

SPEED DATING LADY JUSTICE

by

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A thesis proposal is submitted in partial fulfillment of the
requirements for the

Sociology Honors Program

University of Oregon

Spring 2015

UNIVERSITY OF OREGON

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Abstract

This thesis examines the predictive devices attorneys use to remove jurors due to shortened selection process in petit trials. This study examines how weight, age, and class are used alongside the master traits of gender and race to select individuals to be excluded from serving as jurors.

TABLE OF CONTENTS

| | |
|------------------------------------|----|
| Introduction..... | 1 |
| .. | |
| Literature | 3 |
| Review..... | |
| Methods..... | 7 |
| | |
| Findings..... | 12 |
| | |
| Jury Selection Questionnaires..... | 12 |
| Time..... | 13 |
| Gender..... | 14 |
| Gender and | 17 |
| Age..... | |
| Gender and | 17 |
| Weight..... | |
| Attorney Gender..... | 18 |
| Race..... | 21 |
| Social Class..... | 22 |
| Client and Attorney..... | 25 |
| | 27 |
| Education..... | |
| Age..... | 28 |
| Winning..... | 31 |
| Discussion..... | 33 |
| ... | |
| Limitations..... | 34 |
| ... | |
| Conclusions..... | 34 |
| ... | |

| | |
|-------------------------------------|----|
| Reference..... | 36 |
| ... | |
| Appendix 1:Definitions..... | 41 |
| Appendix 2:Interview Questions..... | 43 |
| Tables and Figures | |
| Table | 9 |
| 1..... | |
| Table | 11 |
| 2..... | |
| Table | 15 |
| 3..... | |
| Figure | 23 |
| 1..... | |
| Figure | 30 |
| 2..... | |

“Voir dire is there to get a competent, fair, and impartial jury, well that is absolutely ridiculous. You are there to win.... and the only way you are going to do your best is to get jurors that are as unfair and more likely to convict as than anybody else in that room” (McMahon, 1996)

Introduction

The ideal jury is a randomly selected, cross section, of community members. Their role is to judge the accused, fairly and without bias. A person’s freedom, life, family, livelihood are in the hands of those seated in the jury box. Attorneys, however, can and do, remove those jurors who they think will side against them. The extent, to which attorneys remove jurors out of their own biases, not the biases of the jurors, as intended, is the focus of this thesis.

Trials consist of two sides equally set on winning. The prosecution represents the state and the defense represents the defendant accused of the crime. Jury selection in criminal petit trials lasts less than two hours. A petit trial is one that lasts five days or less. Some researchers describe jury selection, as being like “speed dating” (Saris, 2013). Speed dating is an organized social event where people have a series of short, approximately 2-5 minutes, conversations with potential partners to see if there is interest. When the event ends, each person has chosen two or three people they would like to get to know better. By conducting jury selection quickly, attorneys miss detecting juror bias, resulting in an unjust verdict. Jury selection questionnaires

that indicate predictive devices including, the juror's age, social class, occupation, and education level increase the speed of this process. Predictive devices are substitutes humans use when we do not have all the information we need to form an opinion. These jury questionnaires allow both sides to quickly mark jurors for exclusion before examining them during voir dire. Voir dire is the questioning of the jury in an attempt to determine bias. Peremptory challenges allow the removal of the juror at the attorney's discretion. There are a limited number of peremptory challenges per case. In Lane County, in a twelve-person jury trial, each side receives six peremptory challenges while in a six-person jury trial each side receives three peremptory challenges.

I examined how prosecutors and defense attorneys readily admit to using predictive devices such as social class, education, and age when selecting a jury and show how weight, race, and gender are also predictive devices used in their selection process. The Supreme Court has ruled that removing jurors based on protected classes, such as, sexual orientation, race, or gender, is against the law while removing jurors based on other biases, such as body weight, is allowed (Mintz, 1986; O'Grady, 2011). Even though gender is one of the protected classes, both the attorneys I interviewed, and my observations point to the use of gender as one of the predictive devices used in jury selection in Lane County, Oregon. I examined and recorded race, but a lack of non-white jurors at jury selection was notable.

Age and social class, which are not part of the protected classes, were important predictive devices used in the jury selection process. Attorneys indicated that social class was the number one device they used, in determining when, to use a peremptory challenge. While attorneys did not notice themselves or others using weight in the selection process my field research indicated that it was a factor in jury selection. The speed of jury selection in petit trials forces attorneys into selecting jurors based on predictive devices such as race, age, class, gender, and weight. By determining that these predictive devices attorneys use, we may find a significant portion of the population is being targeted for elimination in jury selection.

Literature Review

Every day people make intelligent guesses about those they meet based on their previous experiences. First impressions are important in everyday life and being able to judge someone's verbal and visual cues is a vital skill. We rarely have enough information to make these judgments, so we use predictive devices (Goffman, 1959). Attorneys judge jurors using the norms of society. Attorneys often refer to these predictive devices, learned from colleagues, used during voir dire as folklore (Girvan, Cramer, & Titcomb 2013; Benokraitis & Griffin-Keene, 1982; Bennett, Hirschhorn, & Gordon, 1993; Fahringer, 1994).

Much of the legal research talks about folklore as being one of the main selection processes attorneys use. Attorneys learn folklores from their work related reference group. Reference groups are the groups of individuals identifies with and shares beliefs, attitudes, and compares his or herself to (Merton, 1968). Attorneys use these predictive devices to make quick decisions when not all of the data is available. Predictive devices include sex, race, weight, and social class. Folklore helps to interpret these predictive devices, giving meaning to each one.

Some attribute jury selection to a culture of folklore (Girvan, Cramer, & Titcomb 2013; Benokraitis & Griffin-Keene, 1982) while other research points out that short voir dire practices in petit trials force attorneys to stereotype (Fahringer, 1994; Saris, 2013; Hans & Jehle, 2003). In her podcast, Saris compares voir dire to speed dating. Attorneys are given approximately three minutes per juror to decide if they are right for their client. This short voir dire forces attorneys to resort to predictive devices, which may include conscious and unconscious biases (Arterton, 2008) and stigmas (Lane, Kang, & Banaji, 2007). These master stigmas and stereotypes are part of what attorneys are basing their peremptory challenges on. While many studies have focused on the use of peremptory challenges in regards to race (Underwood, 1992) or gender (Fulero & Penrod, 1990), other studies are calling for more research in jury selection in these other unprotected stigmas (Puhl & Brownell, 2001). This study looks into the other predictive devices and unprotected stigmas in jury selection.

Subordinate traits, or predictive devices, like weight and facial hair, are assigned meaning and we categorize that meaning into a character trait. This is done both consciously and unconsciously. These traits are not always negative. We may feel that people with glasses are smarter, that someone who is dressed impeccably has good attention to detail, or that women are more sensitive in nature. All of these character traits are positive, but they are judgments that are unfairly passed on the individual. Many of the predictive devices may be attributed to negative stereotypes as well. Individuals who are overweight might be identified with being of a lower class than they might be (Korn, 1997). While master traits like race and gender cannot be controlled, individuals attempt to manage the cues they give off using impression management. Impression management is a person's conscious or unconscious attempt to influence their presentation of themselves to others (Goffman, 1959).

