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## Factors Affecting Judicial Decision Making

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FACTORS AFFECTING JUDICIAL DECISION MAKING

A Thesis

Submitted

in Partial Fulfillment

of the Requirements for the Designation

University Honors

Brooke Marie Hansen

University of Northern Iowa

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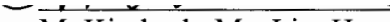
This Study by: Brooke M. Hansen

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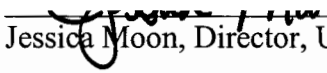
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## Abstract

The U.S. court system relies on the discretion of judges for most sentencing decisions. Even when there are sentencing guidelines, the judicial decision making process requires judges to use their discretion to determine the actual sentence. Personality characteristics play a role in juror decision making, as shown by studies of the effect of authoritarianism on verdicts (Narby, Culter, & Moran, 1993). Little research has focused on the personality characteristics of judges and what role they play in sentencing decisions. Judicial decision making is a debated topic as demonstrated by the fact that the Supreme Court heard the case *Blakely v. Washington* in August of 2004, a case about whether judges have the discretionary power to go beyond sentencing guidelines in federal cases. My goal was to evaluate the role of a particular personality characteristic, optimism, on these discretionary decisions by assessing the affect of this characteristic in a mock judicial making decision experiment. Undergraduate participants completed the Life Orientation Test (Scheier & Carver, 1985) to determine their level of optimism as well as a questionnaire examining other factors, such as demographic information and political ideology. The participants then read a case summary vignette after which they were provided sentencing guidelines and instructed to make a sentencing decision for a case where the defendant was found guilty. Results showed a non-significant trend such that optimistic people may give shorter sentences than pessimistic people. Additionally, males were more confident in their decisions than females, and for all participants when confidence increased, sentence length increased. Political ideology proved to be an important factor with those participants rating themselves more socially liberal rendering shorter sentences than their conservative counterparts.

## Factors affecting judicial decision making

Discretion is a key part of the United States' justice system today. The U.S. court system relies on the discretion of judges for most sentencing decisions. While sentencing guidelines provided by the government are a helpful aid and provide a legal range for judges to use, the actual judicial decision making process requires judges to use their discretion to determine the actual sentence. Judicial decision making is a debated topic today, as the Supreme Court heard the case *Blakely v. Washington* in August of 2004. This case brought to the forefront whether judges have the discretionary power to go beyond sentencing guidelines in federal cases. The court found that in the case of *Blakely v. Washington*, the judge went too far beyond the set sentencing principles, as they overturned the decision. In light of this, the power of discretion for judges has been lessened, at least in the ability to sentence above the federal guidelines (Skove, 2004).

## Judicial Decision Making

Judges are often the people who render verdicts in the criminal justice system. The dominant theory on judicial decision making states that judges make “judicial decisions as attempts to choose an alternative that has the highest expected benefits minus the expected costs” (Champagne, Nagal, & Neef, 1981, p. 241). Judges in the criminal justice system are viewed as impartial and immune to the errors and biases that befall the rest of the human race (Constanzo, 2004). As one judge explained:

Impartiality is a capacity of mind – a learned ability to recognize and compartmentalize the relevant from the irrelevant and to detach one's emotions from one's rational faculties. Only because we trust judges to be able to satisfy these obligations do we permit them to exercise power and oversight (Peckham, 1985, p. 262).

This perceived impartiality has been disputed, as Landsman and Rakos (1994) asked 104 jurors and 88 judges to evaluate a case of product liability. The decisions of juries and judges were compared to see if either group was less affected by biasing information. Both groups were equally affected by the biasing information, but both groups believed that judges would be more impartial compared to jurors (Landsman & Rakos, 1994). Judges are seen as impartial and unbiased, but this may not necessarily be the case. Judges must use their discretion to determine sentences in the criminal justice system, and in doing so, may introduce bias into their decision making.

### Discretion

So what exactly is discretion? It is a term which is used in the criminal justice system quite often, and yet many people do not know what it actually means. According to the Oxford English Dictionary, discretion involves a liberty or power of deciding according to one's own judgment or discernment. In the context of judicial decision making, discretion refers to the "freedom, power, authority, decision, or leeway of an official ... to decide, discern or determine to make a judgment ... about alternative courses of action or inaction" (Galsthorpe & Padfield, 2003, p. 3).

