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The Effect Media has on Juror Bias

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HONORS THESIS

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The Effect Media has on Juror Bias

Abstract

The purpose of the study was to illustrate the problems associated with juror bias and how the media contributes to it. The way the media portrays individuals, the language they use, and the pictures seen as affecting potential jurors when they determine verdicts of the people they hear about on the news. The study further investigates whether or not these jurors are influenced enough by the media to cause a bias detrimental to the defendant. The design of the study used multiple peer-reviewed sources, documentaries, and semi-structured interviews. Through these, information was gathered and analyzed. I found through the interviews and sources that there were sentiments that jurors cannot help but be biased by the media through news stories, newspaper publications, etc. Instances in the past such as Amanda Knox and the Central Park Five were victims of juror bias. However, for the most part, jurors will disregard evidence not presented in court (e.g. media coverage, inadmissible evidence). If certain aspects of a case, such as the suspect's face were to be left out of the news, juror bias could decrease and maintain trials based on evidence. Overall, bias is not a significant enough issue in the courts for it to affect verdict deliberation amongst jurors.

Keywords: juror bias, racial bias, media, Amanda Knox, the Central Park Five

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Discipline Narrative

Growing up, I was a quiet, shy girl who always had her nose in a book. I was scared to speak up because I was afraid of people making fun of my speech, which was problematic from elementary to middle school (and still is to some point). I always thought I wanted to go into a profession where I would do minimal speaking, and I thought that would be as an editor. However, during my senior year of high school, my best friend Tommy joined the Youth Police Academy. My oldest brother Thomas had done this as well, and although he does not work in this field, he loved it. So, I figured why not? This program ran ten weeks, and included visits to court, ride alongs, traffic, and crime investigation analysis, K-9 demonstrations, and ended with a simulator of a police call. I enjoyed every minute of it.

The program instilled in me a great appreciation and interest in the criminal justice field, and I determined I needed to be a part of it. My interest started young with crime shows and documentaries. I always found it interesting how someone can solve a mystery using the smallest detail. But, hearing the everyday functions of different aspects of the field showed me I could do it. The experience provided me with real-life examples of what I was watching on television; DNA technology wasn't just a way to further the plot of an episode, nor was the day-to-day work of a detective.

Realizing this field would not be best for someone quiet, I decided I needed to move past my insecurities. So, instead of building a career out of my insecurities, I decided to make one despite them. When I entered into Pace University as a Criminal Justice Major, I pushed myself to speak up more in class and to people. I participated in more events and volunteered to do more

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things alone. Now, my enjoyment of learning about laws and procedures grows with each course I take, and this enjoyment will benefit me in the career path I choose.

The major components of being a police officer include being assertive, assessing potential dangers, and interacting with people daily. I will have a greater sense of job satisfaction if I work in something I love. Therefore, I have learned to stand up for myself, and I can work well under pressure. I know police officers face a variety of people daily, ranging from friendly to belligerent. Every day is a risk, and one must be able to think quickly. My interest is in learning laws and how they are applied in court for prosecuting/defending purposes, and how society views police culture would help me work hard at my job. It's interesting how the law can be interpreted in many different ways and applied differently. The different types of crimes (e.g., robbery or burglary, murder v. manslaughter) is especially interesting, and so is the mindset behind these crimes that play into the application of the law.

The most challenging law to apply is the Sixth Amendment in today's digital society. The Sixth Amendment right is the right to an impartial jury, and with it comes the idea of "innocent until proven guilty." It has been questionable, considering media coverage, and the average person is commenting on a person's guilt before their day in trial. The news is continually reporting crimes, publishing the suspect's face everywhere, and thus linking him/her and their supposed crime. The person is often assumed guilty by the public solely on the fact that police have questioned them, that their face is on the news/in the newspaper, or even by the comments a news anchor makes. Also, if this person did commit the crime, they have already been accused and sentenced before having their day in court. As a result of the increasing news coverage of crime every day, it is essential to be aware of the effects on potential juror opinion.

