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### **'Affluent' Justice: The Role of SES in Sentencing Severity**

Sonia Pappachan

*CUNY John Jay College*, [soniapappachan@yahoo.com](mailto:soniapappachan@yahoo.com)

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‘Affluent’ Justice: The Role of SES in Sentencing Severity

Sonia Pappachan

John Jay College of Criminal Justice - C.U.N.Y.

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### Abstract

Imprisonment is the harshest punishment the law can give a defendant; it has considerable consequences on the incarcerated, during and after. Therefore, the sentencing phase of the criminal proceedings should be fair and balanced. However, the literature and researches that have explored the biases in sentencing found that there is a disparity in sentencing due to the characteristics of both the victim and the defendant. The current study used a sample of 209 online survey participants to explore the effect of the socioeconomic status of the victim and defendant on sentencing length. Participants reviewed a vignette of a criminal offense and were asked to complete a survey based on the vignette. Analyses revealed there was no effect between socioeconomic status and sentencing. However, the procedure had many faults which could have confounded the results. Although, interestingly, when looking at gender influence there was a trend of female participants giving higher sentencing.

*Keywords:* sentencing bias, imprisonment, socioeconomic status, gender, victim, defendant

### **Introduction**

When a defendant is found guilty of breaking the law, punishment is decided during the sentencing phase of the criminal proceedings (Britt, 2012). Sentencing can range from a legal fine to community service to long-term incarceration. Judges often have a set of guidelines to follow, but also have some discretion to consider other mitigating circumstances around their cases (Britt, 2012). Even though there are guidelines, judges at times form sentences based on the biases that they hold (Tonry, 2006).

Although sentencing practices have evolved over time, the basic purpose of sentencing is to “punish criminals and prevent crimes” in a just manner (Britt, 2012; Tonry, 2006). However, judges sometimes inflict “unjust” sentences for “idiosyncratic” or “corrupt” reasons (Tonry, 2006, p. 44). For example, Tonry (2006) describes how a judge may have an “emotional reaction” to a specific defendant or his crime, which can cause an unfair sentencing: suggesting the biases a judge brings into the courtroom can affect the sentencing outcome. Given that imprisonment is the harshest punishment the law can give a defendant, it is of vital importance to examine whether there are biases in sentencing.

Imprisonment has many consequences on the incarcerated and continues to cause adverse effects, even after release from prison (Bagaric, 2015; Spaulding, Seals, McCallum, Perez, Brozowski, & Steenland, 2011). Often these problems are financial. More than half the prison population earned less than \$1000 per month before incarceration and some were unemployed. Data show that more than half of those who are jailed are waiting for their trial and do not have the funds to post bail (Subramanian, Delaney, Roberts, Fishman, & McGarry, 2015). This mass incarceration of the poor creates a cycle of imprisonment, where the poor seem to be at high risk of disparate treatment in the criminal justice system (Butler, 2013). In contrast, the privileged

seem to get treated differently in the justice system, especially in criminal cases, like Brock Turner's and Ethan Couch's (Reiman & Leighton, 2010; Zaw, Hamilton, & Darity, 2016).

Furthermore, researchers have found that the biases of both juries and judges affect sentencing outcomes. Most of the research focuses on the characteristics of the defendants and victims, and the biases both bring into the courtroom; mainly physical attributes and the effect they have on juries (Landy & Aronson, 1969; Nemeth & Sosis, 1973; Stewart, 1985). Although Stewart (1985) does mention either the victim or defended having a wealthy life, that is solely not the focus of the study. In fact, there is very little research on the effect of economic advantage (or disadvantage) on sentence outcome.

### **Importance of Just Sentencing**

One of the harshest punishment the law could give for a crime is imprisonment. Bagaric (2015) explains that the "impact of incarceration" has a direct negative impact and is "debilitating" (p. 9). Not counting the loss and deprivation of liberty, the loss of goods and services, intimate relationships, autonomy, security, are also considered to be further consequences of being incarcerated (Bagaric, 2015; Clear, 2007; Johnson & Toch, 1988). Moreover, incarceration has an adverse effect on the health of the person even after the completion of the sentencing. In the State of Georgia, it was found that there was a higher mortality rate for previously incarcerated people as compared to the rest of the population; being incarcerated reduces life expectancy significantly (Spaulding, Seals, McCallum, Perez, Brozowski, & Steenland, 2011).

Bagaric (2015) continues to discuss how imprisonment results in "diminished employment opportunities" (p. 10). Research finds that the implications of imprisonment set back lifetime earnings by 40% (Bagaric, 2015; Western & Pettit, 2010). With such negative consequences to

imprisonment, it very important that sentencing is carried out justly. However, the literature shows that there is a 'disproportionate use' of imprisonment in terms of the socio-economic status of the offender; the poor tend to get the longer sentencing compared to the rich.

**Poor in the Justice System.** The US imprisonment rate has increased by four times by 2008, compared to the 1960s (Cahalan, 1986; Sabol, West, & Cooper, 2008). The Bureau of Justice Statistics showed that, in 1997, before their arrest, more than 50% of the incarcerated earned less than \$1000 a month, while 35% were unemployed, “compared to the national unemployment rate of 4.9%” (Butler, 2013; Harlow, 2003). It should also be noted that about three out of five defendants in jail are awaiting their trial or resolution of their cases through a plea bargain and are legally presumed innocent; they do not have the funds to post bail (Subramanian, Delaney, Roberts, Fishman, & McGarry, 2015). In terms of education, a factor of SES, Butler (2013) points out that about 70% of incarcerated individuals did not graduate from high school while little above 10% have any post-high school education. In contrast, just 0.1% of defendants with a bachelor's degree are likely to be incarcerated. Butler(2013) continues then to outline the five steps that are the 'process of incarceration' where the poor lose in the criminal justice system.

