes of vandalism received especially harsh punishments compared to other offenders. While this finding was not significant ($F(2, 349) = 2.464, p < .09$), it does suggest that type of crime committed may particularly affect defendants who are dissimilar to the juror (Figure 2).

Figure 1.

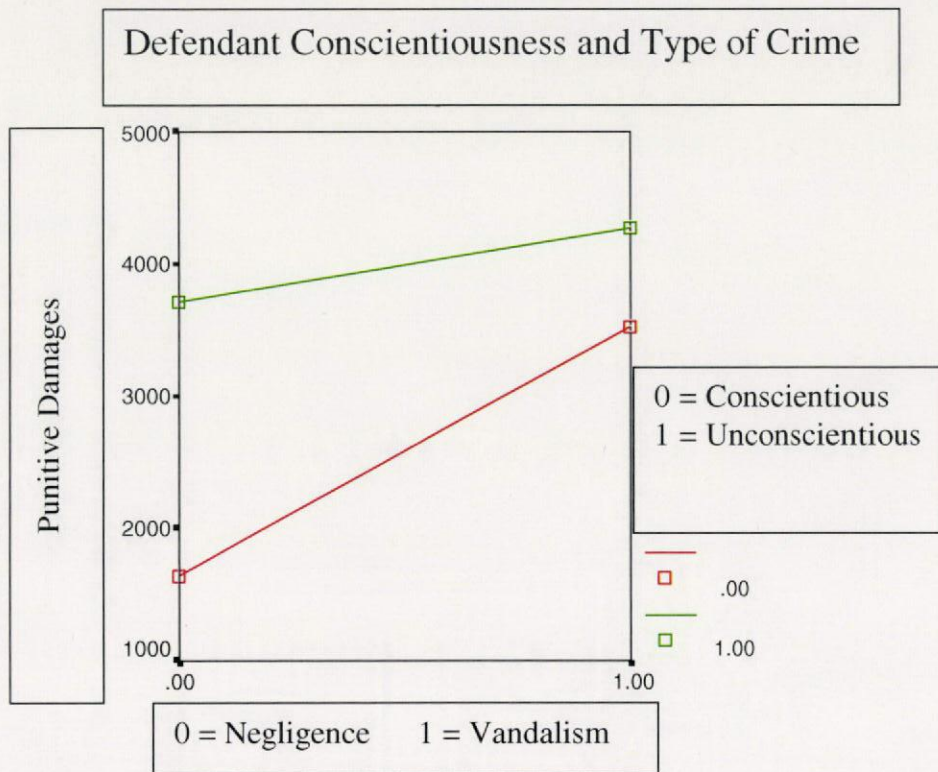
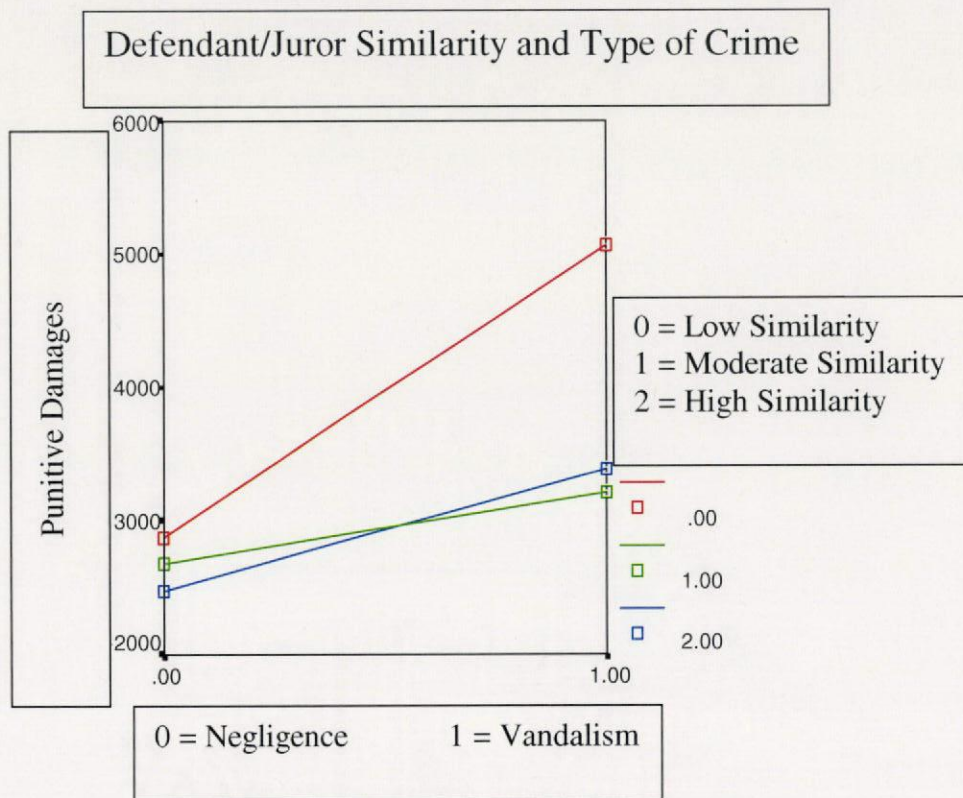


Figure 2.