Judicial decision making is, of course, not the only segment of the criminal justice system where discretion can be found. Police officers use discretion everyday when deciding whether or not to issue traffic tickets, prosecuting attorneys use discretion when deciding whether or not to pursue legal action against a suspect, juries use discretion when rendering verdicts, and parole officers use discretion when dealing parolees. In fact, discretionary decisions move cases along the whole criminal justice timeline. These decisions start with police officers deciding whether to arrest someone, then prosecuting attorneys decide which cases to pursue, jurors decide if a

defendant is guilty, and finally judges decide on a sentence of a convicted defendant. Many, many other decisions along this timeline require discretion as well.

#### Discretion: Police Officers

Discretion is used by police officers every day in their routines while on the job.

Discretion is used when deciding whether or not to pull over a speeding motorist or whether to give that speeding motorist a ticket or a warning. Four variables have been identified which may influence the exercise of discretion. These variables are the legal process, the environment, the context of the situation, and illicit considerations (ethnicity, sex, social class, etc.). Legal rules require that law enforcement officials base their decisions on standards of law and are required to apply these laws impartially (Gelsthorpe & Padfield, 2003). While this is the case, ethnicity can influence the decision to stop and search people (Willis 1983; Jones, MacLean, & Young 1986) and clothing or the type of car can influence these decisions as well (Quinton, Bland, & Miller, 2000).

#### Discretion: Jurors

Jurors, as a group, decide the guilt or innocence of defendants in the system. Personality characteristics play a role in juror decision making, as shown by studies of the effect of authoritarianism on verdicts (Narby, Culter, & Moran, 1993). Authoritarianism is a characteristic describing individuals who wish to be part of an orderly, powerful society, with authoritative leadership and well-defined rules (Narby, et al., 1993). This study found a relationship between the jurors' level of authoritarianism and the degree to which they found the defendant culpable. As authoritarianism increases, the degree to which the defendant is found culpable increases as well (Narby, et al., 1993). These findings are important for the process of jury selection. Understanding the impact of personality characteristics on jury decision making can aid

attorneys so that they know what types of questions to ask during this process to create the best possible jury (for them), but also raises interesting questions about how judges' unique characteristics might impact their decisions.

#### Discretion: Judges

In the case of judicial decision making, one person uses discretion and must decide the sentence length for a defendant, which is a daunting task. Through precedents set through previous legal cases, judges have been given the privilege to determine sentences in a variety of situations (Gelsthorpe & Padfield, 2003).

McFatter (1978) demonstrated that differing punishment philosophies of judges lead to different levels and severity of sentences. Rehabilitation philosophy related to a greater tendency to blame the victim of the crime more than the offender (McFatter, 1978). Other characteristics of judicial decision makers found to affect sentencing decisions include race (Steffensmeier & Britt, 2001) and gender (Feeney & Roll, 1984). In respect to gender, female judges rendered significantly harsher sentences than males regardless of the sex of the offender or the type of crime committed (Feeney & Roll, 1984).

Gibson (1981) examined the role of self-esteem on the judicial decision making process. Self-esteem was defined as a self evaluation made by the individual as to whether they believe his or her qualities are desirable and whether they like or dislike themselves. Judges with low self-esteem were more likely to be influenced by the traditional patterns within the legal system, while the judges higher in self-esteem appeared to be less constrained by tradition (Gibson, 1981).

In addition to personality characteristics, political ideology has been examined in relation to judicial decision making. A study examining the voting records of Supreme Court justices



over a span of 25 years supported the rigidity-of-the-right hypothesis (Tetlock, Bernzweig, & Gallant, 1985). The rigidity-of-the-right hypothesis indicates that “advocates of right-wing causes are more likely to think in simple, value-laden and absolutist patterns than are advocates of moderate and left-wing causes (Tetlock, Bernzweig, & Gallant, p. 1228). A similar hypothesis has been posed about left-wing politicians as well. This is called the ideologue hypothesis and states that differences in the messages of the left and right-wing political belief systems should not be allowed to overshadow basic cognitive similarities in style between the groups. True left-wing members and true right-wing members are hypothesized to think in similar ways, more “simple, value-laden, and absolutist patterns” than do moderates (Tetlock, Bernzweig, & Gallant, p. 1228). This hypothesis has been supported by Tetlock (1983), Tetlock (1984), and political scientist Robert Putnam (1971) in various studies and with different governing bodies including the United States Senate and the British House of Commons (part of the legislative branch of government in Great Britain).