The neighborhoods that economically disadvantaged live in are a hub for increased police stops and arrests (Butler, 2013). Blau and Blau (1982) suggest that the higher chances of crimes being committed are usually due to the disadvantages that are caused by lack of resources and deprivation of economic opportunities. This then leads to the second step-- the law deliberately ignoring the social aspects that leads to crimes, such as petty thefts. Butler (2013) continues to the third step of 'implicit biases' held by persons of the justice system, and them targeting those from the lower socio-economic status. The fourth step suggests that once arrested, guilt is

presumed and guilty pleas are coerced using 'legal apparatus'. The final step is the repeating of this cycle, where a criminal case is created and then they are rearrested, with having prior offenses being an aggravating circumstance for harsher sentencing (Butler, 2013; Hessick, 2008).

When it comes to the poor, they are not only the 'offenders' but also have higher chances of being victims as well. US Department of Justice (2003) found that the poor have higher chances of being victims of the majority of crimes, which includes violent and sexual crimes. Wheelock and Uggen (2006) point out that the poor are three times more likely to be victimized than the middle class. From a report by Kearney and Harris (2014), the most prevalent types of crime in the poor community were assault and attempted violence, which in the higher-income neighborhood were significantly lower. The consequences of these crimes cost the poor, in medical bills and pain, as well as to the community; homicide rates being a reason for lower life expectancy (Kearney and Harris, 2014; Miller, Cohen, & Wiersama, 1996). However, the justice system, including the courts, show some bias against the victims.

The best example of bias in courts against the victims was demonstrated by the Battered Mothers' Testimony Project (BMTP) in 1999. Slote, Cuthbert, Mesh, Driggers, Bancroft, and Silverman (2005) revealed that battered women were encouraged to leave the abuser and take children with them, but once they left they were then asked to negotiate custody and thus re-engage with their batterers. Slote et. al. (2005) also reported that the judges and the law enforcement were very disrespectful towards the victims; the majority of these women reported that the "judges, guardians ad litem, and probate probation officers had treated them with condescension, scorn, and disrespect. This included responding to their claims and descriptions of abuse with sarcasm and dismissal" (p.1384). Furthermore, multiple researchers have suggested that abusers often use visitation and custody battles as means of controlling and

victimizing the women, including placing further financial strain due to costly legal battles (Bancroft & Silverman, 2002; Lemon, 1999; Slote et. al., 2005).

**Wealth in the Justice System.** However, when it comes to higher economic status, some judges have a different approach. Brock Turner, a champion swimmer at Stanford University, and from a higher wealth status, was found guilty of sexually assaulting a woman on campus, a crime that faced a maximum of fourteen years in state prison. However, Judge Aaron Persky of the Santa Clara County Superior Court sentenced him to six months of prison time followed by three years of formal probation. Judge Persky stated, “there is less moral culpability attached to the defendant who is . . . intoxicated”; Mr. Turner was released after three months of jail time (Levin & Walters, 2016; Stack, 2016).

The same tone of sentencing was repeated for Ethan Couch, a man from an affluent family, who was found guilty of recklessly driving while intoxicated and causing four people to die and nine to be injured. Defending himself with having 'affluenza', an argument that he did not understand the consequences of his actions due to financial privilege, the judge presiding over the case sentenced him to two years in prison, when the prosecution was asking for 20 years (Eckenroth, 2015). Even with a prior alcohol citations, Mr. Couch received far more lenient sentencing than warranted (Eckenroth, 2015). It should also be noted that the Judge who gave Mr. Couch two years of prison time gave another white teen with similar case 20 years in prison and he was not from a rich family, unlike Mr. Couch (Eckenroth, 2015).

As Tonry (2006) suggested, the idiosyncratic and biased reasons the judges seemed to have used to mitigate sentencing for these men suggests bias. Reiman and Leighton (2010) suggest that the function of processing of a criminal is to separate out the wealthy. Selective enforcement of the law indicates that criminal behavior is not punished, “or, if technically

criminal, not prosecuted, or, if prosecuted, not punished, or if punished, only mildly” (Reiman & Leighton, 2010, p. 64). It is also shown that for the same criminal behavior, the poor are more likely to be arrested and more likely to be charged and if convicted, the rich are less likely to be sent to prison, with shorter prison term (Reiman & Leighton, 2010). Although this indicates a disparity in the treatment of the poor and the rich, the research is not definite if there is a difference, or not, in the treatment between those of higher SES and lower SES. Also, there is a lack of research on the wealthy victims in the justice system. Given these circumstances, especially for the higher SES and sentencing, the best that can be done is to make inferences from the data on the lower SES affecting sentencing outcomes.

