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Sentence Length and Perceptions of Dangerousness as a Function of Race, Attributional Complexity, and Ability to Meet Bail

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ACS, RACE, BAIL

**Sentence Length and Perceptions of Dangerousness
as a Function of Race, Attributional Complexity, and Ability to Meet Bail**

Hannah Baldwin

Master of Arts

Forensic & Legal Psychology

Feinstein College of Arts and Sciences

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Signature Page

ROGER WILLIAMS UNIVERSITY
GRADUATE PROGRAM IN LEGAL AND FORENSIC PSYCHOLOGY
THESIS PROJECT FORM

Date: 2/10/22

- To: (1) Dean, College of Arts and Sciences - 1 copy
(2) Thesis Chair - 1 copy
(3) Student - 1 copy

Approval is given to: Hannah Baldwin 1320213
Student's Name ID #

a candidate for degree of Master of Arts in LEGAL AND FORENSIC PSYCHOLOGY, to complete a thesis titled:

Sentence Length and Perceptions of Dangerousness as a Function of Race, Attributional complexity, and ability to meet bail.

Declaration and Composition of Committee:

<u>Alejandro Lequizamo</u> Committee Member (1)	<u>[Signature]</u> Signature	<u>2/10/2022</u> Date
<u>GARRETT BERMAN</u> Committee Member (2)	<u>[Signature]</u> Signature	<u>2/19/2022</u> Date
<u>MATT C. ZATCHEK</u> Thesis Chair	<u>[Signature]</u> Signature	<u>2-10-22</u> Date

Successful Defense of Thesis Proposal:

<u>Alejandro Lequizamo</u> Committee Member (1)	<u>[Signature]</u> Signature	<u>4/11/2022</u> Date
<u>GARRETT BERMAN</u> Committee Member (2)	<u>[Signature]</u> Signature	<u>4/11/2022</u> Date
<u>MATT C. ZATCHEK</u> Thesis Chair	<u>[Signature]</u> Signature	<u>4/11/22</u> Date

Successful Defense of Thesis Project

<u>Alejandro Lequizamo</u> Committee Member (1)	<u>[Signature]</u> Signature	<u>4/26/23</u> Date
<u>GARRETT BERMAN</u> Committee Member (2)	<u>[Signature]</u> Signature	<u>4/24/23</u> Date
<u>MATT C. ZATCHEK</u> Thesis Chair	<u>[Signature]</u> Signature	<u>4/20/23</u> Date
<u>[Signature]</u> Psychology Department Chair	<u>[Signature]</u> Signature	<u>4/26/23</u> Date
<u>[Signature]</u> Dean, College of Arts and Sciences	<u>[Signature]</u> Signature	<u>4/26/23</u> Date

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Abstract

Defendant race and ethnicity impact sentencing length decisions, leading to discrimination in the criminal justice system. Aspects of the pretrial process that strongly correlate with a defendant's socioeconomic status, the use of cash bail, may also influence sentencing length, given the negative stereotypes about individuals of lower socioeconomic statuses. Relatively few studies have explored the impact of cash bail use on sentencing decisions or sought to understand why use of cash bail might influence these decisions. The current study investigates the impact of defendant ability to meet bail (yes v. no) on judgments of sentence length and dangerousness within the context of defendant race (White v. Black v. Hispanic v. not identified) and the construct of attributional complexity (AC). Overall, there were significant differences in sentence length for both High and Low AC jurors. Importantly, Low AC jurors gave White defendants who made bail the least amount of jail time compared to Black, Hispanic, and not identified who made bail. Results are discussed as jurors' ability to consider multiple causes of behavior within the context of race and bail.

Keywords: race, cash bail, perceived dangerousness, sentencing, discrimination

**Sentence Length and Perceptions of Dangerousness
as a Function of Race, Attributional Complexity and Ability to Meet Bail**

The United States holds a greater proportion of its population in prisons or jails compared to any other country (Gottfredson & Jarjoura, 1996). The US also leads the world in the number of individuals detained prior to conviction. According to Dobbie et al. (2018), 11 million individuals around the world are imprisoned prior to conviction, with half a million detained in the United States on any given day. Further, a plethora of research has indicated that minority offenders are disproportionately represented in the United States prison system (Brennan & Spohn, 2008), including in pretrial detentions. Importantly, Devine (1988) identifies that the United States is only one of two nations remaining that currently implement a cash bail system. The high rate of pretrial detention observed in the United States may be partially due to the use of monetary bail and the limited financial resources of many defendants (Dobbie et al., 2018), including those who identify as racial/ethnic minorities. These data are important to consider when observing decision making psychological research and how these influence those processes.

For over seventy years, researchers have questioned the implications of discrimination on sentencing. Numerous studies have examined predictors of sentencing decisions as it relates to race and socioeconomic status (Brennan & Spohn, 2008; Dobbie et al., 2018; Tartaro & Sadelmaier, 2009). Previous research demonstrates those convicted of more serious offenses and those who have more extensive prior records are more likely to be incarcerated and receive longer prison sentences than less criminalistic counterparts (Demuth, 2003; Steffensmeier & Demuth, 2001; Williams, 2003). Seriousness of offense and prior record are justified in their impact on a criminal sentence, as they are strong indicators of future risk. Research has also

demonstrated clear differences in sentencing due to a variety of extra-legal factors (race, gender, age, ethnicity, etc), raising questions of potential discriminatory practices. For example, defendant race has been demonstrated to influence length of sentence (Tartaro & Sedelmaier, 2009; Williams, 2003; Brennan & Spohn, 2008). Incarceration and sentence length can also be impacted by some of the pretrial processes, such as defendant pretrial detention, and other factors such as defendant race and socioeconomic status, and ability to meet bail (Williams, 2003). In recent years, researchers have made calls for change in the criminal justice system, not only in sentencing but also in bail and pretrial detention practices. The study of legal and extralegal influences on sentencing, pretrial detention, and bail decisions have been a topic of discussion among researchers since the 1960's (Ares, 1963) and yet little changes have been made to the criminal justice system to address these discriminatory findings.

Pretrial detention status and mode of case disposition (Willison, 1984) impact sentencing which may be considered disproportionate treatment based on one's ability to meet bail or socioeconomic status (SES). The disproportionate sentencing of individuals ability to meet bail has been influenced by pretrial detention status and mode of case disposition (Willison, 1984). For example, Williams (2003) found that pretrial detention remained a significant predictor for sentencing length decisions even after controlling for offense seriousness and prior record. This highlights how judicial decisions are influenced by extra-legal factors (Demuth, 2003; Nagel, 1983) including highly subjective stereotypes (e.g. stereotypes related to SES). Researchers have also identified individuals of lower socioeconomic status appear to be disadvantaged at one point in the system. The inability to afford a private attorney plays an important role in the accused's means to build a secure case. These individuals receive harsher treatment and may be more likely to receive similar treatment in the future that is justified by their prior record (Tartaro &

Sedelmaier, 2009). This is reflected in criminal history scores or defendants' prior records.

Criminal history scores have consistently affected judicial sentencing decisions: offenders with higher prior record scores are more likely to end up in jail or prison (Brennan & Spohn, 2008).

As the above research suggests, these scores and prior records may be influenced by discriminatory treatment by law enforcement of people of color and poorer populations thus, underscoring the need for additional research on potential discrimination toward individuals of minority identities and lower SES in the justice system. In the current study, we investigate how race and SES influence juror decision making processes as it pertains to sentence length and perceived dangerousness.

Literature Review

Sentencing

Racial/ethnic differences. Research has been mixed as to whether Black or Hispanic defendants receive the most severe sentences. Archival data research, conducted using several archival databases has demonstrated Black defendants have the highest mean length of imprisonment (Albonetti 1997), are more likely to be incarcerated and receive lengthier jail and prison sentences (Kramer & Steffensmeier, 1993; Tartaro & Sedelmaier, 2009; Williams, 2003). Black defendants also experience an increased probability of imprisonment compared to Whites (Albonetti, 1997). In comparison, according to Brennan and Spohn (2008) Hispanic drug offenders receive more severe sentences compared to Black drug offenders. Kramer and Steffensmeier (1993) found that Blacks are 8 percent more likely than Whites to be sentenced to jail or prison. In the same vein as incarceration, Whites are given favorable treatment with other programming such as pretrial release (Demuth & Steffensmeier, 2004; LaFree, 1985; Monaghan et al., 2020; Schlesinger, 2005), nonfinancial release (Schlesinger, 2005) and departure sentences

(Albonetti, 1997; Brennan & Spohn, 2008; Kramer & Steffensmeier, 1993) as well. Specifically, Brennan and Spohn (2008) found that White defendants were more likely than Hispanics to receive intermediate punishment rather than time behind bars and Hispanic defendants in general have lower odds of receiving intermediate punishment than incarceration. These findings are similar to treatment of Black defendants and growing as research expands on the effects on the Hispanic population. Albonetti (1997) found Hispanic defendants and noncitizens receive more severe sentences than White defendants. More specifically, Spohn and DeLone (2000) found in Chicago, Black and Hispanic defendants faced greater odds of imprisonment than Whites, and only Hispanics experienced the same treatment in Kansas City. These findings, as Albonetti (1997) suggests, demonstrate judges impose more severe sentences on Black and Hispanic defendants, which could be explained through attributions of high risk associated with Black and Hispanic populations (Albonetti, 1991). Those of lower income and Blacks are perceived in suburbs as “high risk” groups and in greater need of social control by the majority (Free, 2004). Blacks are also more likely to be associated with violence than Hispanics (Schlesinger, 2005). Although associated with less violence, Hispanic defendants still face discrimination in bail sentencing, as discussed later.