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The topic of juror bias and the media's influence on it is relevant and vital because of how prominent media is in everyday life. To me, it is especially important that people have the right granted to them by the law regardless of guilt to have a fair trial. Even if someone doesn't watch the news, the supposed details of a crime can be found through a simple Google search, Twitter, or even Snapchat. Law enforcement is supposed to uphold the constitutional rights of an individual yet allowing the suspect's face to be published before they are found guilty does not allow the suspect to be viewed in an innocent light. In high profile cases such as O.J. Simpson and Casey Anthony, people determined they were guilty based on what evidence was shown on television. Therefore, when they went to court, jurors come to the trial already biased. In these cases, the defendants were found not guilty, but people today still believe they are responsible for the deaths of the victims. The case for this is not "guilty until proven innocent," but somewhat guilty, and the justice system failed to "put the right person behind bars."

Media portrayal of crime suspects can have an impact on potential jurors. I have developed the following research question and hypothesis. Do prior exposure to a defendant's mugshot, and details of their supposed crime create a biased jury? I believe jurors cannot help being persuaded by the image of a mugshot, something typically associated with guilt. If a picture must be shown, the suspects should have a neutral background/picture to prevent biased news coverage. The preceding was demonstrated with a convicted serial killer's "mugshot" on the news being a picture of him at Niagara Falls. The image is associated with relaxation and innocence.

In addition to images, details of the suspect's crime are broadcasted. In court, these people bring with them knowledge of a person's possible crime before evidence is presented to them. Also, in the cases of defendants of color, jurors have been subjected to news stories with

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racial undertones that could harm the defendant's case. As long as mugshots or pictures are shown on media outlets, juror bias will remain prevalent in court, thus taking away the Sixth Amendment right. It creates a Criminal Justice System that is biased against certain people in both high profile cases and cases where racial bias or mental illness discrimination is present in media reporting. A system that is built on justice and equality is buried under preconceived verdicts based on a person's race, mental health, or social standing.

Literature Review

Introduction

The Criminal Justice System in America bases its laws on the Constitution. A list of amendments states what rights a United States citizen has, such as the First Amendment right to freedom of speech, Fifth Amendment right to due process, and the Sixth Amendment right to an impartial jury and a jury of one's peers. According to Dictionary.com (n.d.), a juror is someone who sits on a jury and is sworn to deliver a verdict on a case. Each juror must complete a questionnaire called a "voir dire," which is an oath administered to the proposed witness or juror by which he or she is sworn to speak the truth in an examination to ascertain his or her competence" (Dictionary.com, n.d.). Its purpose is to "help ensure...a fair trial and is necessary to avoid a jury's verdict being 'challenged due to alleged bias'" (Key, 2015, p. 133). Potential jurors must also complete a questionnaire, which asks simple questions such as highest level of education completed, have you ever sat on a jury before, and if you or someone close to you has been a "victim of a crime", "accused of a crime", "convicted of a crime", "a witness to a crime", etc. (Juror Questionnaire, n.d.). However, the integrity of this process can be challenged.

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Media messages and prior knowledge of a court case impact an average juror's perception of guilt; their decision is based on the defendant's portrayal in newspapers, news stories, or a crime show with a person fitting the defendant's description. In fact, "some have described pretrial publicity as 'one of the most pressing problems facing society,'" (Bruschke, 2016, p.521). Bruschke (2016) went further and claimed that attempts to eliminate the influence of publicity are futile because of how powerful it is on jurors. Not only does media affect juror bias, but the race also plays into a verdict decision.

Media Exposure on Juror Bias

The role of the juror is to hear evidence presented in court to decide on the defendant's verdict, whether it be guilty or not guilty. According to various sources (1997), publicity exposure before the trial biased a juror towards conviction because the people involved on the prosecution side are the ones who provide information to the media (Fein, Morgan, and Sommers, 1997, p. 489, Jacquin and Hodges, 2007, p.21). However, Ruva et al. (2011) research claimed that the type of publicity determines which legal side is affected. For instance, positive pre-trial publicity (PPTP), like negative pre-trial publicity (N-PTP), causes jurors to take into consideration information not entered a trial, thus "bias[ing] juror decision making" (Ruva et al., 2011, p. 512). The information leads to jurors not believing what the defendant says or does. N-PTP lowers credibility because negative impressions are formed and become more prone to conviction (Ruva et al. 2011, Bruschke 2016). However, Bruschke (2016) also stated that "negative publicity cannot bias trials against [defendants]" (p. 529). In contrast, P-PTP causes

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jurors to look favorably on the defendant in terms of conviction rates (Bruschke, 2016). Trials in itself can also promote bias.