In addition to the hypothesis listed above, political ideology can be divided into two categories: fiscal and social. Fiscal political ideology includes beliefs about monetary matters, including taxes. Social political ideology includes beliefs about social policies, including Social Security, welfare, and Medicare. A person can be liberal or conservative on each of these dimensions. These categories divide the concept of political ideology into two, allowing more thorough analyses of participants’ political beliefs.

The characteristics of judges have been shown to affect sentencing, but research has also focused on characteristics of the defendant and how those characteristics affect the sentencing decision. Previous research on judicial decision making has primarily focused on a relationship between defendant attributes and sentencing decisions. One such study examined the age of a

defendant, as younger people (under 23 years old) receive more lenient treatment than older people (Bergeron & McKelvie, 2004). Another defendant attribute is attractiveness, with more attractive defendants receiving more lenient sentences than less attractive defendants (Abwender & Hough, 2001).

### Discretion: Could Optimism be a Factor?

People who are said to have high levels of optimism tend to be favorable in their outlook on life, generally believing that good rather than bad things will happen to them (Scheier & Carver, 1985). Optimism has been shown to affect how people regulate their actions (Scheier & Carver, 1985) and has been found to relate to self-esteem, depression, perceived stress, social anxiety, and hopelessness (Terrill, Friedman, Gottschalk, & Haaga, 2002). Optimists are less likely than pessimists to suffer from postpartum depression (Carver & Gaines, 1987) and are more likely to recover more quickly from coronary artery bypass surgery (Scheier et al., 1989). While optimism has been studied extensively in the area of health psychology, it has not been examined in other areas, including the area of judicial decision making. I decided to focus on optimism given its possible effect on information processing which could give rise to cognitive bias (Schweizer, Beck-Seyffer, & Schneider, 1999), as well as its overall forensic relevance in terms of confidence in the functioning and outcomes of the legal system.

### The Current Study

I set out to assess whether there is a relationship between optimism and the length of sentences imposed. Several other factors are examined as well, including evaluations of the defendant, political ideology, and confidence that the appropriate sentence was rendered.

## Method

### *Participants*

Participants for this study were undergraduate (n=59) and graduate students (n=1) at the University of Northern Iowa. They were recruited through the PPSM, a web-based experiment signup system used in the Psychology Department at the University of Northern Iowa. They received .5 credits in a psychology course for their participation in this study. The participants were mostly female (71.7%). The mean age of participants was 20.47, with a range of 18-48 years of age for all participants. The majority of the participants were freshman in college (n=31, 51.7%), but there were also sophomores (n=13, 21.7%), juniors (n=8, 13.3%), seniors (n=7, 11.7%), and graduate students (n=1, 1.7%) who participated.

### *Measures*

**Vignette.** The vignette used for this study was slightly modified from one used by Landy and Aronson (1969). The vignette is a case account of a negligent automobile homicide. The general story is that the defendant was driving home from a party intoxicated after being offered a ride home for a co-worker. The defendant was stopped by a police officer. Instead of arresting him, the police officer called a cab for the defendant and let him off with a warning. After the officer drove away, the defendant left the cab and continued to drive home in his own car. Four blocks later the defendant ran a red light and struck a pedestrian who died later on the way to the hospital. The defendant was found guilty of negligent homicide, and participants were instructed to act as the judge to sentence the defendant (see Appendix A for the entire vignette).

**Sentence Length.** The sentencing guidelines provided are based on sentencing guidelines in place in the justice system. Participants were instructed to render a sentence of up to 60 years (Lovegrove, 1989), and then were asked their confidence in decision (1=not confident at all

through 8=very confident). They were also given the opportunity to write any additional information regarding their sentences, including reasons for the length of time, or additions to the sentence in terms of years, such as parole or probation specifications.