Jury selection like speed dating is about impression management and impression formation (Larson & Tsitsos, 2013). Shortened questioning in voir dire often leads to group questions or intimate questions being asked in open court. Studies have shown that asking questions like these are less likely to invoke honest responses that will lead to uncovering bias (Suggs and Sales, 1980). Attorneys and juries both use impression management during voir dire. Both are attempting to put their best selves forward. Impression formation is how others perceive a person (Goffman, 1959). This formation is initially based on preconceived notions held by

individuals that are triggered by unconscious and conscious bias. People systematically categorize people. "...Categorization and knowledge of the world are inseparable" (Hart, Ottati, & Krumdick, 2011). By using sign vehicles we attempt to control the impressions, others receive from us. (Goffman, 1959). Sign vehicles are the way we act, our appearance, and the props we use to represent ourselves. These sign vehicles are the methods we use to present ourselves to the world (Goffman, 1959).

In Goffman's 'The Presentation of Self in Everyday Life', everyone is an actor and your performance is shaped by your audience and the environment. When you perform a role to an audience that role is on front stage while backstage is the role you play away from the audience (Goffman, 1967). Attorneys are described as actors (Darrow, 1936; Pierce, 1996). Attorneys like actors prepare for court, backstage, by choosing their costume, practicing their lines, and carry props. These props are a piece of this front stage performance and are part of impression management. Attorneys of different genders prepare for the stage differently, have different ideas of how to present themselves, and use different methods of managing their impressions (Pierce, 1996). Our experiences with others cause us to attribute traits and predictive devices into impressions that we use to judge others. While some traits are subordinate, other traits are master traits.

Master traits are traits that distinguish us from those who do not have it. Occupation or education level can be a master trait (Becker, 1963). This could include being a doctor or a lawyer. While traits are neither negative nor positive, stigmas are always negative. Master stigmas are much the same, except that stigmas are the negative connotation that is used to define a person. Being a convicted felon is a master stigma. These master traits and stigmas are often the symbols that we use as our predictive devices. Gender, nationality, race, class, grooming, all of these things say something about us. These impressions we give off are then picked up by the receiver and interpreted.

Not all traits are master traits. While gender, race, and class are master traits being someone who wears glasses would be a subordinate trait. Subordinate traits are still used as predictive devices, but they leave a smaller impression and do not define the person. These classifications are important in understanding the conscious and unconscious bias that drives peremptory challenges.

Historically, traits like race and gender have been used when considering peremptory challenges and statistics show that they are still currently being used, even when attorneys hide behind other excuses (O'Grady, 2011). Some research states that females and individuals of a

lower social class appear in greater numbers in jury pools, however, this research stated that it did not lead to these groups being over-represented on juries (Rose, 1999).

An ideal juror (McConahay, Mullins, & Frederick 1977; Cammack, 1994) is favorable to one side or the other based on their traits so that no matter what the evidence, the juror will vote with that side. Attorneys attempt to develop ideal jurors based on case factors (McConahay, Mullins, & Frederick, 1977) and the client social schema (Page, 2005). Social schemas are another way of saying traits and predictive devices such as gender, race, age, class, and weight. Juries are supposed to be a cross-section of the population and jury lists are pulled randomly from voter registration and driver's license records (Oregon State Bar, 2013). Attorneys used these practices in the past to eliminate people based on the master traits of race and gender until the US Supreme Court ruled that this was unconstitutional (Kuborn, 1995; Mintz, 1986) (Rose, 1999). Attorneys rely on these traits, folklore, and their own bias to make quick decisions about which jurors to remove from the trial. Some of this folklore can be found in a training video I acquired from a journalism source. Prosecutors use many ways of summing up jurors on sight and with little data beyond the jury selection questionnaires including gender and race. (McMahon, 1996). This training video is from the Philadelphia prosecutor's office in 1996 and was used to train prosecutors there for years.

These biases are better understood through intersectionality and the predictive devices. The current literature fails to consider the predictive devices that exist beyond the master traits of race and gender. Although it must be acknowledged that race and gender are two compelling factors, more research is needed on predictive devices in jury selection. There is a growing amount of information on the impact of weight bias in our culture, however, this research is currently calling for more research to be done in regards to weight bias and jury selection (Puhl, 2001). The complexity of jury selection requires a new approach. By looking at the master and subordinate traits of the jurors, this study analyzes what attorneys are basing their peremptory challenges on.

Jury selection is done so quickly in petit trials that it's akin to speed dating. This speed of voir dire prevents attorneys from excluding jurors who are bias, instead they use their own bias to remove jurors they think are most likely to rule against them. For attorneys, justice is all about winning for their client (Clarence Darrow, 1963). In capital cases, jury selection takes much longer and research has shown that attorneys are excluding jurors based on gender and race (Brand, 1994; Marder, 1994). This study examines gender and race, as well as, other predictive devices used in petit trials such as weight, class, and age.

Methods

In this study, a multi-method approach was used. For the first method, ethnographic research was conducted at Lane County courthouse. I attended Lane County trial call daily for 3 months. Trial call, held Tuesday through Friday at Lane County courthouse, is where trials are assigned to a judge. After a trial is assigned to the judge, defense and prosecution move to the courtroom that was assigned, and the trial begins or it can also be settled prior to trial starting. I was able to watch two trials that were assigned from trial call. On two occasions I was informed of trials, once by an attorney I interviewed and once by a guard at the courthouse, that had been previously scheduled and I attended both of those trials as well. The ethnographic data for this study consists of observation of four petit trials; two of these trials were six-person jury trials while two were twelve person jury trials. Jury selection ranged from 50 minutes to 101 minutes. The data from these trials was handwritten and transcribed. In this data, I examined the predictive devices attorneys use to select jurors by examining which jurors attorneys remove. I focused on class, age, gender, race, and weight but did not dismiss other factors. All transcriptions were then coded and analyzed for reoccurring themes.

Table 1 shows a list of my variables for this thesis. I operationalized the concept of age in three categories that were determined by observational factors and answers to questions during voir dire. The first category is young (ages 18-39), these jurors were youthful in appearance, had no wrinkles, or/and indicated in questioning age markers that would indicate they were younger

than 40. They comprised 19.3% of the jurors I observed. Middle-aged jurors (ages 40-59) were older in appearance, had few wrinkles, and their answers to questions about education, marriage, and children suggested age markers. They were 22.8% of all jurors. The older age group (age 60+) was indicated by wrinkles and graying hair, and they comprised 57.8% of the jurors I saw. Other indicators were retirement, long marriages, and employment.

Social class was determined visually and with indicators from the questioning such as occupation and length of employment. There were five categories for class. Lower social class (15.8%) indicators are very worn clothing, scuffed or dirty shoes, other economic indicators were low wage service industry jobs, personal grooming, language, and body language. Lower-middle social class (33.3%) was indicated with slightly worn clothing, service industry jobs or low wage office jobs, personal grooming, language, and body language. Middle social class (29.8%) was indicated with high wage service jobs or office jobs, personal grooming, language, and body language. Middle to upper social class (19.3%) was indicated with high wage office jobs or professional employment, personal grooming, language, and body language. Upper social class (1.8%) was indicated with high wage professional jobs.

