

The Attractive Criminal: Do Defendants' Attractiveness, Crime,  
and Juror Gender Affect Punitiveness and Verdict?

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**Vol. 7(2), 2022**

**Title:** The Attractive Criminal: Do Defendant's Attractiveness, Crime, and Juror Gender Affect Punitiveness and Verdict?

**DOI:** 10.21081/ax0347

**ISSN:** 2381-800X

**Keywords:** attractiveness, crime, juror, gender, sentence, verdict

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## The Attractive Criminal: Do Defendants' Attractiveness, Crime, and Juror Gender Affect Punitiveness and Verdict?

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### Abstract

Each year, hundreds of thousands of jurors judge a defendant's guilt. Understanding factors that influence their judgments is crucial. Both attractive-leniency bias and juror gender influence their decisions (Kulka & Kessler, 1978; Meaux et al., 2018; Papenbrook, 2013; Scroggs, 1976; Stewart, 1985). The present series of studies ( $N=110$  Study 1;  $N=82$  Study 2;  $N=68$  Study 3) explored these factors in addition to the type of crime by using mixed factorial (Studies 1 and 3) and between-subjects (Study 2) designs. I hypothesized that there would be a statistically significant interaction between type of crime and level of attractiveness. Women were hypothesized to deliver harsher sentences. With some variation, participants viewed versions of criminal scenarios (motor-vehicle theft, rape, murder) with or without a defendant's mugshot and selected the appropriate sentence (Studies 1-3) and decided on guilt (Study 3 only). Neither hypothesis was supported in Study 1 or 2. In Study 3, the hypothesized interaction was found between attractiveness and type of crime on sentence severity,  $p < 0.001$ ,  $r^2 = 0.18$ . The "attractive criminal" is sensationalized in media. The results from the current series of studies provide hope for the American legal and justice systems as people are not necessarily making judgments of guilt and enforcing harsh sentences based purely on the defendant's looks.

Keywords: *attractiveness, crime, juror, gender, sentence, verdict*

Crime is a major societal burden. According to the Federal Bureau of Investigation's Uniform Crime Report (UCR; FBI: Criminal Justice Information Services Division, 2019), in the U.S. in 2019, 7 million crimes that resulted in arrest were reported to police. In 72.5% of these cases, the perpetrators were men. While this is a substantial number of crimes, it is important to note that in about 95% of cases, guilt is determined through a plea agreement reached between the prosecution and the defense. This means only about 5% of cases actually go to a trial, and less than half of those cases are decided by a jury (Latessa & Lovins, 2019). While it appears that very few cases make it to a trial by jury, there are still a few hundred thousand cases every year where guilt is determined by a dozen of the defendant's peers. Because of this, it is crucial to understand what factors cause biases within jurors that in turn affect the outcome of the case. According to several reports, the defendant's physical attractiveness influences juror's decisions (Kulka & Kessler, 1978; Papenbrook, 2013; Stewart, 1985). The present series of studies examined whether the type of crime interacted with the physical attractiveness of the defendant and investigated whether an attractive defendant received a lesser sentence than an unattractive defendant who committed the same crime. In addition, juror gender was examined to determine if it affected the harshness of sentencing.

Attraction has long been studied by many social psychologists. Early work performed by Dion et al. (1972) suggests that there is a physical attractiveness stereotype, which they referred to as the *what is beautiful is good bias*. Their work demonstrated that physically attractive people were assumed to have more socially desirable personalities and happier, more successful lives than those who were unattractive. Social psychologists now commonly refer to the *what is beautiful is good* stereotype as the *halo effect*. Other previous work on attraction found that it plays a key role in adults' and children's formation of impressions regarding others' personalities (Felson & Bohrnstedt, 1979). Furthermore, Papenbrook (2013) summarized early research conducted on attraction by stating that it impacts a person's ability to judge others. These early studies laid the foundation for how strong the influence of physical attractiveness can be.

There are many factors that can affect how a person makes decisions. Often, these factors occur due to deeply held biases. One arena where these biases can affect decision-making is within the courts and trials.