**Optimism Measure.** The Life Orientation Test (LOT; Scheier & Carver, 1985) was used to measure optimism as a personality trait. Validation studies (Scheier & Carver, 1985) have demonstrated that the LOT has both adequate internal consistency and temporal stability. Additional validation studies have shown that the LOT correlates better with questionnaire measures of positive expectancies than with questionnaire measures of neuroticism (Terrill, et al., 2002), which was originally a concern of other researchers (Smith, Pope, Rhodewalt, & Poulton, 1989). The LOT is a 12 item self-report questionnaire measuring generalized positive outcome expectancies. Eight of the 12 items actually measure optimism, whereas the other four are filler items that are included to disguise the purpose of the LOT. Of the eight questions measuring optimism, four are scored positively and four are scored negatively. Respondents were asked to record to the extent that they agree with each of the items. The scale used includes the responses zero through four, with 4 = *strongly agree*, 3 = *agree*, 2 = *neutral*, 1 = *disagree*, and 0 = *strongly disagree*. Negatively worded items are reversed prior to scoring. Scores on the LOT range from 0-32. A high score on the LOT indicates high levels of optimism and a low score indicates low levels of optimism (Scheier & Carver, 1985).

**Political Ideology.** Questions regarding participants' political views were also included. These were split into two questions, one regarding fiscal political ideology and one regarding social political ideology. The questions asked participants to rate each of these political ideologies on an 8-point Likert-type scale (1 = Very Conservative through 8 = Very Liberal).

Evaluations of Defendant. The questionnaire also included questions evaluating the defendant. All the questions were rated on an 8-point Likert-type scale. Questions included “To what degree do you believe the defendant’s personality versus situational circumstances contributed to his committing this crime?” (1 = Completely personality through 8 = Completely situational), “To what degree do you feel sorry for the defendant?” (1 = Not at all sorry through 8 = Very Sorry), “Please rate how likeable you found the defendant to be” (1 = Not at all likable through 8 = Very likable), and “How likely is it that the defendant will commit this sort of crime again?” (1 = Not at all likely through 8 = Very likely).

Demographics. Finally, demographic information was gathered. This information included age, gender, and classification in school (See Appendix B for all questionnaire materials).

#### *Procedure*

Participants were greeted by the researcher and given the informed consent document. Upon filling out the informed consent document, the researcher passed out a packet containing the materials for the experiment in this order: the vignette, the sentencing instructions, the LOT, and the questionnaire. Participants read through the materials and completed the questionnaires. Upon completion, they handed the materials back to the researcher and were debriefed as to the nature of the study (See Appendix C for debriefing statement).

### Results and Discussion

#### *LOT scores*

The results regarding the LOT scores were normally distributed, showing almost a perfect Bell curve. Scores on the LOT can range from 0 to 32, and for this study, they ranged from 9 to 27 (See Table 1). The mean (M) was 19.4 with a standard deviation of 4.3. Males

scored slightly higher than females ( $M=20.0$ ,  $SD=4.5$  and  $M=19.1$ ,  $SD=4.3$ , respectively). This is slightly lower than the normed data for undergraduate students (Males:  $M=21.0$ ,  $SD=4.6$  and Females:  $M=21.4$ ,  $SD=5.2$ ) (Scheier & Carver, 1985). Twenty-seven percent (27%) of the participants fell into the pessimistic category (LOT scores less than or equal to 16), 43% of the participants fell into the moderate category (LOT scores between 17 and 22), and 30% of the participants fell into the optimistic category (LOT scores of 23 or higher).

Contrary to my expectations, the LOT scores were not at all related to sentence length ( $r=.015$ , ns). I next created a dichotomous variable using the median to split to create two groups (optimists and pessimists). Analyses using this grouping were also not significant, though a trend indicated that optimistic people gave slightly shorter sentences compared to pessimistic people ( $M=27.5$ ,  $SD=17.0$  and  $M=28.4$ ,  $SD=17.9$ , respectively).

### *Sentencing*

The mean length for the defendant's sentence was 27.88 years with a range of 7 through 60 years (See Table 2). The range for possible sentences was 0 through 60 years, so the range rendered by participants was quite broad. In addition to the years specified, 18 participants indicated additional requirements of the sentence, ranging from no parole, to parole after a specified amount of time, to driving classes or required attendance at Alcohol Anonymous meetings.