While most research on racial differences in sentencing has largely focused on Black versus White defendants, there has recently been an increased attention on how defendants identifying as Hispanic may also be targets of discrimination in sentencing decisions related to non-Hispanic White defendants. Disproportionate treatment in the past may have been missed or only narrowly defined because researchers at the time did not separate Hispanics from the White count. This masked effect that Steffensmeier and Demuth (2001) and Turner and Johnson (2005) called “racial lumping” is one in which the Hispanic population was included Whites, thus

mitigating the effects of demonstrated disparity. While much research has been limited by this “racial lumping”, Steffensmeier and Demuth (2000) did find ethnicity has demonstrated a small to moderate effect on both imprisonment and sentence length, favoring Whites, penalizing Hispanics, and Blacks falling in the middle. As a result, research findings of racial impacts have been inconsistent. This “racial lumping” must continue to be addressed and Hispanic populations should be measured as their own group for future research. These differences will continue to be discussed throughout this literature review and in the current study.

Race and ethnicity appear to impact sentencing decisions through more overt discriminatory sentencing decisions based on a defendants’ visible race and ethnicity, as well as deep-rooted systemic differences in how minorities are treated in the criminal justice system. Arrest rates, for example, are partly driven by the divergent handling of minorities in the criminal justice system (Sardar, 2019). The ways in which the police and justice system interact with minority groups has encouraged increased arrests through increased policing and harsher punishment when convicted of a crime. These rates are then connected to prior record which has been demonstrated to increase sentence length. Spohn and DeLone (2000) examined incarceration rates among offenders based on race/ethnicity in three jurisdictions (Chicago, Miami, and Kansas City) and found offenders detained prior to trial have faced greater odds of incarceration in all three jurisdictions. Offenders held in Dade County, which was 21.1% Black, 54.4% Hispanic and 24.5% White at the time of this study, were four times more likely to receive periods of incarceration at sentencing. This was compared to offenders held in Orange County, which was 17.5% Black, 12.3% Hispanic, and 70.2% White who were six times more likely to receive periods of incarceration (Tartaro & Sedelmaier, 2009).

Not only are arrest rates discriminatory, but detention and pretrial release conditions are as well. Pretrial detention has also been called preventive detention, which is supposed to be used to put away the most dangerous of persons. However, it has been used to stigmatize and disadvantage people of color who encounter the criminal justice system. Research has found Black and Hispanic defendants are more likely to be detained at the pretrial release stage than White defendants (Demuth & Steffensmeier, 2004) and more likely to go to trial (LaFree, 1985). More specifically, Barnes et al., (1989) found White defendants were least likely recommended for detention (48% vs. 73% for Hispanic and 60% for Black defendants). Similarly high rates of detention were also observed by Demuth (2003), with the chance of being detained 66% more likely for Blacks than Whites and the chance of Hispanics being detained being 91% more likely than Whites. Research by Schlesinger (2005) found 51% of Hispanics, 42% of Blacks, and only 32% of Whites were incarcerated pretrial. The odds of pretrial incarceration for Hispanics have also been found to be double that of Whites. In addition, the odds of pretrial incarceration for Blacks are 87% higher than Whites (Schlesinger, 2005). Hispanics and Blacks are also more likely than Whites to be denied release (Demuth, 2003). Black and Hispanic males are disadvantaged at all points of the criminal justice process and are more likely to be preventively detained and less likely released on recognizance (ROR; Demuth & Steffensmeier, 2004; Monaghan et al., 2020). These data suggest ‘preventive detention’ creates an additional bias for people of color and adds to the stereotyping associated with risk and crime rates when it is represented through biased criminal records.

Steffensmeier and Demuth (2001) state hostility and discrimination demonstrated by the dominant group (Whites) will only continue to grow towards the rapidly growing minority group, in this case the growing Hispanic population in the United States as a result of the

perceived “threat” from cultural dissimilarity. The high levels of immigration may also exacerbate the perceptions of cultural dissimilarity and the “threat” posed by these minority groups (Steffensmeier & Demuth, 2000). From this perspective, Steffensmeier and Demuth (2001) identified Hispanic defendants as the most at risk to receive the harshest penalty, specifically in drug related crimes (Steffensmeier & Demuth, 2000). There have been similar findings for minorities as a whole and the disproportionality of the harshest penalty for drug offenses (Brennan & Spohn, 2008). Brennan and Spohn (2008) found White defendants more often received the most lenient sentencing option (community punishment). Community punishment was also five times more likely for a White defendant than a Black defendant, and eight times higher for Whites than Hispanic defendants (Brennan & Spohn, 2008). As the research demonstrates there is a greater leniency that persists for White defendants with sentencing.

Socioeconomic differences. As the above literature highlights, there are demonstrated archival differences in sentencing type and length, and decisions to detain pretrial based on defendant race and ethnicity. Research has also demonstrated differences in punishment by the criminal justice system as it relates to one’s socioeconomic status (SES). As it has been pointed out, punishment is sometimes meted out on the basis of poverty, rather than on the crime (Monaghan et al., 2020). The current standard bail schedule discriminates against poor defendants by setting a fixed price for release (Dobbie et al., 2018). It has thus been argued that cash bail is burdening low-income defendants and criminalizing the poor (Barno et al., 2019). Rabuy and Kopf (2016) state “if the average American cannot come up with \$400, it is clear a system that requires \$10,000 from the poorest members is a system set up to fail”(pp. i).

The current bail system is setting poor and minority defendants up to fail. The Prison Policy Initiative is a set of studies conducted by Rabuy and Kopf that evaluates socioeconomic and other differences between inmates in the United States. It has become clear through bail research that the cash bail system depends on one's wealth rather than on guilt, failure to appear (FTA), or risk to others (Monaghan et al., 2020). It has also been found that although poor and minority individuals would most benefit from nonfinancial release, they are the least likely to be given this option (Gottfredson & Jarjoura, 1996). This work demonstrates discrepancies in sentencing between those who can easily afford things such as bail and legal representation and those who cannot and thus sit behind bars awaiting trial, resulting in the systematic detainment of the poor in the United States (Rabuy & Kopf, 2016).

Income, employment, and even a permanent address also affects bail decisions. Dobbie et al. (2018) found that pretrial detention is determined by the defendant's wealth, not their risk to the community. Additionally, Steffensmeier and Demuth (2000) found Hispanic defendants may also lack the resources to properly support a defense and afford any bail amount. This perceived risk and lack of resources contributes to an inability to meet bail and an increased probability of pretrial detention, which as discussed above can lead to harsher sentencing. There is also a connection with employment opportunities and pretrial detention. Even systems created to move away from the bail schedules have demonstrated discrimination against the unemployed. For example, Barno et al., (2019) conducted research on Orange County California's Pretrial Assessment and Release Supervision (PARS) program and found employed defendants were significantly more likely to be placed on PARS. This is important as PARS participation significantly reduced the likelihood of FTA relative to cash bond. Defendants who are unemployed are considerably more likely to lack the funds required to post cash bond (Barno et

al., 2019), but also unlikely to be placed on PARS. The use of pretrial detention reduces employment and increases future crime (Dobbie et al., 2018). By detaining these groups pretrial, defendants have a harder time maintaining and returning to work, which could add to future criminal activities. Detained defendants may lose their current employment and reintegration and future employment is made more difficult (Allan et al., 2005). Thus, not only are defendants without employment more likely to be incarcerated due to monetary demands, but when they are released, it is even harder for them to acquire a job because they have a criminal record.