Table 1: Univariate Results for Independent and Dependent Variables

| Independent Variables | Number | Percent |
|------------------------------|---------------|----------------|
| Gender | | |
| Male | 33 | 57.9 |
| Female | 24 | 42.1 |

| | | |
|---------------------------|-----------|--------------|
| Build | | |
| Thin, <u><20 BMI</u> | 4 | 7.0 |
| Average | 36 | 63.2 |
| Obese, <u>>37 BM</u> | 17 | 29.8 |
| Race | | |
| White | 55 | 96.5 |
| Non-white | 2 | 3.5 |
| Social Class | | |
| Lower | 9 | 15.8 |
| Lower - Middle | 19 | 33.3 |
| Middle | 17 | 29.8 |
| Middle - Upper | 11 | 19.3 |
| Upper | 1 | 1.8 |
| Age | | |
| Young | 11 | 19.3 |
| Middle Age | 13 | 22.8 |
| Older | 33 | 57.9 |
| Dependent variable | | |
| Results for jurors | | |
| Sat on a trial | 38 | 66.7 |
| Defense removed | 11 | 19.3 |
| Prosecutor removed | 8 | 14.0 |
| Total | 57 | 100.0 |

Weight was determined visually. The concept of weight was divided into three distinct and extreme categories. Thin was seen as overtly thin, with a body mass index BMI of ≤ 20 , and comprised 7% of all jurors. Average was all individuals who ranged between the categories of thin and obese, they comprised 63.2% of all jurors. This category included individuals who were

merely overweight, BMI 21-36. While the obese classification, BMI ≥ 37 , was limited to all individuals who were overtly obese and comprised 29.8% of all jurors.

Gender and race was determined visually with indicators that are socially constructed. Body shape, clothing, hair, skin color, and other factors were considered. Gender categories were limited to male (57.9%) and female (42.1%). While my initial research led me to expect that there would be more female jurors, due to their inability to be removed for hardship reasons and lack of female employment, the opposite was true. I observed more male jurors than female jurors.

Race was limited to white and non-white due to the population demographics of Lane County, Oregon. White jurors comprised 96.5% of all jurors, while non-whites comprised 3.5% of all jurors. These numbers were significantly lower than I expected to see.

The second method of this study included in-depth interviews with three defense attorneys, as well as, informal interviews with two prosecutors. These attorneys with whom I did in-depth interviews are known to me through work or family. The prosecution interviews were done through requests made by me on site. Participants were chosen with the goal of assessing jury selection processes from varying sides. Both male and female defense and prosecutorial attorneys were interviewed. Interviews ranged from 30 to 45 minutes in length. A

semi-structured interview method was used to identify how attorneys prepare for jury selection, what predictive devices attorneys used to remove jurors, what predictive devices they identified as being most important, and which predictive devices they deemed least relevant. Interviews were audio-recorded and transcribed. All transcriptions were then coded. This data was then analyzed and reoccurring themes were noted. Interview Questions see Appendix 3.1. All frequent language was coded and patterns established. Below is a table pseudonyms for the individual attorneys, as well as their gender, occupation, approximate age, and experience as a licensed attorney. I will refer to these informants by their pseudonyms in the analysis.

Table 2: Interview Subjects

| Pseudonym | Gender | Attorney side | Age | Experience |
|------------------|---------------|----------------------|------------|-------------------|
| Miles Crane | Male | Defense | 50-59 | 21 years |
| Mary Kate | Female | Defense | 30-39 | 6 years |
| Rodger Dodge | Male | Defense | 20-29 | 3 years |
| Wendy Pander | Female | Prosecutor | 50-59 | 23 years |
| Bradley Junction | Male | Prosecutor | 40-49 | 9 years |

The third method of this study included content analysis of a 1996 prosecution training video from Philadelphia, conducted by prosecutor Jack McMahon. I transcribed and coded this video. The data was analyzed and reoccurring themes were noted. The film is one hour and two minutes long. This film was used to train new prosecutors in the Philadelphia court system. This film was obtained through journalistic sources and has since been posted online. This video does not indicate a position of Oregon prosecutors, however, it does show how prosecutors think and

may be trained to think. Patterns were analyzed from the video, the responses in the interviews and the ethnographic research.

Findings

“Really the easy way to describe jury selection is that it is very quick and dirty opposition research... We also don't have enough judges so cases are double and triple booked.” (Rodger Dodge)

Jury selection questionnaires

Jury selection questionnaires are used to begin selecting jurors before they are even questioned. Each juror questionnaire provides the attorneys with data such as, income, marital status, age, education level, the town they live in, their place of birth, occupation, spouse's occupation, children living with them, under the age of 20, children not living with them, children in college, if they have sued before, if they have served on a jury before, if they were victims of a crime, if they have had a personal injury claim, if they know any law enforcement officers, and if they drive.

This information does little to examine the biases potential jurors may possess but informs the attorneys of the predictive devices the attorneys themselves admit they use to select potential jurors such as social class and age. Attorneys will mark beside a list of jurors' names and then question them. The jury selection questionnaires are important to the attorneys as their selection time is limited. Attorneys are looking to put defendants in front of an audience who will understand them. Defense attorneys are looking for a jury of their peers, even down to the

same neighborhood if possible, because people from similar areas will have similar backgrounds and similar thinking processes.

“If I can get down to the neighborhood you are from that would be helpful. It’s important... that the defendants feel like their being judged fairly... it’s a whole different think to steal a loaf of bread to feed your kid because you are hungry than it is to steal a bag of candy from the store when you are in college.” (Mary Kate)

“If its theft, if its drugs, I am fine with having university students and people from the liberal section of the population. If its violence against women a whole lot of students are not the people you would want on it.” (Miles Crane)

“Figure out your jury pool first – presentation is important, then who they are. Where they are from which includes their prejudices.” (Rodger Dodge)

Attorneys select the audience based on the type of crime committed. Attorneys can also select their audience based on whom the defendant is or how the attorney wants to present the defendant to the jury. Attorneys use predictive devices based on reference groups as a way to select jurors quickly. The decisions must be efficient and effective so attorneys use predictive devices, such as location, to determine types of jurors wanted. Attorneys agree that people geographically located to each other may think similarly based on upbringing with similar reference groups.

Time

“...ask Hamlet, in wonder, about an actor’s ability to connect with a fictional character. In voir dire, a trial lawyer’s job is even more difficult. You have to connect with a group of strangers immediately, and without the benefit of dress rehearsal” (Berg, 2005)

In petit trials, jury selection lasts less than two hours for a 12 person juries and less than an hour for six-person juries. This does not give the attorneys a great deal of time to get to know the biases and prejudices of six to 12 people. All of the trials I watched, questioning of the jury went relatively the same. Jury selection in all the cases I observed lasted no longer than 105 minutes in each case. Questions were asked of the first jury box, than as jurors were removed, questioning of the replacement jurors began to speed up. In all of the cases, the last juror sat was asked a version of this question. “You heard what we asked the others” or “you have been listening.”, “anything we should know?” or “anything to add?” in all the cases the last juror states “no” and the jury is closed.