The American legal system is designed to allow for the defendant's appearance to be judged by jurors whose biases can affect their decision-making. An early study by Kulka and Kessler (1978) examined whether litigant attractiveness affected how jury decision-making was handled in automobile negligence trials. Attractiveness influenced the outcome of awarding monetary damages so that the more attractive criminals paid less. However, despite these findings, the researchers suggested that the observation of physical attractiveness may have been mediated by other factors like the severity of the charges, which were predetermined in this study. The Kulka and Kessler study (1978) indicated that the physical attractiveness of a defendant in a court proceeding can affect how jurors make decisions regarding the outcome of the case. It also suggested that other factors such as the severity of the charge and crime may also be important to the case's outcome and that these factors need to be examined further. In addition, the majority of literature on attraction in the courtroom has found a positive relationship between defendant's attractiveness and juror judgments (Papenbrook, 2013). All of these studies indicate that an attractive-leniency bias exists and works in favor of attractive defendants.

When it came to researching attractiveness in the courtroom, most studies were examined in a laboratory setting. Stewart (1985) expanded upon previous attractive-leniency bias research when he found that the attractiveness of the defendant correlated negatively with the punishment's severity, meaning the more attractive the defendant, the more lenient the sentence. Stewart (1985) also found that correlation remained significant when the severity of the crime was controlled. However, one study suggested that while there is an attractive-leniency bias, the type of crime may affect it. Sigall and Ostrove (1975) hypothesized that attractiveness alone does not produce sentence leniency. Their research found that specific crimes, especially those in which the appearance of the defendant may have aided in the criminal act, caused the bias to work in reverse. For example, in cases of rape or sexual assault, the attractive defendant would actually receive a harsher sentence. Additionally, work by Papenbrook (2013) also found that the type of crime matters for when the attraction-leniency bias occurs. Within this study, results showed that the attractive defendants received a shorter sentence for the crimes of motor-vehicle theft and murder. In these two conditions, the unattractive defendants received the

harsher punishment. When it came to crimes of motor-vehicle theft and murder, the attractive-leniency bias occurred. However, rape caused the attractive-leniency bias to work in reverse.

The gender of the juror also affects sentencing. Scroggs's second experiment (1976) examined two cases of either a rape or a robbery with and without the female victim resisting during the crime. The author found that male participants selected significantly lower sentences as penalties when the victim did not resist, but that female participants selected longer penalties in the same scenario. This higher, female-given penalty was significant in both crimes of rape and robbery. These findings suggest that women are more likely to give harsher, longer sentences to criminal defendants overall. Furthermore, Papanbrock (2013) examined whether the gender of the juror in correlation to the attractiveness of the defendant affected the punishment's severity. Papanbrock found that women selected more severe punishments for all crimes. Lastly, Meaux et al. (2018) summarized previous literature regarding the effects of juror gender on criminal court proceedings, specifically in cases regarding sex crimes. In this study, the authors stated that men acting as mock jurors have never been found to be more punitive in intimate partner violence or other sexually-motivated cases. It appears that female mock jurors are the harsher and more punitive ones regarding these types of crimes.

In order to test whether the type of crime matters in order for the attractive-leniency bias to occur and whether juror gender affects sentencing, a series of studies was conducted. In all three studies, both the defendant's physical attractiveness and the type of crime were manipulated. Juror gender was assessed on preexisting participant gender. The three levels of defendant's physical attractiveness were attractive, unattractive, and control (no picture of a male defendant). The three levels of crime were motor-vehicle theft, murder, and rape. In the first two studies, only sentence severity was measured. However, in the third study, both guilt and sentence severity were assessed. An interaction between type of crime and level of attractiveness was hypothesized in that criminal defendants deemed attractive would receive more lenient sentences for the crimes of motor-vehicle theft and murder, whereas criminal defendants deemed unattractive would receive harsher sentences when convicted of these same two crimes. Moreover, I hypothesized that criminal defendants that are deemed

attractive would receive a harsher sentence for the crime of rape, as their attractiveness may be viewed as having aided the criminal action. A main effect was also hypothesized for participant gender. Female participants were expected to find more defendants guilty and to give out harsher punishments than male participants.