### **Research on Biases**

Research has explored how biases in the courtroom can affect sentencing outcomes. Landy and Aronson (1969) conducted studies exploring the impact of the victim characteristics on the sentencing of a criminal. Participants tend to give criminal harsher sentencing when victims are portrayed to be a likable character (Landy & Aronson, 1969). When Landy and Aronson (1969) repeated their study to include if the likeableness of the defendant had an impact on the sentencing outcome, the defendants who were described as unlikable got harsher sentencing compared to the likable defendant, while the results for the likeability of the victim mirrored the first experiment.

Further studies show that it is also possible that members of the juries themselves might have certain ideological biases. Nemeth and Sosis (1973) showed that an unattractive defendant was more severely punished than the attractive one. Further, the “conservative” junior college students gave harsher sentencing than the “liberal activist” University of Chicago students. Moreover, Stewart’s (1985) findings matched what Landy and Aronson had found in their

experiments: attractiveness resulted in less severe sentencing.

Although Stewart (1985) looks at real-life sentencing in courts and the results do seem to agree that there are biases in the matter of sentencing, he does not focus on the judges giving out the sentences. Consequently, Albonetti and Baller (2010), found a similar pattern of sentencing with African Americans and Hispanics receiving harsher sentencing on drug charges compared to white defendants, and male defendants received more severe sentencing than the females. Similarly, Alesina and La Ferrara (2014) found that in the southern states, minority defendants who killed white victims received harsher sentencing compared to minority defendants killing minority victims.

In Addition, Baldus, Woodworth, and Zuckerman (1998) found that, in law, specifically the District Attorneys (DA) seeking the death penalty in Philadelphia from 1983 to 1993, a death sentence was less likely to be imposed on behalf of low-status victims. Furthermore, in Nebraska from 1973 to 1999, it was found that the victim's occupation was also a major influence on death sentencing; as the victim's occupational status rose, the chance of seeking death sentence by the DA also increased (Baldus, Woodworth, Pulaski, Zuckerman, & Christ, 2002). Also, Vaughn (2001) found that, from a sample of convicted rapists, lower SES men had higher chances of being found guilty than higher SES men. These studies show that even if there is a set of criteria for sentencing, biases that exist in the courtroom do have an impact on the sentencing outcome.

### **Study Overview**

Since there is little data on how affluence and status, of both victim and defendant, influence sentencing outcomes, this study examined whether there are sentencing disparities when it comes to SES. This was conducted as an online survey with the general population; the participants were asked to do what a judge might do. The present study, compared to previous

studies, was different in that, instead of looking at the guilt of the defendant, only the sentencing severity was the focus. The participants were not asked to determine guilt but were asked to act as judges and give out sentencing.

*Aim 1:* To examine how wealth/status of the defendant and the victim impact sentencing.

Working Hypothesis 1 a) It is expected that rich/high status defendants will receive lighter sentences than poor/low status defendant

Working Hypothesis 1 b) There will be an interaction effect, such that, when the victim is a wealthy man and the offender is a poor man, the offender will receive harsher sentencing than when the victim is a poor man and offender is a wealthy man.

*Aim 2:* To examine whether the race of the participant will affect sentencing outcome.

Working Hypothesis 2 a) There will be a difference in sentencing, in that, white participants will give a higher sentencing compared to the minority.

## **Method**

### **Research Design**

This study draws from the survey methodology conducted by Landy and Aronson (1969), with alterations that would fit the affluent and poor characteristics of the defendant and victim. In this study, affluence is defined as having a foreseeable successful life based on wealth, while poor is defined as being from a low socio-economic status with less chance of a wealthy future. In this between-subject design, the description of the victim and defendant, the independent variables, reflected on two levels of success: wealthy or poor. The dependent variable was the severity of sentencing.

### **Participants**

In total, 209 participants completed the survey, with 102 females (48.80%) and 107 males

(51.20%). The age of the participants ranged from 18 to 65 and older, with 9.1% being 18 to 24, 40.20% being 25 to 34, 24.40% being 35 to 44, 14.80% being 45 to 54, 6.7% being 55 to 64, and 4.8% being 65 and over, respectively. The racial background information showed that the sample was composed of 75% Whites, 8.60% African American, 10% Asians, 4.30% American Indian, and 1.90% other, respectively.

### **Procedure**

The participants were given the option to complete the survey confidentially by using an alternate identification, i.e. they were able to create a fake identity and participate in the survey. The rationale behind these decisions was that it will lead to more participants taking part and would allow them to be as truthful as they can, while not worrying about confidentiality issues.

Before the survey began, the participants were given a consent form that described the survey and the study (Appendix D). The data for this study was collected in the form of a 10 to 15-minute online survey, which contained three sections. Prior to the first section, participants were asked to read the instructions at top of the survey, which let them know the purpose of the study, their anonymity, and a brief description of what they should do. Participants were instructed to give a specific sentence for the defendant based on their personal opinion, not on how they feel others might react to the case. The first section was a vignette about the criminal offense with the descriptions of both the defendant and the victim, concluding with the case outcome of the defendant being found guilty of negligent vehicular homicide; the intention being participants will be more inclined to take the events portrayed in a serious manner and give sentencing without restriction. The next section was a question that asked for the participant's opinion on how long the defendant should be sentenced for, ranging from 0 to 25 years, based on the criminal sentencing policy of the state, as stated in the vignette.

The participants were also asked to provide a written justification for why they chose the sentence that they did. This open-ended question was to see what factors the participants took into account when they decided on the length of the imprisonment i.e. if they mention the level of successfulness affecting the verdict. The two Likert-type items that followed the written justification question asked for the participant's impression on the level of successfulness of both the defendant and the victim. Finally, the third section included demographic questions about the participant's age, gender, and race (Appendix C).