“There are lawyers who piss off the jurors [when] doing voir dire and they do that when their time is being wasted. I [have] got to be mindful of that, if I went over everything they would be upset... I ask them did you hear what I said before do you have anything to comment about any of that.” (Miles Crane)

“You can’t win your case by jury selection but it is possible to lose it. You lose it by alienating the jury.” (Miles Crane)

Attorneys are concerned with upsetting the judges who are busy or upsetting the jury with lengthy voir dire. In one case I watched, a judge told the attorneys that jury selection would be finished by lunchtime because he had other obligations. Attorneys cite alienating a jury as a way of losing the case and so they speed through jury selection, however, no attorney I spoke to felt that they were rushed in doing so. Many felt that picking quickly was strategic to not upset the jurors and felt that it was more of a burden on the defense attorney to select the correct jury than the prosecution. Attorneys feel that trial is not won in jury selection but can be lost by alienating the jury.

“We’ve got old people, young people, we’ve got students, we’ve got hippies, we’ve got rednecks, we’ve got rural, urban and it’s all here.” (Miles Crane)

Gender

“Educated women you don’t pick... I might have heard that as a prosecutor.” (Mary Kate)

Gender is one of the main pillars of jury selection. Removing jurors based on gender is against the law enacted by the Supreme Court to combat bias in jury selection. While other research showed that females serve at higher numbers than males, my jury pools were consistently higher in males than females. The balance of male to female jurors was unexpected, 57.9% of the jury pool was male and only 42.1% was female (Table 2).

Table 3: Crosstabulations of Independent Variables by Dependent Variable

| Independent Variables | Results for Jurors | | | | | |
|-----------------------|--------------------|--------------|-----------------|--------------|--------------------|--------------|
| | Sat on a Trial | | Defense Removed | | Prosecutor Removed | |
| | Number | Percent | Number | Percent | Number | Percent |
| Gender | | | | | | |
| Male | 22 | 57.9 | 5 | 45.5 | 6 | 75.0 |
| Female | 16 | 42.1 | 6 | 54.5 | 2 | 25.0 |
| Build | | | | | | |
| Thin. ≤ 20 BMI | 2 | 5.3 | 1 | 9.1 | 1 | 12.5 |
| Average | 25 | 65.8 | 8 | 72.7 | 3 | 37.5 |
| Obese. ≥ 37 BM | 11 | 28.9 | 2 | 18.2 | 4 | 50.0 |
| Race | | | | | | |
| White | 37 | 97.4 | 10 | 90.9 | 8 | 100 |
| Non-white | 1 | 2.6 | 1 | 9.1 | 0 | 0.0 |
| Social Class | | | | | | |
| Lower | 6 | 15.8 | 0 | 0.0 | 3 | 37.5 |
| Lower – Middle | 13 | 34.2 | 4 | 36.4 | 2 | 25.0 |
| Middle | 13 | 34.2 | 3 | 27.3 | 1 | 12.5 |
| Middle – Upper | 6 | 15.8 | 3 | 27.3 | 2 | 25.0 |
| Upper | 0 | 0.0 | 1 | 9.1 | 0 | 0.0 |
| Age | | | | | | |
| Younger | 5 | 13.2 | 2 | 18.2 | 4 | 50.0 |
| Middle | 9 | 23.7 | 3 | 27.3 | 1 | 12.5 |
| Older | 24 | 63.2 | 6 | 54.5 | 3 | 37.5 |
| Total | 38 | 100.0 | 11 | 100.0 | 8 | 100.0 |

As seen in Table 3, 75% of the jurors removed by the prosecution were male. This however did not create a lack of male jurors. Unlike the prosecution, the defense removed more female than male jurors. Of the jurors removed by the defense, 45.5% were male and 54.5% were female. While the defense tended to remove more females than males, the difference was

marginal. During informal interviews, defense attorneys were candid about gender, stating that females are “more vindictive” than males and far more likely to blame someone and want to see someone punished. This attitude fits with how gender was used as a predictive device in the cases I observed.

“Most women are vindictive and judgmental, I believe that.”
(Mary Kate)

Gender in conversations was directed solely at female jurors, while, male jurors were discussed strictly by their economic class or occupation. This gender bias was evident in both male and female attorneys.

“[it] is like, do you put salt in food? Well I am going to look if by food [do] you mean a pizza, a glass of wine, a bowl of spaghetti, a bowl of cereal or a bowl of ice cream. The answer is going to be different.” (Miles Crane)

“There's a personal "creepiness" factor that comes into play when evaluating whether I want female jurors” (Miles Crane)

Women were seen as oppressed in some regards and vicious in others. Attorneys felt that women were hardest on other women, often comparing themselves by saying “I would never put myself in that position.” Most attorneys were not very open to discussing gender while being

recorded, saying that although it was used in jury selection it was something taken into account with many other factors. These factors could include the clients' demographics or personality.

From these results, we see that defense relied little on gender while prosecutions numbers suggest they relied more heavily on gender as a predictive device. Attorneys on both sides agreed that gender plays a part but stated, that it is not a significant factor they consider. This indicates that gender plays a bigger role than either side admits or recognizes.

Gender and Age

During the 1996 Philadelphia prosecutor training video, prosecutor Jack McMahon, discussed gender, race, and age specifically.

“Older Black women, when you have a black defendant whose a young boy and they can identify as his mother... thing[s] are a little more difficult, men don't have that same kinda maternal instinct towards them and they are a little bit more demanding and a little bit more law and order” (McMahon, 1996).

This seemed to hold true in regards to how Oregon defense attorneys felt.

“Sometime[s I] want the grandmotherly type in a case with a young male defendant” (Mary Kate).

Overall attorneys considered gender, along with other factors.

“ I will treat a school lunch lady who is age 60 differently from the way I treat a 30 year old professional in an office, differently than [the] 18 year old student, differently from a retired woman who was a farmer. That is a factor that I add into other things to see if it works” (Miles Crane).

Age specifically tied into gender in many regards. Attorneys considered older men and women more conservative.

Gender and Weight:

The intersection of gender and weight appeared in this study. Prosecutors removed more obese males, while defense removed more average build females and males. While there were more average jurors, overall it is disturbing to note that the prosecution removed a far greater number of obese jurors than average jurors.

Note, that while weight is an indication of class, in my study, the prosecution removed obese potential jurors from a wide range of social classes. The 17 jurors who were classified as obese, five of those were classified in the lower social class, six were classified in lower-middle social class, two were classified in middle class, and two were classified in upper to middle class.

The sat jury consisted of 65.8% jurors of average build, 5.3% of jurors of thin build, and 29.0% of jurors of obese build (Table 1). The result for thin and average were expected due to the nature of the classification range, however, there were more obese jurors than I expected. Of the jurors the prosecution removed 50.0% were obese jurors, 37.5% were jurors of average build, and 12.5% were thin jurors (Table 3). Of the jurors removed by the defense 18.2% were obese jurors, 75.7% were jurors of average build, and 9.1% were thin jurors (Table 3). The higher number of jurors who were obese and removed by the prosecution was not expected.

You can see there is a sharp increase in jurors who are male and obese on the prosecution side. Overweight individuals might be viewed as of a lower social class and therefore targeted. While my research is far too limited to be conclusive, I feel that more research is needed regarding this possible relationship between obesity, gender, and social class.