### *Gender Differences*

A significant gender difference occurred with respect to the participant's confidence in their sentencing decision (Table 3). Males reported a higher confidence in their sentences ( $M=6.2$ ) than did female participants ( $M=5.5$ ) ( $t=2.109$ ,  $df=58$ ,  $p<.05$ ). Though not

significant, males rated themselves as slightly more liberal in social political ideology compared to females ( $M=4.7$  and  $M=3.9$ , respectively).

The non-significant gender differences were interesting as well, especially as there were correlations between political ideology and sentence rendered. The gender of judges is most certainly a factor considered when looking at verdicts, and when appointing new justices.

### *Confidence in Decision*

As confidence in decision increased, sentence length increased as well ( $r = .310, p < .05$ ). This is an important relationship, especially when considering research on confidence in other contexts. One context in which confidence has been studied thoroughly is in the area of eyewitness memory. Various reviews and meta-analyses of eyewitness memory and confidence have concluded that confidence and accuracy are, at most, only weakly correlated (Wells & Murray, 1984). This means that a confident witness is not necessarily an accurate witness. Could confident decision makers not be as 'accurate' as those who are not as confident in their decisions? This is definitely a question to pursue in future research (See Table 4 for all correlation results).

### *Evaluations of Defendant*

The degree to which participants felt sorry for the defendant was a significant factor. As the participants rated themselves as feeling more sorry for the defendant, the length of sentence decreased ( $r = -.406, p < .05$ ). This relationship seems like common sense, but how a defendant is viewed by a judge is important, as it could result in some leniency when a sentence is handed down. Lawyers and consultants to lawyers could use this information when preparing for court to try to improve their clients' chances at a more lenient sentence.

Likeability of the defendant was also a factor. There was a positive correlation between the likeability of the defendant and how sorry participants felt for the defendant ( $r = .585, p < .01$ ) such that as likeability of the defendant increased, the degree to which participants felt sorry for the defendant increased accordingly. These two variables are intrinsically related, but show that if a judge views a defendant as more likeable he or she may also feel more sorry for the defendant.

Another factor involving the defendant was whether the participant believed they would commit the crime again. An interesting relationship regarding whether the participant felt the defendant would commit the crime again was that as the participants' age increased, their ratings of likelihood to commit again increased as well ( $r = .261, p < .05$ ). This could demonstrate cynicism which could come with age. It also could be related to the small number of older participants involved in the study, as the mean age was 20.47 years and the median age was 19.00 years. The few outliers falling well above this age range could have skewed the data in this respect. In relating this finding to the criminal justice system, most judges are much older than the typical college student, so cynicism found in older populations could come into play. This cynicism of age would also pose new research questions to be pursued in the future.

### *Political Ideology*

The final area that this study contributes to is examining political ideology and sentencing decisions. This is an important issue because in our society justices and many judges are nominated and confirmed based on their political beliefs. The media scrutinizes which Supreme Court justice will be the next to retire and when will he or she will do it, focusing intently on the political, social and legal ramifications of the political ideology of any replacement.



Social political ideology was negative correlated with the length of the sentence rendered ( $r = -.339, p < .05$ ) such that the more liberal a person rated him or herself, the shorter the sentence length. And conversely, the more conservative a person rated him or herself, the longer the sentence length. This could give insight into true differences between the principle political ideologies in our country today, at least in regard to their philosophies on punishment and sentencing.

Social political ideology was negatively correlated with confidence in the sentencing decision ( $r = -.310, p < .05$ ). So as a person rated him or herself as more liberal, confidence in the sentencing decision decreased. Conversely, as a person rated him or herself as more conservative, confidence in the sentencing decision increased.

Confidence in decision was also negatively correlated to fiscal political ideology ( $r = -.225, p < .05$ ); as participants rated themselves as more liberal with regard to fiscal matters, their confidence in decisions decreases. It appears that the confidence in the decision, the political ideology, and the sentence rendered are important to the judicial decision making process. More research into the interactions between these variables is needed to make further conclusions.

### Limitations

As with any study, there are some limitations that are worth mentioning. The participants were all college students at a Midwestern university and not actual judges. Future research should focus on real judges rather than college students to more accurately investigate the impact of personality characteristics and political ideology on sentence length.

The size of the sample ( $n=60$ ) was relatively small, so that may have affected the results as well. A larger sample would be needed to completely rule out the possibility that optimism

(as measured by the LOT) does not impact sentencing decisions. Until then, the idea that optimism could impact judicial decision making is still intriguing.