### **Materials**

The participants were recruited using the online survey website, Amazon Mechanical Turk (AMT) (<https://www.mturk.com/mturk/welcome>). The primary reason for recruiting through this platform was due to the accessibility of the survey for anyone over the age of 18 years, virtually from anywhere and anytime of their choosing. The consent form was provided as a Human Intelligence Task (HIT) instructions page before continuing onto the survey. The form also informed them about the confidentiality and a brief description of what they should do. This HIT instructions page contained the link to the survey that was designed on online survey software called Qualtrics. If they agreed to the terms on the consent form, they were asked to open the link to the survey and to read a vignette about a brief account of a criminal offense, followed by a short questionnaire.

The survey had a brief vignette about a negligent vehicular homicide. It stated that John Sander, the defendant, attended an office party where he had several drinks. He drove home, in the snow and with heavy traffic, in spite of the warning he received from a police officer. Sander then drove through a red light and struck Martin Lowe, the victim, resulting in Lowe's death. Sander was arrested and found guilty of negligent vehicular homicide. There were four versions

of the event uploaded and the description of the victim or the defendant varied in each. The vignette also stated that the punishment for the crime in that state ranges from 0 to 25 years of imprisonment (Appendix A).

**Defendant Characteristics.** The participants read one of two descriptions of the defendant: rich/high status or poor/low status characteristics. For the rich characteristics, he was described as a 30-year old surgeon, with a long and positive work ethic and also had minor traffic violations. He was also described to be a volunteer for mentoring teens at a local community center. He was shown to be a family man by mentioning about him spending the holiday with the rest of the family. Along with his chosen profession, to show that he was successful, he was shown to be driving a 2017 Mercedes-Benz (Appendix A). For the poor conditions, he was described as a 30-year old janitor who seems to have a sketchy work ethic and also had multiple serious violations of the law. He was described to be a two-time divorcee with three children and had failed to pay for child support. He was going to spend Christmas Eve with his current girlfriend in his apartment. To further show he was not successful economically, he was shown to be driving a 1995 Toyota Corolla (Appendix B).

**Victim Characteristic.** Participants also read one of the descriptions for the victim, who was also either rich/high status or poor/low status. The successful condition described the victim as a noted architect with a very prominent work ethic (Appendix A). He is shown to be a family man by saying that he is survived by a wife and two children. The poor condition described the victim as a recently homeless and unemployed mechanic; survived by no one. He was shown to be living out of his beat up 1995 Toyota Corolla (Appendix B).

The vignette was followed by the question that asked for the participant's opinion on how long the defendant should be sentenced for. To see if the manipulation was effective, the

impression of the successfulness levels, in terms of their socio-economic status, were assessed by two Likert-type questions, on a scale of 1 (least successful) to 9 (extremely successful), with 5 being neutral. As an ancillary measure, an open-ended question was asked to see if the participant mentions the level of successfulness affecting the verdict.

### **Data Collection and Analyses**

Data was collected for 229 users from the Amazon Mechanical Turk research website, of which 20 were removed due to incomplete data or inconsistent answer to the open-ended question on the level of successfulness, leaving 209 samples. The survey results were collected to a database by the online Qualtrics platform (<https://www.qualtrics.com/>) and transferred to an SPSS file to run further analyses on SPSS. SPSS (Version 23) was used to run all of the statistical analyses. A t-test was run as a manipulation check to assess if we successfully manipulated the independent variables. Once that was made sure, analyses of variance (ANOVA) was conducted to test both the situations with the victim and offender successful level against the severity of sentencing. To see if the race of the participant had any effect on the severity of sentencing, an ANOVA was run.

## **Results**

### **Preliminary Analyses**

Gender and age of the participants were assessed to find out if they played a role in sentencing. Men and women differed significantly in sentencing decision with women giving longer sentences ( $M = 12.54, SD = 8.24$ ) compared to men ( $M = 9.68, SD = 6.32$ ),  $t(189.34) = -2.802, p = .006, r^2 = 0.04$ . There was no correlation between age and sentencing severity,  $r(209) = .069, p = .319$ . Although, no evidence was present to indicate that age accounted for observed differences in recommended sentences, evidence did indicate that gender did account for an

observed difference in recommended sentencing.

### **Manipulation Effectiveness**

A manipulation check was conducted to assess if the independent variables were successfully manipulated by establishing the participants' impression on the level of perceived wealth status of the defendant and the victim. Results on the Likert-scale indicated that, the poor defendant ( $M = 3.75, SD = 2.59$ ) had an average below the neutral and the rich defendant ( $M = 5.43, SD = 2.974$ ) had an average higher than the neutral; they both had a significant observed difference,  $t(207) = -4.353, p < .001, r^2 = 0.08$ . This indicates that there was a successful manipulation of the perceived successfulness of the defendant: the participants viewed the rich defendant as having higher wealth status than the poor defendant.

The perceived successfulness of the victims mirrored the defendants. The rich victims ( $M = 6.84, SD = 2.22$ ) showed an average impression above the neutral while the poor victims ( $M = 4.37, SD = 2.47$ ) had well below the neutral. The observed differences were significant indicating a successful manipulation of the impression of the victims on the participants,  $t(207) = -7.586, p < .001, r^2 = 0.22$ .