Jacquin and Hodges (2007) added that if the defending side spoke out more than the prosecuting team, the stories remained tilted. Also, the evidence submitted during the trial is bent to fit whichever side is presenting it, which then leads jurors to place each new piece of evidence on the “leading” side (Bruschke, 2016). The same distortion occurs with witness testimony to fit whichever PTP bias the jurors had (N-PTP resulted in pro-prosecution, P-PTP with pro-defense) (Bruschke, 2016). Ruva and LeVasseur’s (2011) study also showed that stories that are sympathetic towards the person on trial led to a “not guilty” verdict or a “guilty” verdict with a less harsh sentence, whereas unsympathetic stories led to “guilty” verdicts or a harsh sentence (e.g. the death penalty) (p. 21). Ruva and LeVasseur (2011) continued the dialogue with their research. Pulling from other researchers, the authors mentioned how mock jurors were shown “real-life PTP” and heard opening statements from the prosecution, defense, and the judge’s introductory briefing were able to. Their recall of the stories was identified as “factual” or “affective/evaluative” PTP; the latter “increased anti defendant reasoning, lowered approval of the defense’s argument, and increased confidence in guilt compared to those recalling factual PTP,” (Bruschke, 2016, p. 513).

Fein et al. (1997) discovered a technique to battle prejudice amongst jurors. If information is present in eyewitness testimonies or the media that could have questionable motives such as racism, discrimination is eliminated; the introduction of suspicion allows for jurors to come to their conclusions without the aid of prior biases (p. 490). The role suspicion plays concerning the way information was presented in the media counters the psychological

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factors when biases were formed (Fein et al., 1997, p. 490). The media can also help the defendant seem more reliable as a way to combat the damaging news stories. By increasing the defendant's credibility, it negates the effect of pre-trial publicity on guilt ratings (Ruva and LeVasseur, 2011). Guilt ratings are increased along with a decreased defendant credibility with N-PTP, and they are decreased with higher credibility with P-PTP (Ruva and LeVasseur, 2011).

Even with methods of diminishing adverse effects of bias, the way a juror feels cannot be eliminated. According to Ruva and LeVasseur (2011), "...emotion can influence legal decisions by affecting how the information is processed, biasing decisions in the direction of the emotion...Thus, negative emotions could negatively bias the probative information jurors process, which could be detrimental for a defendant" (p. 513). The legal system attempts to diminish this effect by instructing jurors to "only use information contained in the trial while [deciding on a verdict] and...not use any of the information contained in the news articles when making verdict decision," (Ruva and LeVasseur, 2011, p. 520). Bias cannot be eliminated from a jury.

Racial Factors

On the other hand, racial bias was still present in a juror. Elek and Hannaford-Agor (2013) Found that racial was prominent considering different jury verdicts and capital punishments (Elek & Hannaford-Agor, 2013, p. 191). Also, Fein et al. (1997) stated that jurors were more likely to use inadmissible evidence if the defendant was black instead of white, but the jurors were less affected by the inadmissible evidence when the defendant was black (p. 492). Fein et al. (1997) suggested emphasizing to the jury the importance of impartiality would decrease this effect (p. 491). And, defendant and victim characteristics accounted for a low

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percentage as an influence on a verdict, and that evidence was a significant influence (Elek & Hannaford-Agor, 2013, p. 192).

Racism has been determined to be a prominent factor in the Central Park Five case in New York. Burns, K, Burns, S, and McMahon illustrated this in the documentary of this case with the police officers' actions during the investigation. The officers "coach[ed]" the accused in what they should say since they did not know about the rape and attempted murder of a white woman in Central Park. The accused were told they were giving the "wrong facts" and that their stories should be "more believable," and to do so they needed "to be in it...have to be [at the scene of the crime] (2012, 31:00). The suspects had no evidence against them other than a coerced confession, and evidence showed without a doubt that they were at the other end of the park, away from where the rape occurred (Burns, 2012, 1:05:08). But, their guilt received more press coverage than their innocence because the crime began to symbolize a fight between race; the accused (Raymond Santana, Korey Wise, Yusef Salaam, Kevin Richardson, and Antron McCray) were Black, and the victim was white (Burns, 2012, 1:49:52). It was only the interracial conflict that brought this case so much publicity; another rape had occurred around the same time, but because the victim/rapist was of the same racial group, it gained a small mention in the newspaper (Burns, 2012, 59:42).