Another limitation to this study is the fact that more specific instructions as to the sentence were not given. Judges do have a set of guidelines to follow for different offenses and the ranges of punishments available. The guidelines provided to participants were that the defendant was convicted of negligent homicide, and the sentence could range from 1-60 years in prison. Information about aggravating and mitigating circumstances could be provided as well. These circumstances could include information about the defendant, specifics of the crime, or even information about the community in which this crime took place. These more specific guidelines would provide more direction for the participants in future studies, and would replicate real circumstances in which judges render sentences.

Additionally, information should be given to participants in future studies regarding legal precedents in cases similar to this one. This would also simulate the real-world where judges have access to precedents and can gauge their decisions based on those from the past.

### Conclusions

While this study may not have confirmed the hypothesis set by the researchers, it did discover interesting correlations between variables regarding judicial decision making. The correlation between both fiscal or social political ideology and sentence length was very interesting. This leads to more research questions regarding how one's political ideology affects how sentencing decisions are made, especially in our society where judges are often appointed based on their political affiliation.

This study only touched on a few factors which can affect the judicial decision making process, as there are numerous factors ranging from personality characteristics, personal beliefs,

to societal traditions and values that may play a role. As our country continues to question and evaluate the discretion allowed our judges, research into how they make their decisions is needed to help train, appoint, and maintain the best judges possible.

Our country is struggling with the topic of judicial discretion today, as shown by the case *Blakely v. Washington*. Continued research in this area is needed to be able to adequately evaluate the judicial decision making process and the policies which govern it within the United States criminal justice system. Internal characteristics (such as personality and political ideology) and external characteristics (such as federal regulations) are important factors to consider to more fully understand the special decision making process of judges. Research in this area can be useful in ensuring that discretion is used appropriately and ultimately will lead to more unbiased and reliable judges for our criminal justice system.

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## Appendix A

## Negligent homicide vignette

John Sander was driving home from an annual Christmas office party on the evening of December 24 when his automobile struck and killed a pedestrian by the name of Martin Lowe. The circumstances leading to this event were as follows: the employees of the insurance office where Sander worked began to party at around 2:00 p.m. on the afternoon of the 24<sup>th</sup>. By 5:00 p.m., some people were already leaving for home, although many continued to drink and socialize. Sander, who by this time had had several drinks, was offered a lift home by a friend who did not drink and who suggested that Sander leave his car at the office and pick it up when he was in 'better shape.' Sander declined the offer, claiming he was 'stone sober' and would manage fine.

By the time Sander had finished another drink, the party was beginning to break up. Sander left the office building and walked to the garage where he had parked his car, a four-door 2002 Chevy Malibu. It had just started to snow. He wished the garage attendant a Merry Christmas and pulled out into the street. Traffic was very heavy at the time. Sander was six blocks away from the garage when he was stopped by a police officer for reckless driving. It was quite apparent to the officer that Sander had been drinking, but rather than give him a ticket on Christmas Eve, he said that he would let Sander off if he would promise to leave his car and take a taxi. Sander agreed. The officer hailed a taxi and Sander got into it. The minute the taxi turned a corner, however, Sander told the driver to pull over to the curb and let him out. Sander paid the driver and walked back to where he had parked his own car.

Upon reaching his car, he proceeded to start it up and drove off. He had driven four blocks from the street where the police officer had stopped him when he ran a red light and struck Lowe, who was crossing the street. Sander immediately stopped the car. Lowe died a few minutes later on the way to the hospital. It was later ascertained that internal hemorrhaging was the cause of death. Sander was apprehended and charged with negligent homicide. The police medical examiner's report indicated that Sander's estimated blood alcohol concentration was between 2.5 and 3.0% at the time of the accident.

The victim, 48 year old Martin Lowe, was a senior partner of a successful stock brokerage firm and an active member of the community beautification project. He was a



widower and is survived by his son and daughter-in-law, Thomas and Rachel Lowe. At the time of the accident the victim was on his way to Lincoln Memorial Hospital to the children's wing, of which he was a founding member of, with Christmas gifts.

The defendant, 37 year old John Sander, is an insurance adjustor and divorcee. He had no previous criminal record, but does have several serious violations on his traffic record.