## Study 1

The first study investigated the effects of juror gender, type of crime, and attractive-leniency bias on sentence severity.

### Method

#### *Participants*

A total of 110 (87 women, 23 men) traditional undergraduate students from a small liberal arts college in the South participated. The majority received credit toward a course requirement for participation. Participants ranged in age between 18-22 years ( $M = 19.12$ ,  $SD = 0.81$ ). Six participant responses were dropped from analysis due to incomplete data.

#### *Materials*

The stimuli for this study were comprised of six male mugshots, which were obtained from Google images, with half being attractive and the other half unattractive. A pre-test consisting of 18 images obtained from Google images was given to 12 female students. The faces were rated on the same Likert-scale (1 - *very unattractive*, 5 - *very attractive*) that participants saw in Study 1. The pre-test results were used to select the three attractive and unattractive faces to be used in the study. The gender, race, and age of the stimuli were all held constant. Each mugshot was of a White man appearing to be between 25 to 30 years old. The defendant stimuli used in this study remained the same across all three studies.

#### *Design*

A 2 (participant gender: female/male) x 3 (attractiveness: attractive/unattractive/control no image) x 3 (crime: motor-vehicle theft/murder/rape) mixed factorial design was used. The repeated measures variables in the design were type of crime and level of

attractiveness. The dependent variable was sentence severity. This current study is a partial replication of Papenbrook's (2013) work conducted in this area.

### **Procedure**

The same procedure was used for all three studies, except as noted. Data collection was conducted through Qualtrics. Participants consented to partake in this study by clicking a button acknowledging they read the consent form and agreed to participate. Those who chose not to participate indicated so by clicking a different button which exited them from the study. This process of obtaining informed consent was used in all three studies.

After indicating consent, participants (in the Study 1 only) viewed each of the six faces and rated them for physical attractiveness on a Likert-scale from 1 (*very unattractive*) to 5 (*very attractive*). Then, in random order, they viewed nine scenarios depicting the combinations of the defendant attractiveness and crime treatments to judge sentence severity. There were three conditions per each crime type: a control condition, which provided a description of the criminal act with no photo of the defendant; an attractive condition, which included a description of the criminal act with an accompanying attractive male photo; and an unattractive condition, which included a description of the criminal act with an accompanying unattractive male photo. Regardless of the condition, each of the nine criminal scenarios asked the participants to select the appropriate sentence for the respective defendants. The sentences included probation, 6 months in jail, 1 year in jail, 5 years in prison, 10 years in prison, 15 years in prison, 20 years in prison, and life in prison. After completing the scenarios, the participants were thanked and debriefed.

### **Results**

A 2 (participant gender: female/male) x 3 (attractiveness: attractive/unattractive/control no image) x 3 (crime: motor-vehicle theft/murder/rape) mixed factorial analysis of variance (*ANOVA*) was conducted. The level of attractiveness of the defendant and type of crime did not interact significantly enough to affect sentence severity:  $F(4, 428) = 0.76$ ,  $MSE = 0.26$ ,  $p = 0.56$ . The effect size was 0.007 with a power of 0.24. Participant gender did not significantly affect sentence severity:  $F(1, 107) = 0.70$ ,  $MSE = 5.82$ ,  $p = 0.79$ . The

effect size was 0.001 and a power of 0.06 was found. The type of crime significantly affected the sentence severity:  $F(2, 214) = 291.35$ ,  $MSE = 3.85$ ,  $p = 0.001$ . Crime accounted for 73.1% of the variability in sentence severity. The power of this test was virtually 1.00. Post-hoc Tukey analyses showed that the sentence severity for theft ( $M = 3.43$ ,  $SD = 1.59$ ) differed significantly from rape ( $M = 6.94$ ,  $SD = 1.28$ ) and murder ( $M = 7.61$ ,  $SD = 0.91$ ). The level of attractiveness significantly affected the sentence severity:  $F(2, 214) = 3.30$ ,  $MSE = 0.30$ ,  $p = 0.039$ . Defendant attractiveness accounted for 3% of the variability in sentence severity. The power of this test was 0.62. Post-hoc analyses showed that attractiveness ( $M = 5.94$ ,  $SD = 1.27$ ) differed significantly from unattractiveness ( $M = 6.03$ ,  $SD = 1.30$ ) and control ( $M = 6.01$ ,  $SD = 1.22$ ), while there was no significant difference between unattractiveness and control.