Yamamoto and Maeder (2017) and Sommers and Ellsworth (2009) had differing views on the role race plays in juror bias. According to a study conducted by Yamamoto and Maeder, Black defendants received harsher sentences and convictions than White defendants due to racial differences and "out-group bias" (2017, p. 274). The authors suggested this occurs because the jurors rely on "dispositional as opposed to situational causal attributions" from a cognitive error (Yamamoto and Maeder, 2017, p. 275). And, juries are selected by prosecutors and defense

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attorneys based on this; White jurors tend to side with the prosecution side, which is the side attempting to convict the defendant, according to the belief of most prosecutors and defense attorneys as stated in the Supreme Court case *Batson v. Kentucky* (Sommers & Ellsworth, 2009, p. 600). However, Sommers and Ellsworth (2009) believed race is influential in juror decisions depending on whether the crime in question was racially charged (p. 601). And, jurors were more likely to believe in the innocence of a Black defendant if their voir dire questionnaire asks questions relating to race like “will race influence your decision” than when the questionnaire is racially neutral (Sommers & Ellsworth, 2009, p. 602).

Potterf and Pohl (2018) also introduced a study done about how media portrays race in the context of news coverage stories. By showing a “brief flash of a Black male face,” mock jurors believed the suspect is more dangerous if the race is unspecified than if it was specified as White (Potterf & Pohl, 2018, p. 426). Minority crimes did not occur as much as the media portrayed, and this lopsided reporting reinforced the “implicit stereotypes that people have” (Potterf & Pohl, 2018, p. 426).

Media Framing

Intavia (2019) discussed how people base their opinions on what they see on television or what they read in a newspaper, and most knowledge about the criminal justice system is gained through media outlets, especially the violent broadcasting, and an individual’s opinion on those topics are influenced. In turn, their perception of those topics impact policies implemented for corrections and reentry in that they support more punitive policies (p. 314). Potterf and Pohl

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(2018) added that news reports are filmed in a way to be attractive to the viewer; they “frame” the way an issue is illustrated and “prime” the “contextual cues” used in order to have a person readily recall what they watched by appealing to their individual biases (2018, p. 426).

Cases such as Amanda Knox, where no evidence pointed to her as the killer, the media was able to convince the public of her guilt, leading to an “outraged” group outside the courthouse when she was exonerated (Blackhurst et al., 2016, 1:14:15). The media was able to convince the public she was the killer by reporting how Knox was “guilty” of killing her roommate and turning crime into something deviant in nature (i.e., sexual because Kercher was found naked) (Blackhurst et al., 2016, 00:36:00). Newspapers all over the world ran with the idea that Knox was a “slut” and a “cow”, sentiments a police officer said to her boyfriend, Raffaele Sollecito during an interrogation; papers had the headline “Orgy of Death” to refer to the murder of Knox’s roommate to further the idea that she was an outsider in the community (Blackhurst et al., 2016, 36:45). Knox’s sexual life was televised from conversations about “hot sex,” shopping for underwear, and publishing her diary full of past sexual partners to support the “Foxy Knoxy” narrative (Blackhurst et al., 2016, 42:04) And yet, most times the information the news put out to be consumed was not factually correct according to journalist Nick Pisa who wrote about Knox’s “crime”; he said he did not check his facts often as not to waste time and “lose the scoop” (Blackhurst et al., 2016, 1: 24:51)..

Violent media is the norm in today’s society because of the way violent crimes are emphasized more than the nonviolent ones (Intavia, 2019, p. 315). Support for punitive actions increased with this crime coverage, and so did the idea the rehabilitation is ineffective (Intavia, 2019, p. 315).

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Conclusion

Juror bias can be affected by several factors. The defendant's race, the way the media typically portrays that race, a character aspect separates from the crime or the types of crimes shown on the televised news. Cases such as the Central Park Five and Amanda Knox epitomize the effects racism, and slander has on public opinion. Those opinions translate back to juror bias when it comes time for a verdict. A piece of information I found missing from the literature was mugshots and its effect on jurors' perception of the defendant. I believe this area should be researched further because there are discrepancies in the news coverage when it comes to race and mugshots. For instance, Bruce McArthur, a White male, was a suspect in a serial killer case in Canada, yet the media showed a picture of him at Niagara Falls as opposed to a mugshot. It relates to my study because factors such as this influence juror perception and media influence.