While, as highlighted above, socioeconomic status independently predicts detention and sentencing decisions, socioeconomic status is also related to race and may thus also help to explain racial disparities in sentencing decisions. Many are detained because they are poor and a minority who often cannot afford bail (Beckly, 1927, as quoted in Demuth, 2003). Demuth and Steffensmeier (2004) found for Black defendants, there is an increased likelihood of detention because of decreased ability to pay bail and being held on bail is two times higher for Black than White defendants. This research also found Hispanic defendants have an increased level of detention from both the inability to pay bail and the increased likelihood to have to pay for release (Demuth & Steffensmeier, 2004). Not only are Hispanic defendants at risk to lack resources for release (Steffensmeier & Demuth, 2000), the demand for monetary payment of bail is higher for Hispanic populations. Hispanics are more likely to receive financial release options and are most likely to be required to provide money or property in exchange for pretrial release (Demuth, 2003). Conviction rates may also be biased against detained defendants (Dobbie et al., 2018), coupled with pressures to accept unfavorable plea bargains. Defendants who are unable to obtain pretrial release on average face sentences that are 15 increments higher than similarly released persons on bail (Willison, 1984). As a result, the current bail system sets those of lower

socioeconomic status up to fail and creates an economic bias in bail decisions (Williams, 2003). According to Schlesinger (2005) Black and Hispanic defendants are less likely to make bail regardless of offense charge. With this in mind, researchers have called for change to the bail system. Williams (2003) believes that defendants who are in jail for economic reasons should be given the opportunity to show that they are capable of functioning in the community.

Impact of Bail Amounts on Sentencing

The above literature highlights the impact of the extra-legal factors of race and ethnicity and socioeconomic status on sentencing and pretrial decisions. Research has also investigated how race affects set bail amounts which in turn impacts sentencing. To date, there have been somewhat mixed findings (Free, 2004). Specifically, Turner et al. (2008) found no statistically significant differences in bail amount set for Black and White defendants, while Allan et al. (2005), Demuth and Steffensmeier (2004), Turner and Johnson (2005), and others have found racial differences in set bail amount. This may be due to previous studies “racial lumping”, thus highlighting the need for future research addressing this issue.

Everyone has the right to reasonable bail in accordance with their 8th amendment right (Turner and Johnson, 2005). However, the cash bail system disproportionality impacts minorities and the indigent (Sardar, 2019). An inability to make bail accounts for the majority of Black and Hispanic pretrial detention status (Demuth, 2003). According to Rabuy and Kopf (2016) the median bail bond amount represents eight months of income for the typical detained defendant. From this disproportional treatment there are unnecessary and excessive detentions of poor people in local jails. The ability to post bail also plays a strong role in dictating sentence length and those detained prior receive longer sentences (Sacks & Ackerman, 2014).

Allan et al. (2005) outlines several reasons why bail may not be granted to a defendant. These include reasons by the magistrate that were given, orders apply, there was no formal bail application, the defendant was attending the hearing already in custody, it was a schedule two offense, and/or there were a large number of charges. Other release risks include employment status, community ties, and marital status (Demuth, 2003; Petee, 1994). On the other hand, bail is significantly more likely to be granted if the defendant has legal representation, there is a bench warrant in place, there was a breach of bail, and/or the prosecutor is unopposed to bail (Allan et al., 2005). If bail was granted it was significantly higher when the defendants argued that they will be able to obtain a surety bond and the offense is not serious. There are also alternatives to cash bail including release on recognizance (ROR), unsecured bonds, and risk assessment tools. The Pretrial Service Agency (PSA) will recommend if the defendant should be ROR but not on a bail amount (Nagel, 1983). This decision is left to the complete discretion of the judges, with some guidelines such as the use of risk assessment instruments, preventative detention, and non-monetary conditions of release (Romo, 2018 quoted in Barno et al., 2019) in Orange County, California. If the PSA were to give judges detailed information about the defendant and case at hand it would hopefully be weighed when deciding the amount of bail (Nagel, 1983). However, some judges may regard cash alternatives as an alternative to ROR and offer cash alternatives in situations such as favorable Pretrial Service Agency reports where other judges would release without bail.

Another reason for an increased set bail amount or pretrial detention is the concern for FTA. The risk of FTA appears to be disproportionately applied to low income and Black populations (Allan et al., 2005). Dobbie et al. (2018) found initial pretrial release increases FTA by 15.6%, despite claims from some political leaders overstating the FTA issue. Many

defendants are detained not because of an FTA but mostly because they are unable to post bail (Ares et al., 1963, as quoted in Ozanne et al., 1980). On the other hand, initial pretrial release decreases the likelihood of being found guilty by 14%, which is largely due to a reduction in pleading guilty (decrease of 10.8%; Dobbie et al., 2018). According to Dobbie et al. (2018) those released within three days from pretrial detention received ROR 36.7% of the time, nonmonetary bail 21.8% of the time, and monetary bail 41.4% of the time with an average bail amount \$12,447 and a median bail amount set at \$5,000. Of those detained 94.4% were detained on monetary bail with an average set amount of \$48,061 and median bail amount of \$7,500.

Research has demonstrated that set bail amounts vary on many extra-legal factors including sex, age, type of counsel, employment, and community ties or residence. These bail decisions can affect the entire case disposition (Sacks & Ackerman, 2014). Turner et al. (2008) found bail amount was approximately \$3,000 more for males than females. For every yearly increase in age there is a corresponding increase of \$189 in bail amount set. Those represented by a public defender had a bail amount \$651.54 more than those represented by private attorney. This could be in conjunction with availability of resources for a private attorney versus a public defender and the amount of time counsel spends on the case. For poorer defendants who cannot afford the private bar, research has shown public defenders have large caseloads and may not dedicate as much time to the case. This discriminatory view of the poor or unemployed may lead a judge to believe the defendant is more dangerous, playing a role in both bail and sentencing decisions (Williams, 2003). According to Ozanne et al. (1980) the importance of employment has an impact on ROR decisions and assessing one's bail risk in conjunction with the other variables. If a bail amount is set, in some situations, if preventive detention is in mind while setting bail and there is a high bail set, a cash alternative may not matter (Nagel, 1983). Along

the lines of unemployment, those with no permanent address received bail that was approximately \$4,800 less than those with an address in that location (Turner et al., 2008). The weight on community ties discriminates against the indigent (Ares et al., 1963 as quoted in Nagel, 1983). Ozanne et al. (1980) also indicated the amount of time spent in an area is not significant in the determination of one's risk. Sacks and Ackerman (2014) also noted nonurban defendants were more likely than urban defendants to be incarcerated and this could be related to political views where nonurban judges are more punitive.

The research also demonstrates clear differences in set bail amounts for Black, Hispanic, and White defendants. To start, Schlesinger (2005) found Whites were 6% more likely to be granted nonfinancial release and being Black increases bail denial by 25% and being Hispanic increased it by 24%. Hispanics who were granted nonfinancial release were 25% lower than Whites and 12% lower than Blacks. It was also found 67% of Hispanics were more likely to be denied bail and 29% less likely to be granted nonfinancial release and receive bails that are 26% higher when the crimes were drug related. Research conducted by Demuth (2003) found Blacks and Hispanics were more likely to be held on bail and the odds of detention were two times higher than for Whites. According to Demuth and Steffensmeier (2004) bail amounts are 7% higher for Hispanic defendants than White defendants. On top of that, Schlesinger (2005) found that 9% of Blacks and 7% of Whites and Hispanics were denied bail. As bail relates to race and ethnicity and age, Turner and Johnson (2005) found that Black and older Hispanic defendants receive higher bail amounts. These researchers also found Hispanic defendants received bail \$15,033.67 greater than the White bail amount and \$14,918.69 greater than Black defendants (Turner & Johnson, 2005). However, research has demonstrated Black and White defendants do not differ significantly as it relates to bail amount (Turner & Johnson, 2005; Demuth, 2003).

Demuth (2003) and Schlesinger (2005) also found Hispanics receive significantly higher levels of bail than Whites. Of the Whites given bail options, 58% were able to post bond while only 47% of Blacks and 33% of Hispanics were able to post bond in a study by Schlesinger (2005). Hispanics receive the least beneficial decisions even in comparison to Blacks (Schlesinger, 2005).

There is also a specific connection between race and ethnicity and set bail amounts. Specifically, Hispanic defendants received higher bails for fear of flight or failure to appear in court when they reside from outside the jurisdiction prosecuting them (Turner & Johnson, 2005). Hispanic defendants charged with bailable offense were found to receive higher bail amounts than other similarly situated Black and White defendants (Turner & Johnson, 2005). For the most serious felonies, White defendants received a bail amount \$41,650.40 less than Black defendants (Turner et al., 2008). For type 2 felonies, White defendants received bail amounts \$20,209.93 more than Black defendants (Turner et al., 2008). Bail tends to be lower for White defendants and they are more likely to be offered a cash alternative (Nagel, 1983).