Attorney Gender

While gender is an overall factor for jury selection it also affects the way that attorneys present themselves in court. Female attorneys spoke of neutralizing their appearance. One of the ways female attorneys neutralize the impressions they give off is to wear fake wedding rings. I witnessed this on at least one occasion while observing trials. This eliminates the question of whether they are married or why they are not married. Female attorneys spoke about wearing

neutral nail polish and having manicured nails, clothing that was professional but not too conservative, skirts or pants depended on the type of table and where the jury sat but in general dresses or skirts were preferred. Female attorneys did not want to appear too attractive or too rigid. Female attorneys put more of an emphasis on controlling and subduing impressions. The point of neutralizing was to present the jury with a character that made sense and did not offend any jurors or trigger gendered prejudices. They focused on creating an image that did not draw questions about the attorney themselves.

“I would put on a fake wedding ring every single time, those things are important to juries that you are neutral, that they are not asking questions about you... if you look to butch, if you look to femme, it really matters for some reason.” (Mary Kate)

“..he (a male attorney colleague) doesn't have those things that go through his head. What color should my nails be, for instance, I have heard of jury saying things like ‘Well if she is a really successful lawyer why doesn't she get her nails done, if I was a successful lawyer I would get my nails done’ so people throw these thoughts out there, ‘if I were a female lawyer’, I think for women lawyers..a lot more comes into it about how the jury perceives you.” (Mary Kate)

“Females lawyers in eastern Oregon wear super conservative skirts because gender equality has not made it that far and jury pools will hold it against the client and lawyer if they show up in a pants suit.” (Rodger Dodge)

“I worry about occupation and me as a female lawyer. Sometimes I worry about what the jurors will think about me as a younger female attorney and so that does cross my mind occasionally... ‘I think that a woman’s place is in the home and I’m a stay at home mom and that is what I think is important’. I would worry what they thought about me being a lawyer.” (Mary Kate)

Some male attorneys wear fake glasses while others alter their wardrobe to fit the audience’s expectation and performance requirements. Male attorneys talked about dressing up, being powerful, as well as, dressing down, as the underdog or for rural audiences. Dressing more conservative for some locations while less so for others. Male attorneys did not mention drawing questions from the jury, they saw the jury as an audience to sell an image too.

“I know 3 or 4 defense attorneys who wear fake glasses and then you can take them off a chew on them. Men only though, women don’t do that.” (Mary Kate)

“Mostly how I dress. I have a 3 piece blue pinstripe. If I want to look powerful I will have my hair done before trial, have my gold watch showing,..show that my side is authoritative. There are other times I want the jury to feel sorry for my sad sack of a client and I will wear tweed that the moths have been at and cast as myself as the underdog that way.” (Miles Crane)

“Research before ever walking into court. In Lincoln Co. Oregon the county is very poor, rural or semi-rural, no big time jobs, and there is a big drug problem. So you do not walk in wearing your best Hugo boss suit and I am not going to walk in with long hair and piercings. Now where I practice, Washington co., I can have long hair and piercings because everyone looks that way, even the

judges. In Lincoln County I am going to braid my hair down or cut it. Wear a shabby suit, and dress for my audience. I don't want them thinking here is a fancy pants Portland attorney because subconsciously they will hold that against you." (Rodger Dodge)

Above we can see that attorneys altered their appearance by putting on the required costume for the audience they were performing for. These decisions seem to be very driven by the gender roles the attorneys play. The male attorneys seemed more interested in dressing to convey a message while the female attorneys were trying to lessen the cost of impression. This gendered difference is very interesting and while this is not the focus of this study it deserves mentioning as part of the jury selection process. The attorney's costume is not the only one thought out when preparing for court

Audience consideration is important to this study because attorneys began by preparing how they will look before ever seeing a jury. They have a preconceived idea of what the jury will look like and dress accordingly. This preparation shows that they are specifically targeting a type or class of juror.

Race

"Let's face it again, ...the blacks from the low income areas are less likely to convict, I understand it, it's an understandable proposition there is a resentment for law enforcement, there is a resentment for authority, and as a result you don't want those people on your jury and it may appear as if you are being racist or

whatnot but again your just being realistic you are just trying to win the case. Trying to be noble is not going to work.” (McMahon, 1996)

The other pillar of sociological research in jury selection has been race. Removing jurors based on race is also unethical and against the law enacted by the Supreme Court to combat bias in jury selection. The absence of race was apparent in the ethnographic observation of my study and I expected some absence of race and accounted for this by creating two categories non-white and white. It should be noted that in the three months I actively researched trials, I only saw four non-white jurors, all Hispanic, in the jury pool and only two non-white jurors were advanced into questioning. One non-white juror was sat on a jury while the other was removed by defense counsel. I had not expected such a low turnout of non-white jurors and inquired about this with the attorneys I interviewed.

The attorneys listed a variety of reasons for the lack of non-white jurors. These reasons included the selection process including that a large number of non-whites had not registered to vote or did not have licenses to drive. Voters are drawn from sources such as licensed drivers and voter registration cards.

“9 out of 10 people in this county are white and those who aren't often have records, or are homeless, or work for bosses who illegally won't let them take work off to serve, or just don't trust the

system enough to take the trouble to show up for their jury summons.” (Miles Crane)

“Because there aren’t as many of them and statistically they vote less. Voter registration is how we pull jurors.” (Mary Kate)

Although selecting someone for their race is not ethical or legal, some attorneys expressed that they would use race to select jurors and that race may be currently used by the prosecution as a predictive device to remove jurors.

“[I would] be more likely to select people of non-dominant ethnic groups. The pool is low on that (non-whites), I have witnessed but cannot prove that it is for racial reasons because the sample size is too small. If there happens to be one black juror... by golly the state uses one their peremptory to happen to exclude that juror, can I prove that the state used it because of what that juror looks like, not really but I’ve got my suspicions.” (Miles Crane)

The reason that race is used in jury selection is evident. Race is a determining factor in discrimination. People who have experienced discrimination, who have experienced stigmatization, are more likely to have dealt unfavorably with authorities in the past. Those who have an adversarial relationship with authorities are more likely to side with the defense. Attorneys readily admit to using social class as a predictive device and contend that it is the most useful predictive device at their disposal.

Social Class

“..most jury trials are contests between the rich and poor.”
(Darrow, 1937)

Social class is often ignored in sociological research on jury selection or is studied in close connection with race. In my field research, I based social class on my observations of the juror’s presentation of self, i.e., the way the juror spoke if at all, the occupation of the juror if it was given in court, and any other observable facts. The defense did remove the one upper-class potential juror, a cancer doctor, from the pool. The judge removed most upper-class jurors, and all of the students, prior to the selection process during the hardship phase of court questioning.