Method

To begin and continue the research, I used Grounded Theory. According to *Grounded Theory Methodology* (1998), grounded theory was defined as a method of looking at data to determine a relationship between the categories found, then analyzing those categories to explain the whole process (p. 70). The theory was used throughout the paper; it was used to analyze research about media exposure on juror bias, and when I created the subcategories of racial factors and media framing through coding. It was also used during the semi-structured interviews.

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Semi-structured interviews are interviews that are not rigid in structure and allow for the interviewer to ask question-based on answers the interviewee gives; these questions are not limited to the ones the interviewer thought up of before the interview (*Interviewing as a Data Collection Method: A Critical Review*, Alshenqeeti, p. 40). I used this method of interviewing because it allowed me to get more information from the people I interviewed. Its structure allowed me to ask follow-up questions that differed from the five questions I had prepared. It also allowed for personalization of each interview, which is essential to get the unique perspectives of each individual. After taking notes and recording them on a phone recording application, I took the main points each person made and coded them.

I conducted four interviews in total. I emailed the candidates to set up a meeting time with the basis of what the questions will be about and the topic of the paper. Participant 1 was a police chief in Pleasantville. He has served 25 years as a police officer and moved up through many ranks to secure his position as chief. His perspective from a place of authority was one worth interviewing because he knows how officers are prepped for court testimony and works with the media (i.e., news outlets) often. After him, I talked to a Participant 2, a county clerk in Pleasantville. She has worked with juries, so she knows the legality of the topic and how jurors are prepped to ensure fair trials. She also had a background in media as a producer and writer for tabloid magazines and shows; she explained how media framed events in individual lights regardless of the information provided. Participant 3 was a corrections officer in Rockland County, New York. He has worked as an officer for a couple of years and worked as a police officer in Hawaii for a year. The final interviewee, Participant 4, was a Criminal Justice professor for Pace University. She teaches courses about the Constitution and issues that come

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from it and worked as a defense attorney for over 20 years. Each person was asked the same questions.

The questions asked focused on the main subject of media influence on juror bias. The questions were: “What are your thoughts on the way criminal trials are conducted? What comes to mind when you hear ‘jury of your peers’?”; “What comes to mind when you hear “juror bias”? What efforts could be made to decrease juror bias?”; “How does the media (social and news) portray crimes that involve particular races and violence?”; “How does the media influence the idea of an impartial jury?”; and, “What changes would you recommend to the court system to maintain or provide fairer trials?”. I asked these questions to determine their views on how the criminal justice system currently works, and if bias benefits or hurts the process.

Before coding could happen, I had to transcribe these interviews. The process involved listening to each conversation and writing down what was said. From there, I annotated the transcriptions to begin coding. I searched terms that repeated in multiple interviews, highlighted them, then compared the context of each term within the subjects discussed. After this was done, I was able to determine themes that showed up.

Results

My thesis question asked whether or not prior exposure to media exposure such as a defendant's mugshot, details of their supposed crime, or commentary on the accused's guilt creates a biased jury. I found in my research evidence that unless people are taught to question

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the media's motives or to be aware of how specific stories are framed, then a jury will become biased.

Bias

The first theme that emerged under this category was media bias. When asked questions concerning media framing and opinions, the participants mostly shared the same thoughts on how news channels promoted biased views and stories. Participant 1 stated (personal communication, March 21, 2019) “[...] Where a lot of the news is geared towards their audience. For example, like we everybody knows, Fox News is more geared to conservative where CNN and they are more geared towards the liberal side”. In relation to this sentiment, Participant 2 stated (personal communication, March 21, 2019) “Unfortunately these days a lot of times it feels like the media is used to push an agenda as opposed to just inform people but I think the local media outlets that we work with they've always tried to be very fair”, but he further claimed that a good relationship with the media could balance the information that is publicized:

You know, I don't know we have a good relationship with the media here. And I feel like the media is... the media members that I know and the stories that I've seen locally...I think they're pretty even-handed in things (personal communication, March 21, 2019).

And, Participant 3 added on to the first statements with her background in media. She said (personal communication, March 21, 2019) “[Journalism] was completely bias we were telling a story in the story had to have a villain, you know, a hero and some you know if it was a crime

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story we were working on then it had to be you know the ending was you know some justice police got them...”. Her statement was then backed up with a story:

My crew was like, oh, great, we, I can do all kinds of lighting with this. He made it look like he, the cameraman, tilted the camera to make him look weird. He put the lights low made, like horror, like a haunted house. Like the devil when he got done. (personal communication, March 21, 2019).