Arguments Against and Alternatives to Cash Bail

To support release and avoid further exacerbating risk, Dobbie et al. (2018) found pretrial release reduces future crime and increases employment likelihood. Excessive bail disrupts defendant's lives by putting jobs at risk and pressure to accept unfavorable plea bargains. Increased prior record impacts future sentencing (Demuth, 2003; Steffensmeier & Demuth, 2001; Williams, 2003). Detention itself is highly disruptive, let alone trying to pay large sums to meet a bail bond. This imbalance could be corrected or adjusted by releasing more defendants which will likely increase social welfare. Pretrial detention is punishment before conviction

(Demuth & Steffensmeier, 2004) but in order to restore the presumption of innocence, the majority of pretrial defendants should be released (Sardar, 2019).

After the 1984 Bail Reform Act there was a presumption for least restrictive conditions, which increased reliance on non-financial bail (ROR) and conditional release programs (Barnes et al., 1989). In recent years the Pretrial Services Agency (PSA) has increased the use of less restrictive options, but secured bail is still the preferred recommendation for 75% of cases (Barnes et al., 1989). Barnes et al. (1989) also found the PSA was more likely to use ROR and unsecured bond for white collar crimes. There are other options to a cash bail system. Some recommendations include the use of unsecured bond and risk assessment tools (Rabuy & Kopf, 2016), reducing the reliance on the cash bail system and when needed to also reduce the cash bail amounts set (Monaghan et al., 2020), lowering the current financial demands and increase the use of nonfinancial bail options such as ROR (Sack & Ackerman, 2014), increasing the use of electronic monitoring and advocating for the passage of bail reform laws that release misdemeanor defendants and ensure adequate procedural protections are in place for felony defendants (Sardar, 2019).

Attributional Complexity

As discussed above, research demonstrates a clear disparity in the sentencing of Blacks, Whites, and more recently Hispanics in the criminal justice system. These disparities include length of sentence given to similar defendants but varied on race as well as type of sentence (imprisonment versus parole or other community options). The current study examined attribution theory and attributional complexity. Attribution theory suggests someone uses information presented to them to decide a cause for events, such that Black men are attributed as more dangerous and need to be locked up for others protection (Albonetti, 1991; Demuth &

Steffensmeier, 2004; Schlesinger, 2005). Attributional Complexity (AC; Fletcher et al., 1986) is a construct measuring how individuals' reason with explanations of behavior and motivation to make those explanations. There are seven constructs varying along the AC continuum: level of interest/motivation, explanatory style/preference, metacognition, awareness of situational influences on behavior, tendency to make abstract internal attributions, tendency to attribute past external causes for current behavior (Fletcher et al., 1986). Females tend to make more complex attributions and have higher AC compared to males. With these differences in mind, AC has been demonstrated to influence legal decision making.

For example, Pope and Meyer (1999) found attributionally complex individuals considered both situational and dispositional information when deciding a defendant's guilt or innocence. Individuals with low AC were more likely to find the defendant guilty and were less influenced by judge's instructions than individuals with high AC in an armed robbery case. High AC jurors are also more likely to attribute external causes for behavior than low AC jurors.

Lassiter et al. (2005) identified the moderating effects of AC on participants susceptibility to camera perspective bias in a recorded confession. Increased AC is typically linked with more accurate causal reasoning (Lassister et al., 2005).

Reid and Foels (2010) identified attributional complexity as being related to racial complexity, which is the tendency to reflect normative assumptions about race, thinking about race and racism more. Individuals with low AC have been found to endorse punitive rather than rehabilitative models and well as subtle racism (Reid & Foels, 2010). Alongside these many attempts to understand and explain the impact of race and ethnicity on sentencing decisions through the use of theory and conceptual models.

West et al. (2018) found gender differences in sentencing decisions were serially mediated by attributional complexity. Researchers also found gender differences in mitigator endorsement was mediated by AC. West et al. (2018) observed the effect of AC as a mediator between gender and the endorsement of aggravators and mitigators.

Gamache et al. (2013) states the investigation of attributional differences has increased the awareness of the importance of individual difference characteristics in the legal/forensic field of study. This work was interested in the moderating effects of AC on perceptions of risk potential for a sexually violent predator with different presentations of evidence (data-driven, clinical-opinion, structured-clinical, and actuarial testimony). To do this, the researchers examined how these individual differences influenced participants' use of expert testimony when evaluating the defendant as well as case facts. Looked at how participant gender may have influenced perceptions of dangerousness. Gamache et al. (2013) found individuals high in AC in the clinical-opinion testimony condition relied least on the expert testimony and the most reliance in the structured-clinical judgement testimony. Low AC participants relied the most on the clinical opinion-testimony and least on actuarial testimony. This research supports AC complex individuals not only seek out but also apply more useful information when determining casual attributions that attributionally simple individuals.

The Current Study

The current research demonstrates a need to further study the treatment of minority and poor offenders as it relates to sentencing and bail separately. However, important questions remain, such as how these two variables may interact to predict sentencing decisions. There are also questions about juror perceptions of perceived dangerousness, socioeconomic assumptions, and how these are affected by race that is then understood among potential jury members and

people of the community. This includes perceptions of level of dangerousness as it is associated with race/ethnicity and socioeconomic status. While theory suggests some of these sentencing disparities are likely due to dangerousness stereotypes. Few studies used experimental paradigms to test this. This study thus aims to use an experimental approach, which has not previously been used in bail research, to examine the causal impact of both defendant race/ethnicity and use of cash bail on sentencing length and perceptions of defendant dangerousness. Findings will increase understanding of how bail use and race/ethnicity, both alone and in combination, impact jurors' perceptions of defendant dangerousness and may contribute to disparities in sentencing decisions, thus having potential to inform policies within the criminal justice system.

Design

This study used a 4 (Race: White vs. Black vs. Hispanic/Latino vs. not identified) x 2 (Ability to meet bail: Yes vs. No) between-subjects factorial design. The dependent measures were sentence length (slider scale 0-120 months) and perceived dangerousness (1= not at all to 6 = extremely). Data were first characterized using descriptive statistics. The study's hypotheses pertaining to the effects of the defendant's race/ethnicity and use of cash bail, both alone and in combination (hypotheses 1, 2, 3) will be analyzed using a two-factor between-subjects ANOVA. A linear regression analysis will be used to examine the predictive ability of the Attributional Complexity Scale on our primary dependent measures.

The study hypotheses are as follows:

Hypothesis 1: There will be a main effect of ability to meet bail on perceived dangerousness and sentence length such that, participants exposed to defendants that are unable to meet bail will be perceived as more dangerous and receive longer sentences compared to defendants that were able to make bail.

Hypothesis 2: There will be a main effect of race on perceived dangerousness and sentence length such that, participants exposed to Black defendants will be rated as more dangerous and receive longer sentences compared to White and Hispanic defendants.

Hypothesis 3: There will be an interaction between race of the defendant and their ability to meet bail on perceived dangerousness and sentence length, such that participants exposed to Black defendants that were not able to make bail will be perceived the most dangerous and receive longer sentences.

Hypothesis 4: The predictive ability of the Attributional Complexity scale on our dependent measures showing individual with Low AC will be more punitive toward Black and Hispanic defendants and consider them more dangerous than White and not identified defendants.

Methods

Participants

Two-hundred fifty-eight participants were jury eligible adults recruited from Cloud Research. In order to be eligible, participants were at least 18 years of age, a citizen of the United States, fluent in English, have not been previously convicted of a felony, and have access to the internet either via a computer or mobile device. There were 167 females, 90 males, and 1 transgender individual. The age range of participants was 18 – 91 with an average age of 58.35. The race breakdown was as follows: White/Caucasian (84.9%), Black/African American (10.5%), Native American/Alaska Native (1.6%), and Asian (2.7%). A majority identified as not Hispanic or LatinX (93.8%), but 4.7% did identify as Hispanic or LatinX. For political leaning participants were as follows: very liberal (13.6%), slightly liberal (22.9%), neither conservative nor liberal (27.9%), slightly conservative (22.9%), and very conservative (12.8%).

Materials

Participants responded to several online questions and scales.

Sociodemographic Questionnaire

Participants self-reported their age, gender, household income, political affiliation, race, and ethnicity.