Figure 1: Peremptory Devices: Social Class

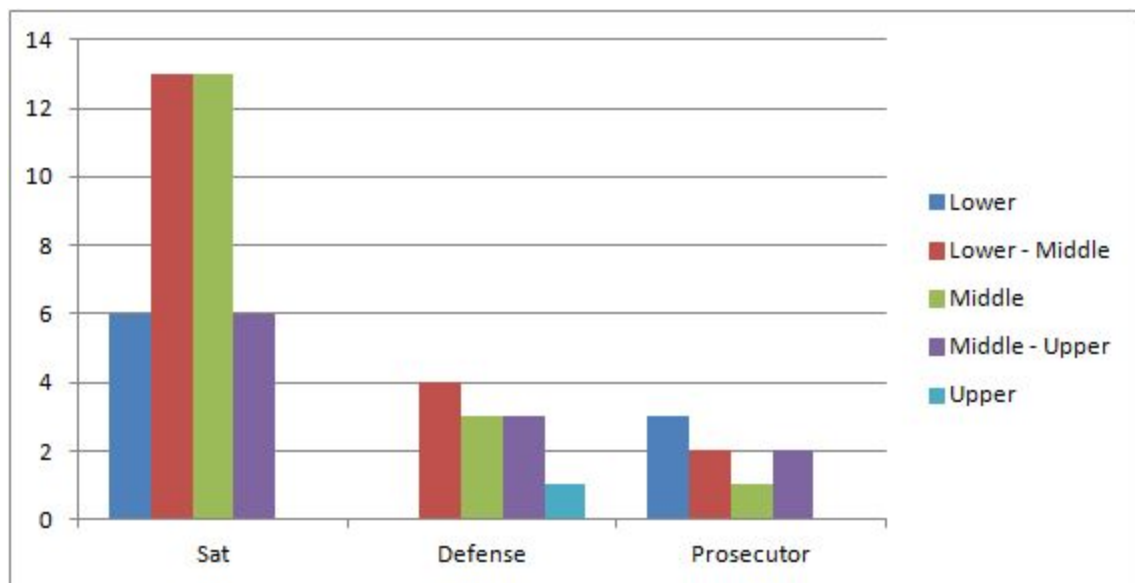


Figure 1 shows the jurors who were sat on juries and those removed from each side. You can see that there is a higher number of lower to middle and middle social class individuals. During my field research, the defense removed no lower class individuals and the prosecution removed no upper class individuals. As seen in Table 3, prosecution removed 37.5% of jurors who were of lower social class, who only made up 15.8% of the total jury pool. This is consistent with the information gathered from the interviews indicating that social class was the most important factor in jury selection. However, the Defense removed 36.4% lower-middle class, which was unexpected. The next two categories were divided equally, middle class and middle–upper class at 27.3% each. These categories were where I expected to find the higher number of jurors selected by defense for removal. This may indicate that age and not class are a greater factor for the defense. There may have been other circumstances regarding these jurors that I am unaware of.

While the research points to a pattern of class wars, the interviews confirm and solidify it repeatedly. Attorneys listed social class as the most important factor in jury selection. Defense attorney preferred those of lower social class, students, and professors or other liberally viewed professions; the prosecution did not want students or liberally viewed professions.

“I want jurors who have similar backgrounds and demographics. If the defendant is a redneck good ole boy, I... want redneck good ole boys and I will not want upper-class professional women with

a prejudice against rednecks. If my client is a computer programmer from Eugene, I will not want a whole bunch of people who live in trailer parks and are resentful of people who are doing well.” (Miles Crane)

“Class is important, the audience’s social class, if you are trying a case against a manager you aren’t going to want jurors who work in retail because they are going to be prejudiced against managers because they have to deal with them all the fucking time.” (Rodger Dodge)

“All things being equal I would usually go for someone who is dressed somewhat lower economic class on the grounds that they will probably be more likely to have experienced class discrimination..... If my defendant is a redneck then I will be more comfortable having rednecks that identify with him against the big bad government.” (Miles Crane)

“Research the jury panel. Where coming from, what is the social economic status? Washington Co. one side is Intel engineers they are super smart but emotional retards while the other side is Latinos and poor whites.” (Rodger Dodge)

“Class is really the most important thing. Well prior experience that is similar to your client, social status such as class, then gender.” (Rodger Dodge)

“I want someone as similarly situated to my client as much as possible. We talk about peers I really believe that a jury of your peers is a jury of your peers.... If I can get down to the neighborhood you are from that would be helpful” (Mary Kate)

Class was the number one variable that attorneys mentioned when picking a jury. The second most important factor was undecided. While the majority felt that age was the second most important factor, some disagreed stating that it was gender.

Client and Attorney:

As an effort to save face and lessen stigma, defendants are allowed to dress in street clothes that their family or attorney provide. Courtroom staff allows the attorneys to enter the courtroom before the jury and the defendant. In custody defendants are brought in under armed guard and wearing restraints. The guard removes the restraints before trial to allow the defendant to save face and lessen the stigma placed on him by his position in the courtroom. Defendants are often dressed in street clothes for these reasons as well. The court never allows the jury to see the defendant in restraints. If a jury member is mistakenly sees a defendant in restraints, which happened in one trial I observed, they are removed from the selection process or jury panel.

Just as much thought goes into prepping the client as prepping themselves, according to Lane County attorneys. Defendants are often forced to wear the street clothes they were brought in with if their attorneys are unable to provide a change of clothes and family may be unable to provide something for them to wear. Defendants are often dressed in clothing that the attorney hopes will work with the juror pool.

“In rural areas: Shabby dressed,, khakis, scuffed shoes, obviously cheap shirt and tie. In urban areas I will have the client go get a suit.” (Rodger Dodge)

“he had tats [tattoos] from neck to ankle, which we had kind of covered up... so one of the things we were looking for was people who might identify [with the client], not be thinking about.. [his] prison tats. So maybe someone with tattoos would have been helpful.” (Mary Kate)

By negating some of the stigma associated with being on trial, the system is allowing the defendant to save face. Attorneys are looking for someone who can identify with the defendant and dressing the defendant closely to the audience allows them to do that. Until this point, jury selection is about preparing to take the stage in front of a selected audience. Attorneys research the areas and demographics of the region to decide what props and type of impressions they wish to give off before entering court.

“I think people feel [that] they are there as the prosecutor’s jury, I see that a lot, like the prosecutor is the good guy. The white hat... I got a Boy Scout trying the case on the other side. I mean literally a Boy Scout and Eagle Scout. That is what he looks like, that is what he is. And he comes across just perfectly, white hat... I got to come off as not bitchy, to the jury, and I have got to come off a lot of different ways....” (Mary Kate)

“I am a defense attorney so I’m often seen as being the evil one or the one with the black hat” (Mary Kate)

Attorneys recognized that the jury might see the court system as adversarial with two sides, good and bad. Defense attorneys especially try to negate that by engaging the juries in conversation in jury selection. More research should be continued into social class and jury selection. It is a neglected portion of jury selection, but all the attorneys I interviewed agree is highly important.

Education

Along with social class comes education. Those people who have a higher education level tend to reside in a higher social class bracket. They may be better spoken and hold occupations that are more prestigious. The Philadelphia prosecution training video again reminded me of the interviews I had with Oregon attorneys.

“You don’t want smart people because smart people will analyze the hell out of your case. They have a higher standard, they hold you up to a higher standard, they hold the court up to a higher standard because they are intelligent people. They take the words “reasonable doubt” and they actually try to think about them.”
(McMahon, 1996)

Students, also classified as younger and more liberal, were not what the Oregon prosecutors were looking for in a juror.

“I don’t want people who are students, college professors, teachers, or younger people... younger people don’t have the experience to make decisions and the other groups tend to be more liberal.”
(Wendy Pander)

The prosecutors want less liberal and less intelligent people on the jury. The defense saw the education level of the jury as an indicator of which way to tell their story.