The second theme that emerged was how the media made it easy to plant a narrative into a person’s head in a way that could affect juror bias. Participant 1 believed (personal communication, March 21, 2019) “[...]it’s really hard in our society, especially with all the news outlets going on to have a completely unbiased jury just because information gets out regardless” and is reiterated in Participant 3’s interview. She stated:

[...] jumping to which makes it which makes it harder to that doesn't interfere with impartial jury, so the fact that so much of you know high very high profile cases even local cases are tried by court of public opinion through media through real it every people talking texting and tweeting your opinion and so it's people or it's hard to escape that that's the real challenge for the 21st century [...] (personal communication, March 21, 2019).

She also commented on how the media can plant ideas into a person’s mind and influence their thoughts of the defendant:

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You've already played on a movie in your head you've seen pictures of this person, mugshots of the person videotape person you've heard this person did this horrible thing. So you've already got a movie in your head with this person being waving this person, so you go on a jury it's going to be hard to erase the movie you already have because that's what the media does and create a visual image that it gets hard-wired into people's brains too much information is already put out there before we ever even get to sometimes even if you're already "suspect" "person of interest". (personal communication, March 21, 2019).

However, not all participants agreed with these views.

When it came to media influence being negative, Participant 2 disagreed. He stated:

I really think that jurors, when people come to serve on a jury, I really believe that they-the vast majority of people go in and either come in with the best of intentions if they've never done it before they don't understand quite how the system works and I really do believe that they want to follow the instructions. Now every juror is instructed that although it's not that they can't know of the case or have any-never have heard it before, they just have to be able to put those things aside and really only listen to what's presented in court, you know things will come out. (personal communication, March 21, 2019).

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Trial Fairness

Under the category of trial fairness, the themes of how race impacts the integrity of trials, and how socioeconomic class impacts trial fairness emerged. With race, the media cast nonwhite groups of people in an unfavorable light and had that idea show up later in court. Participants 1 and 2 stated how racial groups are treated differently, and Participant 3 gave an example.

According to Participant 1 (personal communication, March 21, 2019), “there's a lot of cases where minorities are given harsher sentence or harsher bail based on where they're portrayed differently in the media”, and Participant 2 said (personal communication, March 21, 2019), “[...] I really do believe that although there are obvious flaws, and you know, the system does not work the way it should for everybody, it doesn't work the way it should for every group in this country”. Participant 3 went more in-depth with this thought:

When [OJ Simpson was on trial], they would they will do a Newsweek magazine one of the magazine's got incredible because they purposely seem to darken him, to make him look more darker and evil looking[...]Why 20 pitches so dark why he had to make them look more blacker and evil. Yeah. It always thinks about the black threatening, you know, black we've been portrayed as these black, you know, black, dark skin, Bestial, you know, animals. (personal communication, March 21, 2019).

Another factor is the economic status of the defendant.

Each participant mentioned how the justice system is not fair for those of low economic status, correctly how they do not receive a fair trial. Their reasoning was because the defendants

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are provided legal representation who are overworked, and the bail system is unbalanced; public defenders were not fit to represent their clients to the best of their ability, and those who cannot afford bail must stay in jail before their trial. For instance, two interviewees talked about the bail system. However, Participant 2 only touched on the topic whereas

Participant 1 told more about it. Participant 1 stated (personal communication, March 21, 2019), “I don't think it's perfect. I think it's the best compromise we have so far. We have a system. It's that you're innocent until proven guilty. But a lot of times the way our bail system is set up. It's ...I've personally feel like it's a waste of taxpayer money [...] they're forced to be placed in a correctional facility, even though they are technically innocent until proven guilty”. All Participant 2 said was (personal communication, March 21, 2019), “[...] as time goes forward now as we're looking at things, like, you know, the fairness of the bail system[...]”. Another area that needed improvement was the state provided lawyers and the legal system.