### **Discussion**

The findings did not support the original hypotheses. Sentence severity was not affected by the interaction of attractiveness and crime. There was no difference between the levels of attractiveness and type of crime. Participant gender did not affect sentence severity, nor did it interact with any of the other variables. However, crime by itself appeared to affect sentence severity. Each type of crime was significantly different from the others. For the criminal scenario of motor-vehicle theft, the defendants received the least amount of punishment compared to rape and murder. In the criminal scenario of murder, defendants received the harshest punishment in terms of sentence severity. Furthermore, level of attractiveness by itself affected sentence severity. The attractive defendants received a more lenient sentence compared to the unattractive defendants and the control, while the unattractive defendants did not differ from the control in terms of sentence severity.

A limitation in this study may be the criminal scenarios themselves. Each criminal scenario presented a clear-cut description of the defendant's name, age, and convicted crime. Depending on the scenario, a defendant's mugshot also accompanied the description. However, no other details about the crime, victim(s), or evidence were provided. Because there were no details about the crimes themselves, it is possible the scenarios evoked no emotional response in the participants. Toro (2015) has shown that female jurors rely on details and

evidence when making decisions about criminal cases. These two pieces of information trigger an emotional response that is often not experienced by male jurors. It is this emotional response that many women rely on to judge criminal defendants harsher than men. The lack of details in the criminal scenarios may account for why predictions of female participants were not harsher in their recommended sentences compared to the male participants.

## Study 2

In order to address the limitation of Study 1, each of the criminal scenarios moving forward gave background on victim-offender interaction and how the mock-incident occurred, in addition to the defendant's name and the crime he was being sentenced for. Study 2 examined the same research question with the same hypotheses posited in the previous study. In order to test whether the type of crime matters in order for the attractiveness bias to occur and whether juror gender affects sentencing, a 2 (participant gender: female/male) x 3 (attractiveness: attractive/unattractive/control no image) x 3 (crime: motor-vehicle theft/murder/rape) between-subjects design was used with juror gender, the level of defendant's physical attractiveness, and type of crime.

## Method

### Participants

A total of 82 (66 women, 16 men) traditional undergraduate students from a small liberal arts college in the South participated. The age range of the participants was 18-22 years ( $M = 19.17$ ,  $SD = 1.09$ ).

### Design

A 2 (participant gender: female/male) x 3 (attractiveness: attractive/unattractive/control no image) x 3 (crime: motor-vehicle theft/murder/rape) between-subjects design was used. The independent variables and dependent variable in this study remained the same from Study 1. A between-subjects design was used to reduce the number of detailed scenarios needed.

### Procedure

Participants viewed one of the nine detailed criminal scenarios depicting one of the three types of crime and one of the attractiveness situations. Then, participants were asked to select the appropriate sentence using the same sentence options as Study 1.

## Results

A 2 (participant gender: female/male) x 3 (attractiveness: attractive/unattractive/control no image) x 3 (crime: motor-vehicle theft/murder/rape) between-subjects analysis of variance (*ANOVA*) was conducted.

The level of attractiveness of the defendant and type of crime did not interact significantly to affect sentence severity:  $F(4, 65) = 0.36$ ,  $MSE = 1.35$ ,  $p = 0.84$ . The effect size was 0.02 with a power of 0.13. Participant gender did not significantly affect sentence severity:  $F(1, 65) = 0.001$ ,  $MSE = 1.35$ ,  $p = 0.97$ . The effect size was 0.00 and a power of 0.05 was found. The type of crime significantly affected sentence severity:  $F(2, 65) = 77.81$ ,  $MSE = 1.35$ ,  $p < 0.001$ . Crime accounted for 70.5% of the variability in sentence severity. The power of this test was virtually 1.00. Post-hoc Tukey analyses showed that sentence severity for theft ( $M = 2.71$ ,  $SD = 1.01$ ) differed significantly from rape ( $M = 6.56$ ,  $SD = 1.33$ ) and murder ( $M = 7.19$ ,  $SD = 1.02$ ).