### **Test of Hypotheses**

A 2 (defendant: rich versus poor) x 2 (victim: rich versus poor) between subjects ANOVA was conducted to analyze the effect of victim and defendant wealth on the recommended sentencing outcome. Alpha was set to .05 for all analyses reported in this study.

**Effect of Defendant's Status.** The analyses of variance (ANOVA) did not reveal a significant main effect for defendant wealth on recommended sentence for the defendant, with wealthy defendants ( $M = 10.86, SD = 7.34$ ) receiving similar sentences to poor defendants ( $M = 11.30, SD = 7.58$ ),  $F(1,207) = .183, p = .670, \eta^2 = .001$ . (Table 1)

**Effect of Victim's Status.** The ANOVA reported that there was a lack of main effect for the victim wealth on the recommended sentence for the defendant. Contrary to the prediction, the defendant who committed crimes against the rich victim ( $M = 11.06$ ,  $SD = 7.09$ ) received a similar sentencing compared to the defendant who killed the poor victim ( $M = 11.09$ ,  $SD = 7.09$ ),  $F(1, 207) = .001$ ,  $p = .972$ ,  $\eta^2 = .004$ . (Table 1)

**Interaction of Defendant and Victim Status.** There was no interaction found between defendant wealth and victim wealth,  $F(1, 205) = .943$ ,  $p = .333$ ,  $\eta^2 = .005$ . Likewise, poor defendants who killed rich victims ( $M = 10.76$ ,  $SD = 7.291$ ), received similar sentences compared to rich defendant who killed poor victims ( $M = 10.37$ ,  $SD = 7.746$ ). (Table 1)

**Race of the Participants on Sentencing.** The ANOVA reported a lack of significant effect of participant race on recommended sentencing,  $F(4, 204) = 1.979$ ,  $p = .099$ ,  $\eta^2 = .037$ . Although, average sentencing recommended by white participants ( $M = 11.80$ ,  $SD = 7.674$ ) were comparably higher than the other groups, it should be noted that number of participants ( $n$ ) for each race varied. (Table 2)

**Gender of Participants and Status on Sentencing.** Accounting for the initial significant difference between the genders, a Between-subjects ANOVA, comparing to the victim and defendant statuses, was used for further analyses. The ANOVA reported a lack of significant difference between the genders on sentencing when the statuses were taken into account,  $F(3, 209) = 1.387$ ,  $p = .248$ ,  $\eta^2 = .020$ . However, on average, male participants gave lower sentencing when the defendant was rich and victim was poor ( $M = 7.58$ ,  $SD = 4.768$ ), compared to when the defendant was poor and victim was rich ( $M = 9.85$ ,  $SD = 6.335$ ). In contrast, the female participants, on average, gave higher sentencing when the defendant was rich and victim was poor ( $M = 13.15$ ,  $SD = 9.183$ ), compared to when the defendant was poor and victim was rich

( $M = 11.75$ ,  $SD = 8.226$ ). Furthermore, both male ( $M = 11.26$ ,  $SD = 7.085$ ) and female ( $M = 11.40$ ,  $SD = 6.986$ ) participants gave similar sentencing, on average, when both the defendant and victim statuses were portrayed as rich. However, when the statuses were both poor, female participants ( $M = 14.23$ ,  $SD = 8.933$ ) gave higher sentencing compared to the male participants ( $M = 10.12$ ,  $SD = 6.680$ ). (Table 3)

### Discussion

This study examined the effects of victim's and defendant's level of wealth on sentencing severity. Contrary to what was hypothesized, the results showed that neither victim nor defendant wealth had an influence on sentencing. There was also no interaction effect, and results showed that the poor defendant who killed a rich victim received a similar sentence as the rich defendant who killed a poor victim. Furthermore, the ethnicity of the participant showed no significant effect on the sentencing outcome. This lack of differences reported could be due to changing perceptions about SES among the general population; maybe people are more aware of their own biases. In addition to that, a more progressive social and political climate – resulting in increased awareness about the plight of the economically disadvantaged -- might have accounted for the reported results from this study (Hoyt, Moss, Burnette, Scheiffelin, & Goethals, 2018).

Interestingly, it should be noted that gender did account for an observed difference in recommended sentencing, with women giving higher sentences compared to men. However, upon further analysis, there were no significant differences when SES was taken into account. In spite of that, on average, male participants gave two years lower in sentencing when the defendant was rich and victim was poor compared to when the defendant was poor and the victim was rich. The female participants gave higher sentencing, about 1.4 years, when the

defendant was rich and the victim was poor when compared to when the defendant was poor and the victim was rich. When the SES of defendant and victim statuses were portrayed as rich, both male participants gave similar sentencing, on average 11 years. However, when the statuses were both poor, female participants gave 4.11 years, on average, more than the male participants. Although this study could not establish a significant difference in sentencing by either gender with SES, there is a trend of female participants giving higher sentencing when looking at the data. Moreover, when looking at research there are studies that look at the gender of the defendant on sentencing, but there is little research in gender of the sentence giver on the sentencing where SES is the concern (Albonetti and Baller, 2010; Bloch, Engen, & Parrotta, 2014; Freiburger & Hilinski, 2013).