Most participants brought up the flaws with public defenders and how the system is set up. They believed the system is set up in a way that people who do not have a high income cannot receive the best legal representation. Participant 4 said (personal communication, March 28, 2019) “[...] the problem that I have is if you're well off enough that you could hire competent counsel, it's good. If you have to use the public defender...the problem is that they don't have the resources, and they also have such a workload that they can't give you adequate attention”. Participants 1 and 2 stated how defenders are overworked. Participant 1 said: Where we can have a universal across the board and where it's not based on the lawyer who can argue, which lawyers are better at arguing to get somebody off. Because that just comes down to

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economic, social status if you can afford to have an excellent lawyer to plead your case for you. Whereas somebody who's in a financially challenging situation, it's harder for them, and they must depend on public defenders who have thousands, hundreds, and thousands of cases must take care of once. (personal communication, March 21, 2019).

And, Participant 2's statement was:

[...]you have one defendant usually with an attorney, in probably the majority of cases a legal aid attorney, who is swamped beyond belief and I think the system recognizes, recognizes that we need to give every defendant every possible opportunity to persevere in these cases just out of a sense of fairness. You know, if you put the government against an individual the government is going to win right or wrong. The government's going to win most of those battles. (personal communication, March 21, 2019).

The issues within this theme were apparent in multiple interviews. The other categories and themes have shown up in prior literature, as well.

Discussion

The topic and subtopics in the literature review talked about the same ideas mentioned in the interviews. Jacquin and Hodges claimed that publicity before the trial led to jurors being exposed to one-sided reporting (Jacquin and Hodges, p. 489, p. 21). Participant 1 (personal communication, March 21, 2019) had agreed, saying it was hard to have an unbiased jury with

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all the information that is shown on the news daily. Ruva et al. (2011) continued the dialogue with the claim that the trial is biased, depending on the type of publicity they have seen (p. 512). For instance, both positive and negative publicity lead jurors to take into consideration that information, regardless of it is entered into a trial (Ruva et al., 2011, p.512). And, not only will media be used in decision making, but also the evidence presented in trial. It is crucial for jurors to consider only evidence presented during the trial to come to a fair verdict. However, even this process can become biased. A pro-prosecution stance came from the jurors being exposed to mostly negative pre-trial publicity, and a pro-defense position came from positive pre-trial publicity (Bruschke, 2016). Also, if jurors see one side is “leading” in the case, they may bend the evidence to favor that side; if the prosecution is “winning” the case, evidence that shows innocence can be misconstrued to fit into a guilty narrative (Bruschke, 2016). Media affects bias in other ways, as well.

Bruschke (2016) claimed that negative publicity does not, in fact, bias jurors. Other research disagrees. If the media were to cut down on the images and information, they show the possibility of influencing juries decreases even more. The way the news broadcasts information as soon as it is known, people are regularly updated in a way that provides a “movie” in their head of the suspect and their alleged guilt (Participant 3, personal communication, March 21, 2019). A “movie” of the alleged crime takes away the innocent until proven guilty sentiment in the legal system. Participant 3 (personal communication, March 21, 2019) also provided stories of her time interviewing for and writing tabloid stories, and how the stories began with a “hero,” a “villain,” and a sense of “justice” at the end. Stories such as these directly affect the defendant. Yet, increasing the credibility of the defendant in the jurors’ eyes can negate the effects of the media. Ruva and LeVasseur’s (2011) study illustrated those guilty verdicts increased with lower

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credibility and vice versa. So, the defendant's credibility is lowered in news stories that report on their alleged guilt, but if positive or neutral stories were published as well, it could become balanced. As a result, credibility increases, and the trial becomes fairer.

Potterf and Pohl (2018) gave evidence to this occurring nationwide; they explained how the media "frames" the way they want an issue to be illustrated to promote the story (p. 426). With this occurrence, the accused person's story is written, and a trial meant to determine their guilty instead becomes another chapter in their criminal narrative. Participant 3's (personal communication, March 21, 2019) own story reflects this idea, even if they are found innocent. If the media presented them as guilty, their innocence becomes a story of how the legal system failed in serving justice. The same story can be shown in a positive or negative light, and depending on that light; it can lead to jurors feeling some way towards the defendant. During a trial, if the jurors have heard more sympathetic stories, they are more likely to either vote "not guilty" or "guilty" and request a less harsh sentence (Ruva and LeVasseur 2011). The opposite occurs with unsympathetic stories.