#### Sentencing instructions

Judge and sentence the defendant in accordance with your personal judgment. The crime is punishable for from 1 to 60 years of imprisonment. Take as much time as you need and write your decision in the following space

## Appendix B

## Judicial Decision Making Questionnaire

1. Age \_\_\_\_\_

2. Sex:

- (a) Male
- (b) Female

1. Classification in school

- (a) Freshman
- (b) Sophomore
- (c) Junior
- (d) Senior
- (e) Graduate Student

Indicate the extent to which you agree with each of the following items, using the following format: 4 = strong agree, 3 = agree, 2 = neutral, 1 = disagree, and 0 = strongly disagree.

- |  |   |   |   |   |   |
|--|---|---|---|---|---|
| 1. In uncertain times, I usually expect the best.                      | 4 | 3 | 2 | 1 | 0 |
| 2. It's easy for me to relax.  | 4 | 3 | 2 | 1 | 0 |
| 3. If something can go wrong for me, it will                           | 4 | 3 | 2 | 1 | 0 |
| 4. I always look on the bright side of things.                         | 4 | 3 | 2 | 1 | 0 |
| 5. I'm always optimistic about my future                               | 4 | 3 | 2 | 1 | 0 |
| 6. I enjoy my friends a lot  | 4 | 3 | 2 | 1 | 0 |
| 7. It's important for me to keep busy.                                 | 4 | 3 | 2 | 1 | 0 |
| 8. I hardly ever expect things to go my way.                           | 4 | 3 | 2 | 1 | 0 |
| 9. Things never work out the way I want them to.                       | 4 | 3 | 2 | 1 | 0 |
| 10. I don't get upset too easily.                                      | 4 | 3 | 2 | 1 | 0 |
| 11. I'm a believer in the idea that "every cloud has a silver lining." | 4 | 3 | 2 | 1 | 0 |
| 12. I rarely count on good things happening to me.                     | 4 | 3 | 2 | 1 | 0 |

## Appendix B

## Judicial Decision Making Questionnaire

1. Age \_\_\_\_\_

2. Sex:

(a) Male

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(a) Freshman

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Indicate the extent to which you agree with each of the following items, using the following format:  
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- |  |   |   |   |   |   |
|--|---|---|---|---|---|
| 1. In uncertain times, I usually expect the best.                      | 4 | 3 | 2 | 1 | 0 |
| 2. It's easy for me to relax.  | 4 | 3 | 2 | 1 | 0 |
| 3. If something can go wrong for me, it will                           | 4 | 3 | 2 | 1 | 0 |
| 4. I always look on the bright side of things.                         | 4 | 3 | 2 | 1 | 0 |
| 5. I'm always optimistic about my future                               | 4 | 3 | 2 | 1 | 0 |
| 6. I enjoy my friends a lot  | 4 | 3 | 2 | 1 | 0 |
| 7. It's important for me to keep busy.                                 | 4 | 3 | 2 | 1 | 0 |
| 8. I hardly ever expect things to go my way.                           | 4 | 3 | 2 | 1 | 0 |
| 9. Things never work out the way I want them to.                       | 4 | 3 | 2 | 1 | 0 |
| 10. I don't get upset too easily.                                      | 4 | 3 | 2 | 1 | 0 |
| 11. I'm a believer in the idea that "every cloud has a silver lining." | 4 | 3 | 2 | 1 | 0 |
| 12. I rarely count on good things happening to me.                     | 4 | 3 | 2 | 1 | 0 |

## NOTE THE CHANGE IN RESPONDING FOR THE NEXT QUESTIONS

How confident are you that you provided an appropriate sentence?

1	2	3	4	5	6	7	8
Not confident at all						Very confident	

To what degree do you believe the defendant's personality versus situational circumstances contributed to his committing this crime

1	2	3	4	5	6	7	8
Completely personality						Completely situational	

To what degree do you feel sorry for the defendant?

1	2	3	4	5	6	7	8
Not at all sorry						Very Sorry	

Please rate how likeable you found the defendant to be:

1	2	3	4	5	6	7	8
Not at all likeable						Very likeable	

How likely is it that the defendant will commit this sort of crime again?

1	2	3	4	5	6	7	8
Not at all likely						Very likely	

Please indicate your political leanings on FISCAL ISSUES (e.g., government spending).