Vignettes

The eight vignettes were 159 words that varied on both race and ethnicity (White vs. Black vs. Hispanic vs. Not identified) of the defendant and ability to meet bail (yes vs. no). The vignettes described case with a defendant charged with assault, battery, and larceny. See appendix.

Sentence Length

After reading the vignette, participants were asked to report recommendations for sentence length for the suspect. Typical sentence lengths for armed robbery and assault and battery are 60-120 months. Participants were informed of this range and asked to recommend a sentence length (in months).

Perceived Dangerousness

Participants were then asked to consider the factors they considered when making the sentencing decision and rank those from most to least important in that decision. In addition, they rated the likelihood of reoffending and to rank-order the factors influencing their decision.

Attributional Complexity

The 28-item Attributional Complexity scale assesses attributional complexity across seven factors: level of interest/motivation, preference for complex rather than simple explanations, presence of metacognition concerning explanations, behavior as a function of interaction with others, tendency to infer abstract/complex internal attributions, tendency to infer contemporary

external attributions, and the tendency to infer external causes from past experiences. Responses are scaled from 1 = strongly disagree to 6 = strongly agree.

Manipulation Check

Participants were asked to select the race/ethnicity of the defendant and if that defendant was able to meet bail. Participants were also asked what crime the defendant was charged with.

Procedure

Participants were recruited using Cloud Research. Interested participants first completed a brief eligibility screener in which they reported their age, United States citizen status, fluency in English, and any previous convictions. Eligible participants were directed to the online study survey. Nineteen individuals found to be ineligible were thanked for their interest. Several participants were removed from the study for failing one or both of the manipulation questions. They were redirected to a different screen, thanking them for their time. Participants then provided informed consent. Participants then read instructions and were randomly assigned to read one of eight vignettes. All of this information was held constant for all eight vignettes except for race and ethnicity of the defendant and the defendant's ability to meet bail. Following the vignette, participants responded to the perceived dangerousness and survey questions pertaining to sentence length, and the manipulation check questions described above. Participants were then debriefed and compensated \$1.50. Additional participants were removed after determining they completed the study too quickly or answered an insufficient number of questions. See Appendix for copies of all stimulus materials.

Results

Manipulation Check Question

The manipulation check consisted of two questions: What was the race/ethnicity of the defendant?; What crime was the defendant charged with?. Examining participant knowledge of the defendant's race and crime charged. The dataset included participants who answered both questions accurately ($n = 258$) those who failed to answer both questions correctly, did not complete the survey, or gave responses that demonstrated lack of attention were removed from the dataset ($n = 235$).

Hypothesis Testing

Two hundred-fifty-eight participants completed the survey via Cloud Research. There were no significant findings for our ANOVA hypotheses. There was no main effect of race on sentencing, $p = .251$. There was a main effect of ability to meet bail approaching significance on the dependent measure of length of sentence $p = .078$. The bail means were Yes ($M = 64.98$) and No ($M = 57.30$). Overall, Hypothesis 1 was not supported.

There was no main effect for race on perceived dangerousness, $p = .493$. There was no main effect for bail on perceived dangerousness, $p = .380$. Thus, Hypothesis 2 was not supported.

There was no significant interaction between race and bail on sentencing, $p = .690$. There was no significant interaction between race and bail on perceived dangerousness, $p = .128$. Hypothesis 3 was not supported.

The regression analysis for AC on sentence length was nonsignificant, $p = .344$, $R = .061$. The regression analysis for AC on perceived dangerousness was nonsignificant, $p = .179$, $R = .086$.

The independent samples t-test revealed no gender differences for sentencing ($p = .270$), perceived dangerousness ($p = .287$), and recidivism ($p = .708$).

Exploratory Analysis

Although there were no main effects or interactions between race and bail alone, we considered the role of AC in our study, and decided to look at AC in the context of our independent variables, race and bail. Prior research does indicate AC can have a moderating and mediating effect in various contexts, so we wanted to explore that avenue. We separated participants into High ($n = 94$) and Low AC ($n = 154$) groups. Resulting analysis was a $4 \times 2 \times 2$ factorial design.

The 28-item Attributional Complexity Scale (ACS), measuring from 1 = strongly disagree to 6 = strongly agree, yielded a Cronbach's alpha of .88 after items 2, 5, 6, 8, 11, 13, 16, 17, 18, 22, 23, 26, and 28 were reverse coded. Twelve participants were excluded from this analysis since they had incomplete scores. The Attributional Complexity scale was then dichotomized into participants with high or low scores on this scale, this variable was called ACSHILO. The range of scores on this measure were from 69.00 – 158.00. Participants ranging from 69-113 points on the ACS were considered low on the scale. Participants ranging from 114-158 were considered high on the ACS.

An ANOVA was conducted on 246 participants for an effect of race, bail, and ACSHILO on sentence length. We observed a significant Race x Bail x Attributional Complexity interaction effect on sentencing, $F(3, 246) = 2.96, p = .033$. Low AC jurors gave White defendants who made bail the least amount of jail time; the opposite was observed for high AC jurors. Low AC jurors did not distinguish among Black, Hispanic, and not identified defendants in terms of sentencing; ($M_B = 62.89, M_{H/L} = 63.64, M_{NI} = 63.26, M_W = 46.33$). Participants high on AC gave White defendants who made bail the longest sentence compared to Black, Hispanic, and not identified defendants ($M_W = 84.58, M_B = 63.00, M_{H/L} = 73.36, M_{NI} = 59.62$). Further analysis may elucidate further understanding. See Figures 1 and 2.

An ANOVA was conducted on 248 participants for an effect of race, bail, and ACSHILO on perceived dangerousness. We found a significant interaction of race and bail on dangerousness through attributional complexity, $F(3, 248) = 3.40, p = .018$. The dangerousness scale was measured on a scale 1 = not at all dangerous to 6 = extremely dangerous. Black and Hispanic ($M_B = 4.49, M_{H/L} = 4.66$) defendants who did not make bail were seen as significantly more dangerous than White and not identified ($M_W = 3.99, M_{NI} = 3.99$) defendants who did not make bail. Furthermore, White, and not identified defendants who did not make bail were viewed similarly on dangerousness.

This ANOVA also revealed an interaction approaching significance for bail and ACSCHILO on perceived dangerousness $F(3, 248) = 3.35, p = .068$. Individuals who were low on AC and had a defendant able to meet bail ($M = 4.33$), low and unable ($M = 4.24$), high and able ($M = 4.25$), high and unable ($M = 4.64$).

Correlation analysis

Correlation analyses were also conducted between sentence length, perceived dangerousness, and individual differences. There was a significant correlation between sentence length and perceived dangerousness, $r(256) = .42, p < .001$. This suggests longer sentences were given to those who were perceived as more dangerous. There was also a significant correlation between perceived dangerousness and political leaning, $r(258) = .11, p = .037$. Political leaning was determined as follows: 1 = very liberal, 2 = slightly liberal, 3 = neither liberal nor conservative, 4 = slightly conservative, 5 = very conservative. This correlation indicates conservative participants perceived the defendants as more dangerous overall.

Ranking

Participants were asked to rank the level of importance for several factors in making their sentencing and dangerousness decisions. Sentencing judgements were most influenced by crime type ($n = 231$) and dangerous of the defendant ($n = 215$) compared to bail amount ($n = 47$), ability to meet bail ($n = 35$), inability to meet bail ($n = 35$), defendant age ($n = 52$), and defendant race ($n = 20$). Dangerousness judgements were most influenced by type of crime ($n = 229$) compared to bail amount ($n = 61$), ability to meet bail ($n = 35$), inability to meet bail ($n = 32$), defendant age ($n = 67$), and defendant race ($n = 20$). See Figures 3 and 4.

Discussion

The purpose of this study was to highlight the influence of extralegal factors, race, ethnicity, and bail, on decision making processes in potential jury members. We operationalized these through the use of vignettes, manipulating the race/ethnicity of the defendant and whether he was able to meet the bail requirement. Although some of our primary hypotheses were not supported, we investigated the role of attributional complexity (AC) within the context of race and bail. In addition, we were interested in learning how individual differences among jury members may influence sentencing and dangerousness decisions.

In hypotheses 1 and 2, we predicted Race and ability to meet bail would increase perceived dangerousness and sentence lengths. Although these hypotheses were not supported, when AC was considered as a moderating variable, we found some support for the hypotheses. Individuals with low AC gave longer sentences compared to individuals with high AC overall. Thus, AC influences individuals' decisions of defendants as it relates to dangerousness and sentence length. These factors are also influenced by defendant race and SES. We were able to address some "racial lumping" concerns by separating Hispanic individuals from the White group within our vignettes.