Another reason for the lack of significant findings is simply because SES status does not influence sentencing. As noted in the introduction, there is only a few research focusing on status influencing sentencing. The difference in those studies may be due to the type of crime (i.e. rape) and where the cases were taken from (i.e. Nebraska and Philadelphia) (Baldus, Woodworth, Pulaski, Zuckerman, & Christ, 2002; Baldus, Woodworth, & Zuckerman, 1998; Vaughn, 2001). This was a study looking into a vehicular manslaughter and the sample was from not just one state in the United States of America. Therefore, the results of this study cannot be compared to the ones from the introduction.

Another major reason for the lack of observed difference could be the design flaw of the survey in this study. Firstly, the crime depicted in the survey vignette was changed from a hit and run to vehicular manslaughter; the reason being participants might take the task of giving appropriate sentencing more seriously. However, this change in crime could have been a factor, in that, this survey lacked a way to measure how the change affected the outcome. Secondly, the

characteristics of the survey participants - SES, personality, past history, education, etc. - might have affected the outcome; since this is an online survey the participants carry many characteristics that cannot be foreseen. For example, in the perceived wealthy victim description, it is stated that he is survived by a wife and two children. This statement may elicit a different reaction to a participant who is a mother compared to who is not, rather than the wealth status being the main factor, and there is no way of testing the difference.

Finally, and more importantly, the description of the characters, the defendants and the victims, may have influenced the findings far more than previously discussed factors. Instead of the wealth being the factor the vignettes were trying to portray, it was most likely the other characteristics of the description that got the participants to make a decision. For example, in the version where both the victim and the defendant were shown to be, or at least tried to, poor, one participant who gave the maximum 25 years commented, "He failed to listen to two people- one being a police officer who told him he should not drive. Said he would not drive to the officer and did it anyway. Also, he took another person's life..". This explanation was mirrored by the majority of the participants, even though they varied in years of sentencing.

Furthermore, participants also factored in the characteristics of the defendant and the victim, other than SES, when considering sentencing. Comments ranged from the supposed rich defendant getting five years because of the 'beneficial role' he had in the community to getting 25 years because, "Sander had enough warning signs and being an intelligent man should've made better judgment...He took a life and deserves the max punishment". Additionally, when the supposed description of the poor defendant was given, the comments ranged from six years due to taking into account lack of criminal history to 25 years because, "... made several decisions that resulted in the death of the victim. He was completely negligent, and that

negligence killed Lowe...”. Even though there was a significance in perceived SES of both the victim and the defendant, this failure to communicate the wealth status renders the manipulation check uncertain, along with the rest of the tests.

Although this study failed to show that wealth does not affect sentencing, in part due to many confounding factors, prior research has shown how the biases of defendant likeability, mainly physical attributes, affect juries (Landy & Aronson, 1969; Nemeth & Sosis, 1973; Stewart, 1985). However, given this study failed to make a connection between sentencing severity and wealth status, it does not mean there is a lack of connections. While no statistically significant differences were found, there was a real difference in sentence length, even when the characteristics of the description was taken into account. Further studies should be conducted with true manipulation of wealth and should be tried with a sample whose characteristics cannot confound the results.

Considering that incarceration has a direct impact in a negative way, it is important that the punishment fit the crime, not the socio-economic status of the victim or the defendant (Bagaric, 2015). Even though this study could not establish a connection between SES and sentencing severity, prior literature has pointed out that there are differences in sentencing when it comes to SES (Baldus, Woodworth, Pulaski, Zuckerman, & Christ, 2002; Baldus, Woodworth, & Zuckerman, 1998; Butler, 2013; Harlow, 2003; Vaughn, 2001). Regardless of the findings of this study, the cycle of incarceration of the poor, as Butler (2013) explained, suggests that the issue of poor getting unjust punishment is of importance. It also suggests that measures should be taken to give attention to prevent the unfortunate situation and break the cycle. The deprivation of economic opportunities and resources increase the chances of higher criminal activity and thus the change can start there (Blau & Blau, 1982).

**Limitations and Future Research**

The study was conducted to measure whether there are sentencing biases against people of lower socio-economic status. Given the use of an online non-judge sampling pool, the results of this study cannot be extrapolated to decisions made by actual judges. In addition, the fact that it is online means only people who have access to the internet can complete the survey and those who have no internet access or limited access to the internet are excluded from this survey, thus limiting the generalizability of the findings. As for the materials used, mainly the vignette, the information in the vignettes was not held constant. As such, it is impossible to isolate the extent to which participants were responding to wealth versus some other factor in the vignette (deadbeat dad, volunteer work, action taken after the event, etc), as explained in the discussion. Women, for example, may have been more apt to give a harsher sentence given the description of the defendant not paying child support and not being a family man.

While this study did not find a relationship between SES and sentencing, there are many works of literature, and some research, exploring the economically disadvantaged in the criminal justice system. Furthermore, future studies should analyze real court cases to explore the existence of biases against the lower SES and consequent disparity in sentencing. If such disparity does exist, then actions can be taken to right the wrong and make sure the law is just.

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Table 1.