## Discussion

Study 2's findings did not support the original hypotheses. Sentence severity was not affected by the interaction of attractiveness and crime, there was no difference between the levels of attractiveness and type of crime, and participant gender did not affect sentence severity. However, crime by itself appeared to affect sentence severity. Each type of crime was significantly different from the others. Perpetrators of motor-vehicle theft received the least punishment, while defendants in murder trials received the harshest.

Unlike Study 1, attractiveness did not significantly affect sentence severity. This could be due to the change in design. When this effect was found in the first study, it was very small. When the experimental design was

changed from that of mixed factorial to that of between-subjects, the effect of attractiveness was simply too small to detect.

### Study 3

In losing the effect of attractiveness in Study 2, it became clear that a mixed factorial design was the best experimental design to test the research question. Because of this determination, Study 3 returned to the mixed factorial design used in Study 1 while maintaining the level of detail used in Study 2. A second dependent variable was assessed in this study. In addition to sentence severity, participants also decided on the guilt of the defendants. In reality, jurors are more likely to determine guilt rather than sentence, as sentencing is typically decided by a judge. This study examined the same research question with the same hypotheses posited in the previous studies. In order to test whether the type of crime matters in order for the attractive-leniency bias to occur and whether juror gender affects verdict and sentencing, a 2 (participant gender: female/male) x 3 (attractiveness: attractive/unattractive/control no image) x 3 (crime: motor-vehicle theft/murder/rape) mixed factorial design was used with juror gender, defendant's physical attractiveness, and type of crime.

### Method

#### Participants

A total of 68 (50 women, 18 men) traditional undergraduate students from a small liberal arts college in the South participated. The age range of the participants was 18-22 years ( $M = 19.37$ ,  $SD = 1.04$ ). Five participant responses were dropped from analysis due to incomplete data.

#### Design

A 2 (participant gender: female/male) x 3 (attractiveness: attractive/unattractive/control no image) x 3 (crime: motor-vehicle theft/murder/rape) mixed factorial design was used. The independent variables remained the same as both previous studies. The repeated measures variables in this study were the type of crime and level of attractiveness. In addition to the dependent

variable from the previous studies of sentence severity, Study 3 included the dependent variable of assessing guilt.

#### Procedure

Participants viewed all nine detailed criminal scenarios involving motor-vehicle theft, murder, or rape with or without an accompanying mugshot. First, participants were asked to determine if the defendant in the scenario was innocent or guilty. If innocent, the participant proceeded to the next scenario. If guilty, participants were then asked to select the appropriate sentence for that respective defendant using the same sentence options as the previous studies.

#### Results

A 2 (participant gender: female/male) x 3 (attractiveness: attractive/unattractive/control no image) x 3 (crime: motor-vehicle theft/murder/rape) mixed factorial analysis of variance (*ANOVA*) was conducted. There appeared to be a trend towards statistical significance with the level of attractiveness affecting guilt:  $F(2, 124) = 2.65$ ,  $MSE = 0.05$ ,  $p = 0.07$ . The effect size was 0.04 with a power of 0.52. Moreover, there also appeared to be a trend toward a significant interaction between the level of attractiveness and the type of crime affecting guilt:  $F(4, 248) = 1.98$ ,  $MSE = 0.04$ ,  $p = 0.098$ . The effect size was 0.03 with a power of 0.59.