Unexpectedly, in the absence of attributional complexity, our initial findings were nonsignificant. As noted above, it is possible that some subjects were responding in a socially desirable direction given the current political and racial climate in the United States. However, considering attributional complexity was added as a moderator variable it yielded interesting results, particularly as it pertains to the ‘not identified’ vignette. Subjects with low AC did not differentiate the not identified defendant from the minority defendants, awarding them similar and higher sentences compared to White defendants. Literature suggests low AC individuals resort to stereotypical attributions (Reid & Foels, 2010). In the current study, perhaps low AC individuals possessed a particular schema for what they considered a criminal and, in this case, when race is not identified, they assumed the defendant is a minority.

Hypothesis One predicted the defendant’s ability to meet bail would influence judgments about both sentence length and perceived dangerousness. Although our results did approach significance, the hypothesis was not supported. The lack of hypothesis support may be the result of several factors. First, I did not include a social desirability measure in the current study, and it is possible that some subjects responded to some of these questions in a socially desirable direction; specifically punishing White defendants while being less punitive toward Black defendants. Second, current social events in the United States have led to heightened awareness of issues of justice equality. Participants may have wanted to show their awareness of these issues by giving ‘privileged’ White defendants longer sentences than Black and Hispanic defendants.

Hypothesis Two predicted that subjects would perceive Black defendants as most dangerous and give them the longest sentences compared to other defendants. Our results did not

support this hypothesis. It is unclear why these results did not support other findings in the literature but as noted above, social disability may have been a factor.

Hypothesis Three, the predicted interaction between race and bail, was not supported. However, there was an interaction between race and bail when individuals were separated into low and high AC. The lack of significant results in the initial analyses may also be explained by the composition of our online sample. Our sample was predominately non- Hispanic, White females, who described themselves as liberal. Literature suggests that women are less punitive than men and women also tend to have higher AC (Fletcher et al., 1986; Reid & Foels, 2010). Individuals who identify as liberal may be more aware of justice inequity issues and more likely to act in socially desirable ways.

Our exploratory analyses investigating AC as a moderating variable were fruitful. The regression yielded results indicating an interaction among race, ability to meet bail, and AC. Specifically, individuals with low AC gave White defendants shorter sentences while minority defendants and not identified defendants got similar and higher sentences. Interestingly, the ‘not identified’ defendants were rated similarly to Black and Hispanic defendants when it came to ability to meet bail. That is low AC did not appear to differentiate ‘not identified’ defendants from minority defendants. This aligns with the current literature that low AC individuals are prone to make stereotypical attributions without considering additional factors in explaining other people’s behaviors. It appears that low AC subjects equated ‘criminal’ and ‘person of color’. The 3-way interaction for race, bail, and high AC was also intriguing. High AC subjects did differentiate White defendants that made bail while Black, Hispanic, and not identified were not differentiated in the context of bail. Minority and not identified defendants, whether they made bail or not were treated similarly by individuals with high AC. Whites may have been

given longer sentences when able to make bail if they were seen as privileged. Overall, AC influenced individual's perceptions and determinations of others as it related to dangerousness and how long they should serve. These factors are also influenced by a defendant's race and SES.

There were significant correlations between perceived dangerousness and sentence length, as well as perceived dangerousness and political leaning. The more dangerous defendants were perceived, the longer sentences they received. Participants who identified as more conservative gave higher ratings of perceived dangerousness. The political leaning and sentence length correlation was approaching significance. The significant correlation between conservative attitudes and perceived dangerousness has been well supported in the research literature (e.g., Socia & Harris, 2016). Conservatives are also more threat sensitive than liberals (Jost et al., 2003a; Oxley et al., 2008). Jost et al. (2003a) specifically identified that conservatism was associated with underlying needs to manage uncertainty and fear/threat.

Although the current study did not support our initial hypotheses, the exploratory analysis including attributional complexity as a moderating variable yielded interesting results. These results indicate a clear discrepancy in sentencing and perceived dangerousness between individuals with high and low attributional complexity. The ability to consider several factors at one time when making attributions explaining another individual's behavior appears to play a major role. This individual difference should be considered as it influences how they perceive defendants and make decisions regarding sentencing. Future research should aim to expand this knowledge and further examine AC as a moderating variable in relation between bail, race, perceptions of sentencing, and potentially other areas of decision making.

Limitations

There are limitations to this study. The first limitation lies within the sample itself, only 258 participants in total, most of which were White, non-Hispanic, women who were educated, from stable household incomes, and considered themselves to be liberal. This could have influenced the findings since the prior literature suggests women are less punitive than men (Reid & Foels, 2010). These older women, with high AC, may have also considered other factors for the defendants of color presented and knowing of the current discrimination in the criminal justice system, treated them even less punitively. Future researchers should aim to balance this sample with a more even distribution of men and women as well as AC score. As noted previously, women are less punitive and tend to have higher AC than men (Fletcher et al., 1986; Reid & Foels, 2010).

In addition, the dangerousness item was too narrow to get a range of scores from participants. Future researchers should use expanded measures of dangerousness.

It is also important to note the importance of social desirability in this research. Social desirability is when research participants choose to respond in ways they believe are more socially desirable or acceptable rather than choosing more reflective or true thoughts and feelings (Grimm, 2010). These are also associated with demand effects which is when participants respond to questions in the way they think the researcher wants (Grimm, 2010). As Krumpal (2013) notes, participants often over report socially desirable behaviors and attitudes and underreport socially undesirable ones. This effect is more likely to be seen in more sensitive topics such as political and personal issues (Krumpal, 2013). In the case of the current study, social desirability may have played a role in our findings for the group as a whole. As noted by Salerno et al. (2023) accounting for social desirability is especially important for legal psychology researchers examining racial bias. Recent work on racial bias has produced null or

potential overcorrection effects favoring Black over White individuals. Social desirability, therefore, plays a significant role in why White participants' perceptions of Black defendants in recent experiments do not align with historic findings regarding racial bias. Future research should aim to include social desirability measures such as a Social Desirability Scale (Marlowe-Crowne Scale, Balanced Inventory of Desirable Responding (BIDR) scale, SDS-17 scale, and the shortened versions of these scales (Larson, 2019). Salerno et al. (2023) also recommend that legal researchers find methodologies in which participants are able to express their honest views via a process of "nonracial credentialing".

Conclusion

Despite these limitations, the current study yielded interesting results. Specifically, about the role of individual differences in prospective jurors. This research adds to the growing body of knowledge of juror decision making and the elements that may influence those decisions. Future research should aim to expand on the sample, the dangerousness scale, include other measures of political affiliation, a measure of social desirability, and have an increased understanding of AC as well as other personality theories that may contribute to decision making processes. There may also be varying effects observed when the severity of crime is varied.

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Appendix

Sociodemographic questions:

1. Age

1. _____

2. Gender

1. Male

2. Female

3. Non-binary/non-conforming

4. Transgender

5. Prefer not to answer

3. Approximate Household Income

1. _____

4. Race

1. White/Caucasian

2. Black/African American

3. Native American/Alaska Native

4. Asian

5. Native Hawaiian/Pacific Islander

5. Ethnicity

1. Hispanic or Latinx

2. Not Hispanic or Latinx

6. Political leaning

1. Very liberal

2. Slightly Liberal
3. Neither liberal nor conservative
4. Slightly Conservative
5. Very conservative

Vignette 1(white defendant/yes bail):

Vignette: A 28- year-old single, White male has been arrested and charged with assault of a male victim.

According to the police report Mr. S, a 28-year-old White male had allegedly attempted to steal a bicycle from Tom Williams, 40-year-old bicycle shopkeeper. As he tried to wheel the bicycle away, Mr. Williams came out the back of the shop and tried to stop him. Mr. S struck Mr. Williams in the head with a nearby board, who fell to the ground and left with the bicycle. Mr. S was identified by witnesses as leaving the bicycle shop with the stolen bicycle.

At his arraignment, bail was set at \$10,000.

Mr. S paid 10% or \$1,000 in cash and was released back into the community until his court date

Three weeks later at Mr. S's trial, the jury found him guilty of larceny and assault and battery with a dangerous weapon. The judge set his sentencing hearing for the following week.

Vignette 2 (white defendant/no bail):

Vignette: A 28- year-old single, White male has been arrested and charged with assault of a male victim.

According to the police report Mr. S, a 28-year-old White male had allegedly attempted to steal a bicycle from Tom Williams, 40-year-old bicycle shopkeeper. As he tried to wheel the bicycle away, Mr. Williams came out the back of the shop and tried to stop him. Mr. S struck Mr. Williams in the head with a nearby board, who fell to the ground and left with the bicycle. Mr. S was identified by witnesses as leaving the bicycle shop with the stolen bicycle.