*ANOVA Comparing The Relationship Status of Victim and Defendant Wealth Status on Sentencing Severity on the Defendant*

Variable	Mean	SD	n
<b>Sentencing</b>			
Rich Defendant	10.86	7.34	105
Poor Defendant	11.30	7.58	104
Rich Victim	11.06	7.09	103
Poor Victim	11.09	7.09	106
<b>Sentencing Interaction</b>			
Rich Def/Poor Vic	10.37	7.75	57
Poor Def/Rich Vic	10.76	7.29	55
Source	F	p	$\eta^2$
Defendant	.183	.670	.001
Victim	.001	.972	.004
Def x Victim	.943	.333	.005

Table 2.

*One-way ANOVA Comparing The Race of the Participant on Sentencing Severity of the Defendant*

Variable	Mean	SD	n
<b>Race</b>			
White	11.80	7.67	157
African American	8.67	6.12	18
Native American	10.22	7.61	9
Asian	9.33	6.22	22
Other	4.50	3.32	4
Source	F	p	$\eta^2$
Race	1.979	.099	.037

Table 3.  
*Between-subjects ANOVA Comparing Gender and The Status of Victim and Defendant Wealth Status on Sentencing Severity on the Defendant*

Variable	Mean	SD	n
Sentencing			
Male			
Rich Def/Vic	11.26	7.09	23
Rich Def/Poor Vic	7.58	4.77	26
Poor Def/Rich Vic	9.85	6.34	26
Poor Def/Vic	10.12	6.68	32
Female			
Rich Def/Vic	11.40	6.99	30
Rich Def/Poor Vic	13.15	9.14	26
Poor Def/Rich Vic	11.75	8.23	24
Poor Def/Vic	14.23	8.93	22
Source	F	<i>p</i>	$\eta^2$
Gender	8.239	.005*	.039
Status	.588	.624	.009
Gender x Status	1.387	.248	.020

\* *significant at  $p < .05$  level*

## Appendix A

### Summary

John Sander was driving home from an office Christmas party on the evening of December 24<sup>th</sup> when his automobile struck and killed a pedestrian by the name of Martin Lowe

### The defendant

John Sander, the defendant, is a 30-year old surgeon, with a long and positive work ethic. For many years, he has a volunteer for mentoring teens at a local community center. Sander is a married man and was on his way to spend New Year's eve with his wife and their daughter, in his 2017 Mercedes-Benz. In the past five years, he has received three traffic tickets.

### Circumstances leading to the event

The staff at the hospital where Sander worked began to party at around 5:00 P.M. They ate snacks and drank until about 8:00 P.M., when the party started to break up. Sander, who had several drinks, was offered a ride home by a coworker who did not drink. The coworker suggested Sander leave his car at the office and pick it up when he "sobered up". Sander refused, claiming he was sober and would be fine.

Sander then walked to the parking garage where he had left his car. It was just starting to snow as sander left the garage. Traffic was heavy at the time. Six blocks from the parking garage, a police officer stopped Sander for reckless driving. Rather than give him a ticket on Christmas Eve, the officer said he would let Sander off with a warning. He also strongly suggested Sander leave his car and take a taxi. Sander agreed and parked his car. After the officer left, however, Sander simply started up his car and resumed his driving.

### The event itself

Four blocks from where he had been pulled over, Sander 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 from internal hemorrhaging. Sander was taken into custody and charged with negligent vehicular (automobile) homicide. The medical examiner's report indicated that while Sander was not legally drunk at the time of the incident, he had consumed enough alcohol to impair his driving. Sander was slightly shaken by the impact of the crash, and suffered a back injury that required treatment.

#### The victim

Martin Lowe, the victim, was a noted architect who had designed many well-known buildings throughout his life. He was prominent and active member of the community welfare board. At the time of the incident, Lowe was on his way to pick up dinner for his family Christmas dinner. He is survived by his wife and two children.

#### Case outcome

Sander was found guilty of negligent vehicular homicide. The crime in his state is punishable by imprisonment of 0 to 25 years. (In Mr. Sander's state, a prison sentence for this crime is mandatory. There is no possibility of an alternative sentence, such as parole or paying fine.)

## Appendix B

Summary

John Sander was driving home from an office Christmas party on the evening of December 24<sup>th</sup> when his automobile struck and killed a pedestrian by the name of Martin Lowe

The defendant

John Sander, the defendant, is a 30-year old janitor who had worked at a hospital for two months. He is a two-time divorcee with three children and had failed to pay for child support. He was on his way to spend Christmas Eve with his current girlfriend in his apartment, in his 1995 Toyota Corolla. In the past five years, Sander has a misdemeanor on his criminal record for breaking and entering and a contempt of court charge for failure to pay child support. In the past five years, he has had received three traffic tickets

Circumstances leading to the event

The staff at the hospital where Sander worked began to party at around 5:00 P.M. They ate snacks and drank until about 8:00 P.M., when the party started to break up. Sander, who had several drinks, was offered a ride home by a coworker who did not drink. The coworker suggested Sander leave his car at the office and pick it up when he “sobered up”. Sander refused, claiming he was sober and would be fine. Sander then walked to the parking garage where he had left his car. It was just starting to snow as sander left the garage. Traffic was heavy at the time. Six blocks from the parking garage, a police officer stopped Sander for reckless driving. Rather than give him a ticket on Christmas Eve, the officer said he would let Sander off with a warning. He also strongly suggested Sander leave his car and take a taxi. Sander agreed and parked his car. After the officer left, however, Sander simply started up his car and resumed his driving.