“In selecting blacks again you don’t want the real educated ones, again this goes across the board you don’t want smart people. If you are sitting down and you’re going to take blacks you want

older blacks. You see a black man come in, and he's well dressed, 70-75 years old. Those are very good jurors and I've seen DA's strike them because their black and that's kinda like a rule, if they're black I gotta get rid of them but these people, in my experience, are very good jurors." (McMahon, 1996)

In the above quote, the Philadelphia training video speaks to how the "rule" is to remove black jurors but he warns that well-dressed but not educated blacks can be good jurors. In this instance, age outweighs race but, also must be looked at with education as a component.

"Education level determines the pitch of the story and the language that will be most successful. If I have a highly educated jury I am going to use medical terms, physics, and formulas. If I have log truck drivers from Lincoln County I am going to use normal human language. Have witnesses talk in regular human terms. So once, the doctor explain[s] I will ask again for laymen's terms. So the jury understands and interrelates." (Rodger Dodge)

Attorneys gauge the way they prepare and the way they deliver their case and self-impressions based on the education level of the jurors. The defense especially talked about the language and way they might dress or prepare for court in regards to the education level of jurors.

Age

"Every retired person who gets a jury summons shows up unless they are in an old folk's home and can't move much or have a medical excuse. And my experience is, if they have ailments as

elderly people often do, and are in a lot of pain they take it out on other people,... they get a jury summons and say ‘Oh look I get to go fry somebody’s ass’ ... even [before they] enter the courthouse. They are looking forward to the idea of making somebody else hurt as much as they do.” (Miles Crane)

Sociological research has ignored age as a factor in jury selection. Attorneys ranked age as the second most used predictive device, just under social class. Most jurors in the jury pool were over the age of 60 (58%). During the hardship phase many younger jurors, ages 20-39, and students, were removed from the pool along with some middle-aged 40-59 professionals such as teachers or working family members. Older potential jurors outnumbered other types of jurors almost three to one.

50% of the jurors removed by the prosecution were younger even though young jurors only made up 19.3% of the total jury pool (Table 3). While 54.5% of the jurors removed by defense attorneys were older jurors (Table 3), it should be noted that older jurors made up 57.9% of the jury pool (Table 1). Age was a factor in jury selection, prosecution preferred older jurors who may be more conservative while defense favored younger jurors who may be more liberal.

In the quote above a Lane County defense attorney talks about older jurors wanting to lash out and hurt others as they themselves hurt. This type of prejudice was also present in the Philadelphia prosecutor training video.

“In my experience young black women are very bad [as jurors]. There is an antagonism, I guess, because they are downtrodden on two respects: they are women and they are black. They are downtrodden on two areas and they somehow want to take it out on somebody and you don’t want it to be you.” (McMahon, 1996)

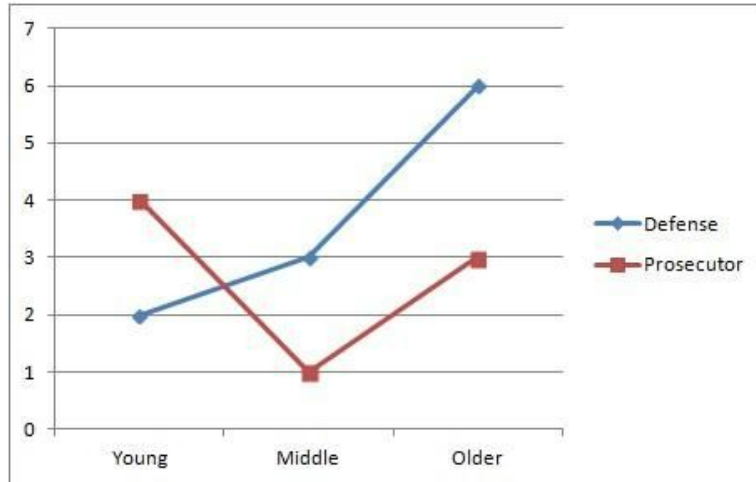
The difference here is that while the prosecution favors older, more conservative jurors the defense wants more liberal minded, younger jurors. Both of these attorneys use offensive wording to point out clearly that age is a factor in jury selection. The Philadelphia training video, also states that older black, well dressed, individuals make great jurors.

“..the people with jobs do anything they can to get out of jury service, the students always got an exam coming up and don’t want to come, the homeless aren’t even called for jury duty, people with any kind of record are excluded but the ones who do come are the retired people.” (Miles Crane).

The defense removed a far greater number of older potential jurors than the prosecution. The interviews showed that both sides had some prejudices when it involved age. The defense wanted to remove jurors based on their perception, which may be slightly out of date.

“There are generational differences such as what is acceptable behavior now might not have been acceptable behavior 30 or 40 years ago. For instance, I wouldn’t want my dad being the judge of texting and driving... he doesn’t even know how to turn on his phone half the time.” (Mary Kate).

Figure 2: Predictive Devices: Age.



Defense attorneys see older jurors as more conservative.

“Age matters, older jurors are more conservative and have more life experience which also means more baggage and more work for you in voir dire. The majority of all jury pools are retired so you have to work your pitch or presentation to that.” (Rodger Dodge)

While the prosecution spoke about the lack of experience in younger jurors.

“Younger people don’t have the experience to make decisions.”
(Wendy Pander)

While the defense removed older females disproportionately, the prosecution removed younger males disproportionately. This is consistent with the gender and age patterns discovered during this project.

My observations resulted in an expected pattern in age usage in juror selection. The defense removed 54.5% older jurors while the prosecution removed 50.0% younger jurors (Table

3). The sat jury, in all cases, consisted of 13.2% younger jurors, 23.7% middle-aged jurors, and 63.2% older jurors (Table 1). There were a higher number of older jurors to select from and many younger and middle-aged jurors were removed for hardship reasons like college or financial burden.

Winning the Game:

“Lawyers are supposed to want justice, but in reality there is no such thing as justice, either in or out of court. In fact, the word cannot be defined... The lawyer's idea of justice is a verdict for his client, and really this is the sole end for which he aims” (Clarence Darrow, 1963).

Our justice system is set up with two sides and creates a competitive atmosphere. Attorneys talked about winning as being the most important thing. Not in the name of justice or fairness but in the end our trial system comes down to a very simple contest of sides. I interviewed a prosecutor and defense attorney at the same table. Even though, both sides sat having a friendly lunch when asked questions about selecting jurors the body language told a story of competition and a noted reluctance to speak in front of the other side. Winning is something instilled in attorneys from early in their careers.

“There to get a competent fair and impartial jury, well that is absolutely ridiculous. You are there to win... And the defense is there to win too and the only way you are going to do your best is

to get jurors that are as unfair and more likely to convict as than anybody else in that room” (McMahon, 1996).

It is taught to them on the job, in training, in professional folklore?, and overall is a large part of the way they themselves think.

“You want to make sure you get a jury that agrees with you. That is the point of jury selection.” (Wendy Pander)

“Winning matters, winning is huge.... Prosecutors get ranks & promotions or demotions based on percents of wins and losses.” (Rodger Dodge)

Peremptory challenges were passed or not used by both sides in 3 out of 4 of the trials I observed. Once a peremptory challenge is passed, it is as if you used it. Attorneys cite liking the panel or not wanting the next juror in line from the gallery as reasons. Passing was a way of controlling the other side as well. Attorneys mentioned counting the number of jurors and challenges to see if the other side could get to a specific juror in the gallery. They would pass on challenges just to secure this not happening.