At his arraignment, bail was set at \$10,000.

Mr. S was unable to pay the amount and held in the local jail until his pending court date.

Three weeks later at Mr. S's trial, the jury found him guilty of larceny and assault and battery with a dangerous weapon. The judge set his sentencing hearing for the following week.

Vignette 3 (Black defendant/yes bail):

Vignette: A 28- year-old single, Black male has been arrested and charged with assault of a male victim.

According to the police report Mr. S, a 28-year-old Black male had allegedly attempted to steal a bicycle from Tom Williams, 40-year-old bicycle shopkeeper. As he tried to wheel the bicycle away, Mr. Williams came out the back of the shop and tried to stop him. Mr. S struck Mr. Williams in the head with a nearby board, who fell to the ground and left with the bicycle. Mr. S was identified by witnesses as leaving the bicycle shop with the stolen bicycle.

At his arraignment, bail was set at \$10,000.

Mr. S paid 10% or \$1,000 in cash and was released back into the community until his court date

Three weeks later at Mr. S's trial, the jury found him guilty of larceny and assault and battery with a dangerous weapon. The judge set his sentencing hearing for the following week.

Vignette 4 (Black defendant/no bail):

Vignette: A 28- year-old single, Black male has been arrested and charged with assault of a male victim.

According to the police report Mr. S, a 28-year-old Black male had allegedly attempted to steal a bicycle from Tom Williams, 40-year-old bicycle shopkeeper. As he tried to wheel the bicycle away, Mr. Williams came out the back of the shop and tried to stop him. Mr. S struck Mr. Williams in the head with a nearby board, who fell to the ground and left with the bicycle. Mr. S was identified by witnesses as leaving the bicycle shop with the stolen bicycle.

At his arraignment, bail was set at \$10,000.

Mr. S was unable to pay the amount and held in the local jail until his pending court date.

Three weeks later at Mr. S's trial, the jury found him guilty of larceny and assault and battery with a dangerous weapon. The judge set his sentencing hearing for the following week.

Vignette 5 (Hispanic defendant/yes bail):

Vignette: A 28- year-old single, Hispanic male has been arrested and charged with assault of a male victim.

According to the police report Mr. S, a 28-year-old Hispanic male had allegedly attempted to steal a bicycle from Tom Williams, 40-year-old bicycle shopkeeper. As he tried to wheel the bicycle away, Mr. Williams came out the back of the shop and tried to stop him. Mr. S struck Mr. Williams in the head with a nearby board, who fell to the ground and left with the bicycle. Mr. S was identified by witnesses as leaving the bicycle shop with the stolen bicycle.

At his arraignment, bail was set at \$10,000.

Mr. S paid 10% or \$1,000 in cash and was released back into the community until his court date.

Three weeks later at Mr. S's trial, the jury found him guilty of larceny and assault and battery with a dangerous weapon. The judge set his sentencing hearing for the following week.

Vignette 6 (Hispanic defendant/no bail):

Vignette: A 28- year-old single Hispanic male has been arrested and charged with assault of a male victim.

According to the police report Mr. S, a 28-year-old Hispanic male had allegedly attempted to steal a bicycle from Tom Williams, 40-year-old bicycle shopkeeper. As he tried to wheel the bicycle away, Mr. Williams came out the back of the shop and tried to stop him. Mr. S struck Mr. Williams in the head with a nearby board, who fell to the ground and left with the bicycle. Mr. S was identified by witnesses as leaving the bicycle shop with the stolen bicycle.

At his arraignment, bail was set at \$10,000.

Mr. S was unable to pay the amount and held in the local jail until his pending court date.

Three weeks later at Mr. S's trial, the jury found him guilty of larceny and assault and battery with a dangerous weapon. The judge set his sentencing hearing for the following week.

Vignette 7 (No race/yes bail)

Vignette: A 28- year-old single, male has been arrested and charged with assault of a male victim.

According to the police report Mr. S, a 28-year-old male had allegedly attempted to steal a bicycle from Tom Williams, 40-year-old bicycle shopkeeper. As he tried to wheel the bicycle

away, Mr. Williams came out the back of the shop and tried to stop him. Mr. S struck Mr. Williams in the head with a nearby board, who fell to the ground and left with the bicycle. Mr. S was identified by witnesses as leaving the bicycle shop with the stolen bicycle.

At his arraignment, bail was set at \$10,000.

Mr. S paid 10% or \$1,000 in cash and was released back into the community until his court date

Three weeks later at Mr. S's trial, the jury found him guilty of larceny and assault and battery with a dangerous weapon. The judge set his sentencing hearing for the following week.

Vignette 8 (no race/no bail)

Vignette: A 28- year-old single male has been arrested and charged with assault of a male victim.

According to the police report Mr. S, a 28-year-old male had allegedly attempted to steal a bicycle from Tom Williams, 40-year-old bicycle shopkeeper. As he tried to wheel the bicycle away, Mr. Williams came out the back of the shop and tried to stop him. Mr. S struck Mr. Williams in the head with a nearby board, who fell to the ground and left with the bicycle. Mr. S was identified by witnesses as leaving the bicycle shop with the stolen bicycle.

At his arraignment, bail was set at \$10,000.

Mr. S was unable to pay the amount and held in the local jail until his pending court date.

Three weeks later at Mr. S's trial, the jury found him guilty of larceny and assault and battery with a dangerous weapon. The judge set his sentencing hearing for the following week.

Dependent Measures

1. According to local authorities a typical sentence for these crimes consists of 60-120 months (or 5-10 years). How long should the defendant serve in prison?
 1. Have a slider for participants to choose an amount
2. How dangerous is the defendant?
 1. Slider scale
 1. Likert scale 1 (not at all dangerous) - 6 (extremely dangerous)
3. How likely is this person to commit another crime?
 1. Slide scale (Likert 1-6)
4. Should the defendant be eligible for parole before his sentence is at capacity?
 1. Yes
 2. No
 1. If yes, how long should he serve in prison?
 2. If no,
5. Should the defendant have to participate in
 1. Parole
 2. Community Service
 3. Job training
 4. The prison sentence, alone
 5. Anger management
 6. Mental Health evaluation
 7. None of the above

6. Do you think the defendant would benefit from job/communication training before he were to be released?

1. Yes
2. No
 1. Why
 2. Why not

7. What did you base your sentence judgment on?

1. Bail
2. Dangerousness
3. Ability to meet/not meet bail
4. Type of crime
5. Age
6. Ethnicity
7. Other

8. Rank your judgments from most (1) to least (7) important in your decision.

9. What did you base your rating of dangerousness on?

1. Bail
2. Dangerousness
3. Ability to meet/not meet bail
4. Type of crime
5. Age
6. Ethnicity
7. Other

10. Rank your judgments from most (1) to least (7) important in your decision.

11. What factors did you consider when making the sentencing decision?

. Have check boxes allowing participants to choose more than one option

1. Ability/not to meet bail
2. Type of crime charged
3. Age
4. Race

Manipulation Check Questions:

1. What was the race/ethnicity of the defendant?

1. White
2. Black
3. Hispanic
4. Not listed

2. What crime was the defendant charged with?

- . A. Embezzlement
- b. Arson
- c. Assault and Battery

Attributional Complexity Scale

1 = strongly disagree, 2 = disagree, 3 = somewhat disagree,

4 = somewhat agree, 5 = agree, 6 = strongly agree

1. I don't usually bother to analyze and explain people's behavior.
2. Once I have figured out a single cause for a person's behavior I don't usually go any further.
3. I believe it is important to analyze and understand our own thinking process.
4. I think a lot about the influence that I have on other people's behavior.
5. I have found that relationships between a person's attitudes, beliefs, and character traits are usually simple and straightforward.
6. I see people behaving in a really strange or unusual manner, I usually put it down to the fact that they are strange or unusual people and don't bother to explain it any further.
7. I have thought a lot about the family background and personal history of people who are close to me, in order to understand why they are the sort of people they are.
8. I don't enjoy getting into discussions where the causes for people's behavior are discussed.
9. I have found that the causes for people's behavior are usually complex rather than simple.
10. I am very interested in understanding how my own thinking works when I make judgments about people or attach causes to their behavior.
11. I think very little about the different ways that people influence each other.
12. To understand a person's personality/behavior I have found it is important to know how that person's attitudes, beliefs, and character traits fit together.
13. When I try to explain other people's behavior I concentrate on the other person and don't worry too much about all the existing external factors that might be affecting them.
14. I have often found that the basic cause for a person's behavior is located far back in time.
15. I really enjoy analyzing the reasons or causes for people's behavior.