The event itself

Four blocks from where he had been pulled over, Sander 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 from internal hemorrhaging. Sander was taken into custody and charged with negligent vehicular (automobile) homicide. The medical examiner's report indicated that while Sander was not legally drunk at the time of the incident, he had consumed enough alcohol to impair his driving. Sander was slightly shaken by the impact of the crash, and suffered a back injury that required treatment.

The victim

Martin Lowe, the victim, was a recently homeless man due to loss of his job as a janitor. At the time of the incident, Lowe was on his way to the homeless shelter to get some dinner and seek shelter from the cold. He is survived by no one.

Case outcome

Sander was found guilty of negligent vehicular homicide. The crime in his state is punishable by imprisonment of 0 to 25 years. (In Mr. Sander's state, a prison sentence for this crime is mandatory. There is no possibility of an alternative sentence, such as parole or paying fine.)

Appendix C

ID: \_\_\_\_\_

Version: \_\_\_\_\_

**According to your own judgement, how many years in prison should defendant be sentenced? Sentences can range from 0 to 25 years. (Remember, you cannot give an alternative sentence and you are not to consider the issue of whether or when he would ever be eligible for parole.)**

I would recommend that the defendant, [name], be sentenced to \_\_\_\_\_ years in prison.

**Briefly, what issue or factors did you take into account when deciding on the length of imprisonment**

**Below, please indicate your impression of the defendant and the victim on the following scales. Circle the number which best describes your overall impression of each person.**

**1. Your impression of the defendant (Sander) is:**

1	2	3	4	5	6	7	8	9	10
Poor				neutral					rich

**1. Your impression of the victim (Lowe) is**

1	2	3	4	5	6	7	8	9	10
Poor				neutral					rich

1. What is your age? \_\_\_\_\_

1. What is your gender? \_\_\_\_\_ M  
\_\_\_\_\_ F

1. What is your race?

\_\_\_ White.

\_\_\_ Black or African American.

\_\_\_ Native American or American Indian.

\_\_\_ Asian

\_\_\_ Pacific Islander.

\_\_\_ Other

## Appendix D

**THE CITY UNIVERSITY OF NEW YORK***John Jay College of Criminal Justice**Department of Psychology*

## CONSENT TO PARTICIPATE IN A RESEARCH STUDY

**Title of Research Study:** Effects of factors involved in a criminal incident on sentencing**Principal Investigator:** Sonia Pappachan – Bachelor's of Science in Biology, Bachelor's of Arts in Psychology, Master's of Arts in Psychology, student**Faculty Advisor:** Dr. Cynthia Calkins, Associate Professor

You are being asked to participate in a research study because **you are 18+ years of age.**

**Purpose:**

The purpose of this research study is to assess how people judge various crimes based on certain account of a criminal offense.

**Procedures:**

If you volunteer to participate in this research study, we will ask you to do the following:

Read a brief account of a criminal offense

When you have finished reading the case, you will be asked to give your personal opinion concerning the case. You will be asked to give a specific sentence for the defendant based on your personal opinion, not on how you feel others might react to the case. Then you will be prompted to fill in your impression of the defendant and the victim using scales ranging from 1

to 5. Also, will be asked to write in what issues or factors you took into consideration when deciding on the sentencing. You will also be asked about your gender, age, and ethnicity.

**Time Commitment:**

Your participation in this research study is expected to last for a total of 10 – 15 minutes.

**Potential Risks or Discomforts:**

The criminal case involves a description of a negligent vehicular homicide which might be uncomfortable for some people. If you feel like there is a concern about extreme discomfort caused by the description, you should not participate.

If you feel like this survey has caused any discomfort, you should visit information on the National Institute of Mental Health website for coping resources.

<https://www.nimh.nih.gov/health/topics/coping-with-traumatic-events/index.shtml>

**Potential Benefits:**

You will not directly benefit from your participation in this research study.

The findings will potentially help with proceedings in the criminal justice system.

**Costs**

There will be no costs to the participant.

**Payment for Participation:**

You will receive \$0.20 for the participation in this survey.

**Research Related Injury**

None

**Confidentiality:**

We will make our best efforts to maintain confidentiality of any information that is collected during this research study, and that can identify you. We will disclose this information only with your permission or as required by law.

We will protect your confidentiality by not collecting any identifiable data, including Mturk ID. The research team, authorized CUNY staff, and government agencies that oversee this type of research may have access to research data and records in order to monitor the research. Research records provided to authorized, non-CUNY individuals will not contain identifiable information about you. Publications and/or presentations that result from this study will not identify you by name.

**Participants' Rights:**

Your participation in this research study is entirely voluntary. If you decide not to participate, there will be no penalty to you, and you will not lose any benefits to which you are otherwise entitled.

You can decide to withdraw your consent and stop participating in the research at any time, without any penalty.

**Questions, Comments or Concerns:**

If you have any questions, comments or concerns about the research, you can talk to one of the following researchers:

Sonia Pappachan, MA student, Department of Psychology, at John Jay College of Criminal Justice, [sonia.pappachan@jjay.cuny.edu](mailto:sonia.pappachan@jjay.cuny.edu).

If you have questions about your rights as a research participant, or you have comments or concerns that you would like to discuss with someone other than the researchers, please call the CUNY Research Compliance Administrator at 646-664-8918. Alternately, you can write to:

CUNY Office of the Vice Chancellor for Research

Attn: Research Compliance Administrator

205 East 42<sup>nd</sup> Street

New York, NY 10017