“I looked at who was in the gallery and I say ok If I pass I won’t get number three. And that is who I really don’t want and I know the prosecutor is trying to get to the person and maybe I tried to dismiss for cause and I didn’t get it. So you literally start counting and I...have to pass all three because I don’t want that person... I was involved in counting once. So I know we waived.” (Mary Kate)

Trials were seen as a game and created an air of competitiveness. Attorneys resorted to counting to keep one side from “getting” a juror they might want. This shows the type of gamesmanship, as well as, solidifies that predictive devices are a factor in how attorneys select jurors.

Discussion

Attorneys readily admit that social class is one of the most important factors in jury selection. Defense attorneys are looking for a “jury of their peers” for their client, which is often representative of the lower social class. Prosecutors are looking for people who are considered conservative and jurors who are older. These more “stable” jurors are seen as middle class. Education and language were key components that attorneys spoke of, prosecutors did not want jurors who were “too” intelligent.

Age was admittedly another highly valued factor in jury selection. The defense wanted more liberal minded individuals who were associated with those of a younger age group. The defense consistently removed older individuals in my study. Older jurors were seen as more conservative and in some cases “out to get” the defendant.

Even though using the traits race and gender is strictly forbidden in removing jurors, attorneys readily admitted that they were using these factors but on varying levels, the

prosecution seemed more focused on gender based on what I observed, however, the defense was more open to talking about how gender works. Race is less apparent in Lane County courts due to the small number of non-whites in the population in conjunction with how jurors are selected to serve. Gender was admittedly used, however, attorneys downplayed its influence on jury selection. This study shows some preference for gender exists and needs to be further studied over time. Gender was a contributing factor even though attorneys decidedly stated that it was not a large factor but agreed that it was used. Prosecution removed males at a far greater rate than females. Attorneys denied that body build was used at all in jury selection,, but obese male jurors were removed at higher rates than other builds in comparison with female jurors.

Race was not present in my ethnographic research due to the low number of non-whites who appeared for jury service. Many attorneys expressed concerns that this was due to low voter registration among non-whites. Attorneys admit that race would be a predictive device they would use to choose jurors if presented with the opportunity. This holds consistent with the wide amount of research on race and jury selection.

Female defense attorneys spoke of trying to neutralize their appearance, as to not attract more attention to their gender, in contrast, male attorneys spoke about creating an image based on the audience's demographics. Female defense attorneys wanted the least amount of attention placed on them. They concentrated on thinking about neutralizing impressions. In contrast, the

male attorneys were more interested in connecting with the jury and being seen as equal or similar to the jury.

Limitations

The scope of my research is limited to the data I collected from attorneys around Oregon and the circuit court of Lane County, Oregon. My research was based on a small, nonrandom sample, making broader generalization to the greater population impossible. This exploratory research does not cover capital cases or jury trials that are predicted to last longer than five days. Voir dire in these types of trials generally takes longer than three hours. My study is limited to short voir dire and petit trials. My results are not being generalizable to these other types of cases.

Conclusion:

Trial is a very competitive process that relies heavily on theater and presentation of self to influence jurors. Attorneys are given limited time to select a jury that will be favorable to their side. Attorneys use predictive devices to make quick decisions on which jurors to remove. Attorneys discussed how they use sign vehicles, like dress, and props to give the impression that will cause a jury pool to feel more favorable towards their client's case.

Attorneys admittedly rely on the predictive device of class, age, and gender to select jurors. The folklore behind these predictive devices indicates that older people are conservative and more likely to convict, people of lower social class tend to feel more discrimination and are more likely to side with the defense, and females are more vindictive and more likely to side with the prosecution. In regards to my research on jurors' weight, my findings are that while it seems to be a variable, particularly for men, more research is needed to see if the results on weight are consistent over a greater amount of data.

This study should be considered an example to see if a greater problem may exist. Other research is needed to determine if this study's findings will hold true in the greater population. Research into predictive devices in jury selection is greatly needed. Identifying the stigmas used in subverting groups from participating in jury selection is important. Jury selection is supposed to result in a cross section of the community. By systematically eliminating some groups, attorneys are removing jurors not on merit but on their conscious and unconscious biases.

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Appendix 1: Technical Terms and Definitions

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| Folklores | Folklore inform the predictive devices. Folklore is used to interpret predictive devices giving them meaning. |
| Gallery | The gallery are the seats in the back of the courtroom where the public is allowed to sit during open court. |
| Jury Pools | The jury pool is the entire group of jurors brought up for voir dire. Petit trials typically involve a pool of 50 jurors or less. |
| Jury Box | This is the 12 assigned juror seats, often elevated on a state, and placed behind a knee high divider. |
| Master Stigmas | A master stigma is a stigma that defines the individual. Example : Criminal |
| Master Traits | A master trait is a trait that defines the individual; Doctor |
| Peremptory Challenges | Peremptory challenges are the removal of the juror by the attorney's for bias, when bias cannot be proven to the judge. There are a limited number of these per case. |
| Petit Trials | Petit trials are short trials lasting between one and five days. |

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|---------------------------|--|
| Predictive devices | Predictive devices are the <u>substitutes</u> we use when we do not have all the information we need to form an opinion. |
| Reference groups | Reference groups are the groups of individuals identifies with and shares beliefs, attitudes, and compares his or her self to |
| Sign Vehicles | Sign vehicles are the way we act, our appearance, and the props we use to represent ourselves. These sign vehicles are the methods we use to present ourselves to the world. Part of Goffman's work. |
| Social schemas | Social schemas are the way we classify traits and predictive devices such as gender, race, age, class, and weight into categories, social identity, social roles, and character traits |
| Stigma | Stigma is a mark of disgrace associated with a particular circumstance, quality, or person |
| Stereotypes | Stereotypes are widely held but fixed and oversimplified images or ideas of a particular type of person or thing: Stereotypes differ from Predictive devices because predictive devices are personally held not widely held. |
| Traits | Traits are <u>substitutes</u> . |

Voir Dire

Voir dire, which literally means To speak the truth, is the questioning of the jury.

Appendix 2: Interview Questions

- 1) How do you go about selecting a jury?
- 2) How long do you usually spend on jury selection?
- 3) Heard other attorneys say that Nonwhite jurors believe more in the fact that cops might lie.
- 4) Jury selection done really quickly and speeds up towards the end when people are getting tired, why is it done so quickly?
- 5) What do you think about gender?
- 6) What about age?
- 7) What about occupational differences?
- 8) Do you remember the last time you had jury selection, walk me through it.
- 9) Do you remember who you removed and why you removed them
- 10) Have you ever passed on a peremptory challenge?
- 11) What are the disadvantages of selecting a jury quickly
- 12) Where did you learn to do jury selection
- 13) How involved are your clients in jury selection:
- 14) So your clients demographic that would be how much does that play into jury selection

15) How important do you think peremptory challenges are in winning a case?

16) How much time and training have you devoted to jury selection