16. I find that complicated explanations for people's behavior are confusing rather than helpful.
17. I give little thought to how my thinking works in the process of understanding or explaining people's behavior.
18. I think very little about the influence that other people have on my behavior.
19. I have thought a lot about the way that different parts of my personality influence other parts.
20. I think a lot about the influence that society has on other people.
21. When I analyze a person's behavior I often find the causes form a chain that goes back in time, sometimes for years.
22. I am not really curious about human behavior.
23. I prefer simple rather than complex explanations for people's behavior.
24. When the reasons I give for my own behavior are different from someone else's, this often makes me think about the thinking processes that lead to my explanations.
25. I believe that to understand a person you need to understand the people who that person has close contact with.
26. I tend to take people's behavior at face value and not worry about the inner causes for their behavior (e.g., attitudes, beliefs, etc.).
27. I think a lot about the influence that society has on my behavior and personality.
28. I have thought very little about my own family background and personal history in order to understand why I am the sort of person I am.

Figure 1

Sentencing Length for Attributionally Low Individuals as a Function of Bail and Race

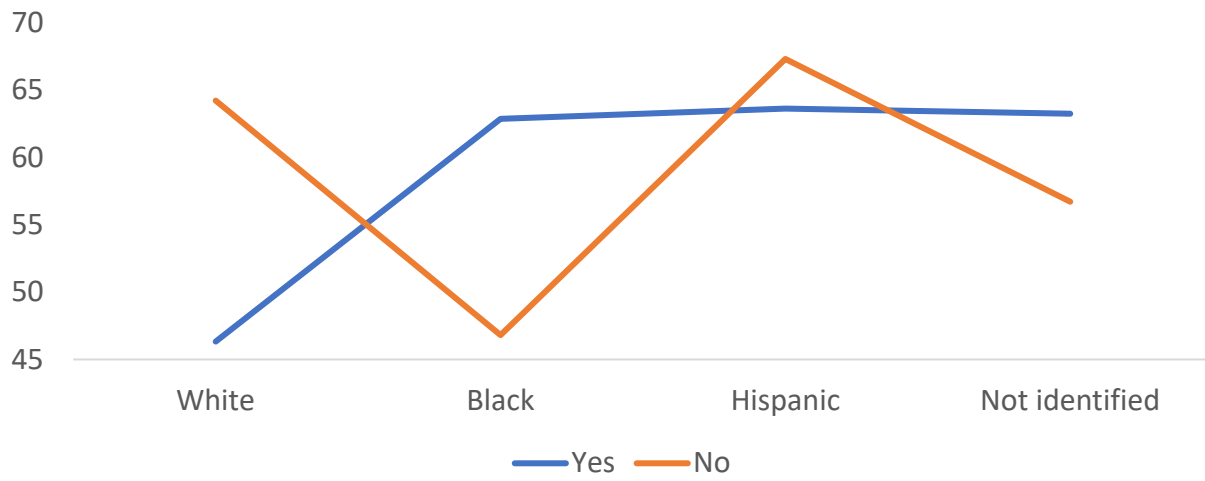


Figure 2

Sentencing Length for Attributionally High Individuals as a Function of Bail and Race

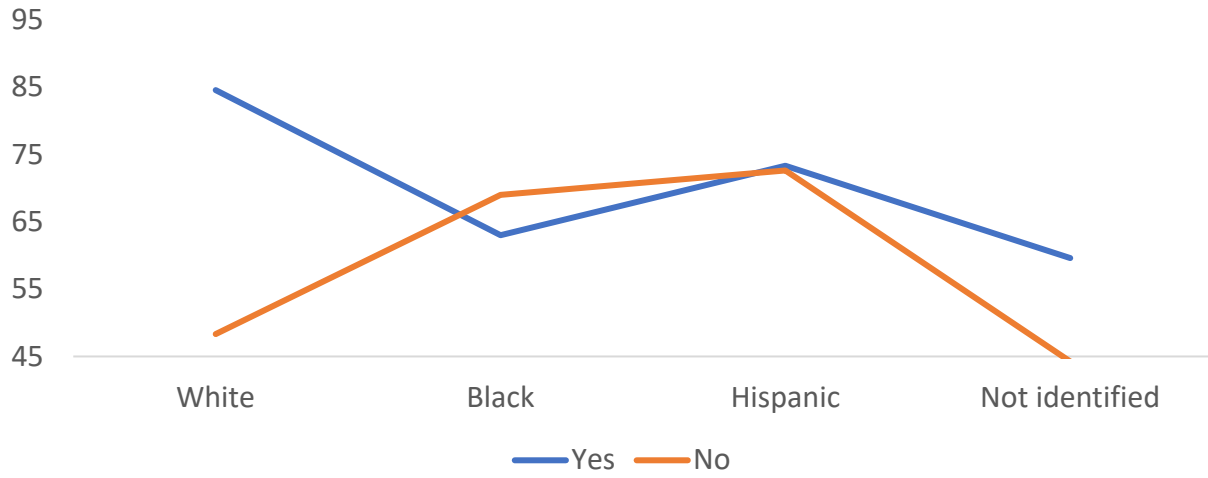
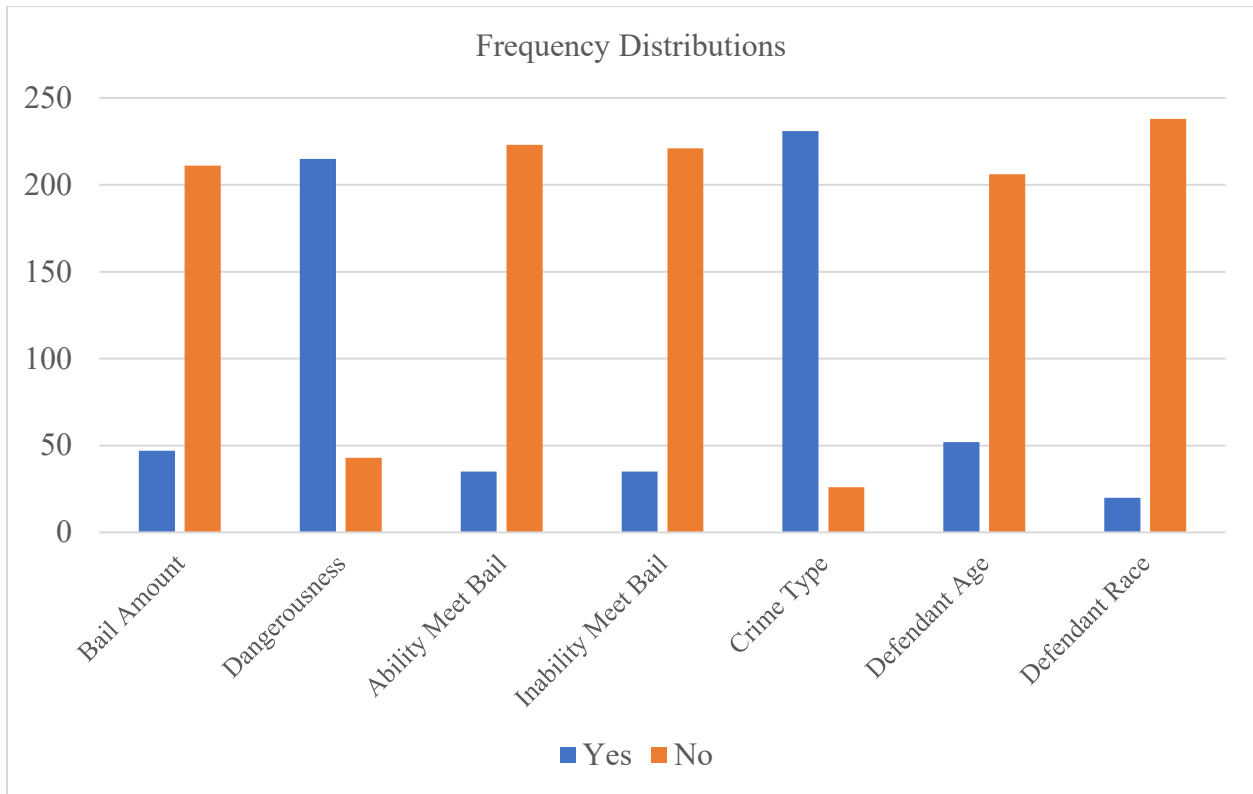


Figure 3

Sentencing Judgments as a Function of Each of the Following



Note: Participants were asked to indicate whether each played a role in their judgment of sentence.

Figure 4

Dangerousness Judgments as a Function of Each of the Following