Fein, Morgan, and Sommers (1997) and Jacquin and Hodges (2007) explained how jurors were biased towards Black defendants, illustrated in how they received harsher sentences and convictions than white defendants. However, Fein et al. (1997) pointed out that if the media presented stories that could have been considered racist, jurors would become suspicious of their motives, thus eliminating any bias that was possibly present (p. 490). Participant 3's (personal communication, March 21, 2019) account of the OJ Simpson case and how news articles seemed to darken his skin purposely is like this and Potterf and Pohl's study. The main idea was that by showing a flash of a black male face, jurors were more likely to assume his guilt (p. 426). The darkening of Simpson's skin in the news article was unusual because he was found innocent,

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which is the opposite of what Potterf and Pohl discovered. It suggests that if the race is unclear, then guilt will be assumed if the person is Black, or if the publication was seen before the trial. Once a trial is occurring, and the race is determined, the media coverage has less of an impact on the verdict. The darkening of Simpson's skin led to the jury to be suspicious of their motives, which is illustrated by the fact that he was found innocent, not guilty as Potterf and Pohl's study predicted. Inadmissible evidence came up in the research, again.

Elek and Hannaford-Agor (2013) claimed that evidence was the primary influence when deciding on a verdict (p. 192), which echoed Participant 2's (personal communication, March 21, 2019) belief that jurors would disregard any evidence presented to them prior to the trial, and use what was admissible to determine a verdict: "[...]if [media presented evidence] gets excluded from the trial, I really do believe that most jury members go into the case ready to put those biases aside[...] and really just sort of focus on what they're allowed to focus and then make a decision off of that.". However, he did not say that sometimes jurors are biased. He claimed (personal communication, March 21, 2019), "You know, I think, too, luckily the part of the great, one of the really instructive parts are really well thought out parts of our system is the fact that you know, no one's required to have a jury trial that almost everybody can have a bench trial if necessary and have their guilt or innocence determined by a judge as opposed to a jury" as an alternative to combat possible bias. These comments showed that the media could influence jury decisions, but not as much of a significance as mentioned earlier. Ruva and LeVasseur (2011) offered a different viewpoint. They agree that jurors will disregard the information as instructed; however, they will still take it into account subconsciously. The authors pointed out that the information is processed emotionally; negative emotions will lead to a negative view of the evidence; positive emotions will process evidence in a positive way (Ruva and LeVasseur 2011).

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Therefore, jurors will use the evidence processed in court, but those that are inadmissible will still affect their decision making.

Participant 2 (personal communication, March 21, 2019) and Elek and Hannaford-Agor (2013) mentioned how evidence is the main factor in verdicts, as it should be. When there is inadmissible evidence, such as “evidence,” the media broadcasted that could not be used in court, they believed jurors would disregard that information. If bias remained, it is possible to have fair trials still. But, if the bias is not present during the verdict decision, can it still impact sentencing? Evidence is needed only for determining guilt, so would they disregard the inadmissible evidence during sentencing as well?

After my study, I found there were limitations and areas that needed to be researched more. A limitation I had was that I was not able to interview people who have served on a juror, which would have provided an inside look. Also, I could not do a study focused solely on how mugshots or related pictures influenced the jury’s decision. I believe the use of mugshots and the differing pictures used for specific races or crimes is an area that needs to be researched further. There have been cases where a White suspect’s “mugshot” was a photograph of him at Niagara Falls when his supposed crime was being a serial killer. In contrast, men of color have their actual mugshots shown on the news for crimes such as vandalism or dealing drugs.

I found a couple of topics surprising. The most remarkable being the use of suspicion to diminish juror bias. I knew that bias is something most people experience, but I did not know something like suspicion can decrease it. If someone in the court suspects a juror to have prejudice over a client because of how the media painted them, then the court must give the juror reason to suspect racist motives behind those stories. However, it may not be that easy. The

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finding leaves me to question just how much bias is diminished. And, does it matter by how much? Further studies should be done on this to fully understand the role of suspicion in decreasing bias.

My biggest takeaway was that the jury system is not as biased as I believed it to be. However, the media did still impact jurors, just not in a detrimental way. The issue lies more in racial bias than how the news portrays the alleged crimes of the suspect. It suggests that society has not learned to separate their personal beliefs or prejudice to give a fair trial. It is essential to focus on decreasing this type of bias in the media to not promote this way of thinking; this means not talking about two stories focused on separate suspects of different races and illustrating the non-White suspect as more dangerous.

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