1	2	3	4	5	6	7	8
Very Conservative						Very Liberal	

Please indicate your political leanings on SOCIAL ISSUES (e.g., abortion, equal rights).

1	2	3	4	5	6	7	8
Very Conservative						Very Liberal	

Was there any piece of information that swayed your sentencing decision in one direction or another?

Did you feel that you were given enough information to make an informed decision? Why/why not?

What additional information would have helped you in making your decision?

## Appendix C

## Debriefing Statement

Thank you for your participation in this study. The U.S. court system relies on the discretion of judges for most sentencing decisions. Even when there are sentencing guidelines, the judicial decision making process requires judges to use their discretion to determine the actual sentence. This study is investigating the role personality characteristics play in judicial decision making. Little research has focused on the personality characteristics of judges and what role they play in sentencing decisions. Our goal was to evaluate the role of a particular personality characteristic, optimism, on these discretionary decisions by assessing the affect of this characteristic in a mock judicial making decision experiment. Thank you again for your time, and if you have questions please feel free to contact the investigators.

Table 1 Optimism (Life Orientation Test) Results

**LOT**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	9.00	1	1.7	1.7	1.7
	10.00	1	1.7	1.7	3.3
	11.00	1	1.7	1.7	5.0
	12.00	1	1.7	1.7	6.7
	13.00	2	3.3	3.3	10.0
	14.00	3	5.0	5.0	15.0
	15.00	3	5.0	5.0	20.0
	16.00	5	8.3	8.3	28.3
	17.00	2	3.3	3.3	31.7
	18.00	3	5.0	5.0	36.7
	19.00	5	8.3	8.3	45.0
	20.00	8	13.3	13.3	58.3
	21.00	4	6.7	6.7	65.0
	22.00	3	5.0	5.0	70.0
	23.00	9	15.0	15.0	85.0
	24.00	1	1.7	1.7	86.7
	25.00	5	8.3	8.3	95.0
	26.00	2	3.3	3.3	98.3
	27.00	1	1.7	1.7	100.0
	Total	60	100.0	100.0	

**Descriptive Statistics**

	N	Range	Minimum	Maximum	Mean	Std. Deviation
LOT	60	18.00	9.00	27.00	19.3833	4.31431
Valid N (listwise)	60					

Table 2 Sentence Results

**Sentence**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	7.00	2	3.3	3.3	3.3
	8.00	1	1.7	1.7	5.0
	10.00	11	18.3	18.3	23.3
	12.00	1	1.7	1.7	25.0
	14.00	1	1.7	1.7	26.7
	15.00	5	8.3	8.3	35.0
	20.00	8	13.3	13.3	48.3
	25.00	3	5.0	5.0	53.3
	30.00	10	16.7	16.7	70.0
	35.00	3	5.0	5.0	75.0
	40.00	3	5.0	5.0	80.0
	45.00	2	3.3	3.3	83.3
	50.00	1	1.7	1.7	85.0
	60.00	9	15.0	15.0	100.0
	Total	60	100.0	100.0	

**Descriptive Statistics**

	N	Range	Minimum	Maximum	Mean	Std. Deviation
Sentence	60	53.00	7.00	60.00	27.8833	17.26080
Valid N (listwise)	60					



Table 3 Gender Differences

**Group Statistics**

	SEX	N	Mean	Std. Deviation	Std. Error Mean
SENTEN	Male	17	27.6471	18.22410	4.41999
CE	Female	43	27.9767	17.08729	2.60579
CONFID	Male	17	6.2353	1.14725	.27825
EN	Female	43	5.5116	1.31606	.20070
PERSOS	Male	17	5.1176	1.86689	.45279
IT	Female	43	4.6047	1.56052	.23798
FEELSO	Male	17	3.0588	2.13514	.51785
RR	Female	43	2.6512	1.41225	.21537
LIKABL	Male	17	3.5294	1.97223	.47834
E	Female	43	3.3721	1.34560	.20520
COMMI	Male	17	3.0588	1.74895	.42418
TAG	Female	43	3.7907	1.58201	.24125
FISCAL	Male	17	4.6471	1.45521	.35294
	Female	43	4.2558	1.25533	.19144
SOCIAL	Male	17	4.7059	1.75943	.42672
	Female	43	3.8837	1.78898	.27282