Discussion

Many of the results of this study supported the hypotheses and were consistent with previous research. Defendant conscientiousness resulted in lighter sentences. Crimes of negligence were punished less severely than crimes of vandalism. Both of these were as predicted. However, there were no sex-related differences in sentences allocated by jurors, and juror conscientiousness did not significantly affect sentencing; these results were contrary to the hypotheses.

The principal hypothesis of this study was supported. As defendant-juror similarity increased, the punishments allocated by the jurors decreased. Thus, even though no significant effects were found for sex or juror conscientiousness alone, more lenient sentences were found when these factors were similar in defendants and jurors.

Limitations

Several shortcomings of this study must be acknowledged. In this study, juror conscientiousness was determined by means of a self-report. To eliminate possible bias and self-enhancement effects, other means of measuring conscientiousness could be used (Dauenheimer, Stahlberg, & Petersen, 1999). For example, peer ratings or direct observation could result in more accurate conscientious scores.

Additionally, this study does not account for the social elements of a jury. Jury trials include twelve jurors, whereas this study asks for only individual decisions for punishments. Additional research is needed to discover how social processes might qualify the findings of this study. For instance, research by Stoner (1961, as reported by Cartwright and Zander, 1964) suggests that groups do not merely average their collective opinions. Instead, groups “shift” their opinions to a more polarized consensus.

Finally, the participant population included in this study was extremely limited. All participants were psychology students at Texas A&M University. Greater diversity in age, race, and background should be researched and compared to the findings in this study.

Future research

Additional research is also needed to create a more complete profile of juror tendencies. The ultimate goal of this line of research is to be able to have some control over juror sentencing by constructing a jury that is either sympathetic or calloused toward the defendant. For example, given a particular defendant, researchers should eventually be able to predict the verdict that any composition of jurors would render.

In order to complete this line of research, many additional studies are needed. This study analyzes one component of personality, conscientiousness. However, the other four components (openness, extroversion, agreeableness, and neuroticism) are yet to be examined. In addition to personality, the similarity effects of factors such as age, race, attitudes, and beliefs should be investigated. With the knowledge of how jurors will behave, the prosecution and defense will have the opportunity to construct favorable juries and portray the accused in the most advantageous manner once the juries are intact.

Questions arise, however, as to how powerful these personality and similarity influences are on a juror. For example, research is needed to discover if these factors are able to persuade a juror in a criminal trial, as well as how strong these factors are in comparison to the elements of the case. These questions should be tested empirically through other studies.

Implications for the legal system

Research indicating that jurors behave in specific, predictable ways suggests that attorneys for the defense and prosecution could use this knowledge to enhance the

effect of their arguments. According to the research presented here, a defense attorney should attempt to portray the accused in a conscientious way, depict the crime as being an accident, and relate the client to the jury as much as possible. On the other hand, the prosecution should attempt to characterize the accused as being an unconscientious individual, argue for a motive behind the crime, and create as much disparity as possible between the defendant and the juror. Through these two opposing strategies, each side could influence a juror in their favor, creating an advantage for their arguments.

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Appendix

You are a juror who has just convicted Jane (John) of a crime of vandalism (negligence). Your next task is to assign the appropriate amount of money to the plaintiff in compensatory and punitive damages. To aid you in your task, a review of the crime and testimony follows.

Jane (John) was caught vandalizing a motorcycle with a bottle of spray paint (being negligent and burning down a kitchen). The owner of the property pressed charges and Jane (John) was brought to court. Throughout the trial, testimony from Jane's (John's) boss indicated that she was always late for work and frequently fell behind on her projects. Also, many of Jane's (John's) friends revealed her to be an undependable person. Jane's (John's) mother commented that she was an extremely disorganized and negligent person, even growing up.

The cost of repainting the motorcycle (repairing the kitchen) was \$5,000. Also, while cleaning up, the plaintiff slipped and fell, breaking his leg. The cost of the medical bills was another \$5,000. Use this information to aid you in awarding the plaintiff the appropriate amount of money.

- As a juror, how much money do you recommend awarding the plaintiff in compensatory damages (damages resulting from the incident)? \$_____
- As a juror, how much money do you recommend awarding the plaintiff in punitive damages (damages resulting from pain and suffering)? \$_____

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