The level of attractiveness and type of crime did interact significantly to affect sentence severity:  $F(4, 192) = 10.27$ ,  $MSE = 0.49$ ,  $p < 0.001$ . The effect size was 0.18 with a power of virtually 1.00. Simple effects tests showed that there was no difference in the severity of the sentence for the crime of motor-vehicle theft regardless of the level of attractiveness. However, it showed that for the crime of murder, the attractive defendants ( $M = 6.56$ ,  $SD = 1.57$ ) were sentenced less severely than the unattractive defendants ( $M = 6.89$ ,  $SD = 1.30$ ) and the control ( $M = 7.06$ ,  $SD = 1.10$ ). The same was found for the crime of rape, for which the attractive defendants ( $M = 5.84$ ,  $SD = 1.60$ ) were sentenced less severely than the unattractive defendants ( $M = 6.54$ ,  $SD = 1.34$ ) and the control ( $M = 5.54$ ,  $SD = 1.74$ ). Participant gender did not significantly affect sentence severity:  $F(1, 48) = 0.44$ ,  $MSE = 5.94$ ,  $p = 0.51$ . The effect size was 0.009 and a

power of 0.10 was found. While the attractive defendants were sentenced less severely for both crimes of murder and rape compared to the unattractive defendants, the difference between attractive and unattractive sentences for murder were less than the sentences for rape.

## Discussion

The findings did not fully support the original hypotheses. The results partially supported the first hypothesis regarding attractiveness and type of crime affecting sentence severity. The results showed that the attractive defendants were sentenced less harshly for the crime of murder than the unattractive defendants. This was consistent with the hypothesis. However, the opposite of what was hypothesized occurred for the crime of rape. Here, the unattractive participants received the harsher sentence, while it was hypothesized that the attractive defendants would receive the harsher punishment for the crime of rape. Regarding the second hypothesis, participant gender did not affect sentence severity.

However, when examining how attractiveness affected verdict, there appears to be some support for the first hypothesis. Because the findings were not significant, the differences cannot be tested, but it looks like the attractive defendants are trending toward being less likely judged guilty than the unattractive defendants. This shows some support for the hypothesis, because if those attractive individuals are not being found guilty, they are being punished less severely. Furthermore, when examining how the level of attractiveness and type of crime interact regarding guilt, there appears to be some support for the hypothesis. Specifically, attractive criminals are more likely to be judged guilty for the crime of rape than for murder or motor-vehicle theft.

## General Discussion

Overall, the original hypotheses were not supported by either Study 1 or 2. In Study 3, only one of the hypotheses was partially supported. Across all three studies, no support was found regarding the hypothesis on participant gender. This could be due to an increase in gender fluidity over the last several years. Today, people find aspects of both men and women attractive. They also can identify with aspects of both men and women. Because of this, people appear to not be

making harsher judgements about one gender versus the other. Furthermore, across all three studies, there was no overlap within participants between studies. The studies were designed so that a participant could only complete one study.

Results across all three studies contradicted previous literature. Attractiveness was found to be a factor that can affect the severity of sentencing. Researchers Kulka and Kessler (1978) and Stewart (1985) discovered the presence of the attractive-leniency bias, where attractive defendants received more lenient sentences for their crimes than unattractive defendants. This bias was found both in the laboratory setting and in the courtroom. Studies have also found that perhaps the type of crime matters when determining the presence of attractive-leniency bias (Papenbrook, 2013; Sigall & Ostrove, 1975). Certain crimes, like those of rape or other sexually-motivated cases, can cause the bias to work in reverse because it is believed the attractiveness of the defendant aided the criminal actions.

The American legal system allows for an individual to be judged by members of his or her peers. These judgements allow unconscious biases to affect how members of the jury view the defendant. Additionally, these biases can influence decisions regarding guilt and the harshness of recommended sentences. Because of previous research, it is known that factors such as attractiveness and gender exist to create biases. However, the current studies did not find evidence indicating that these biases affect sentence severity. They can be used as a tool for legal practitioners to understand that, when considering the type of crime, certain biases like the attractive-leniency bias may not actually be affecting jury decision-making as much as it was once believed to be.

Everyone has heard of the “attractive criminal.” These criminals have been sensationalized in media, whether that be in movies and television or even in the news. Since it has been occurring for so long, people may now be more aware of the phenomenon. While results from these studies did show that defendant attractiveness is considered when deciding both guilt and punishment, it is not the only factor in play. The severity of the crime also matters. This conclusion provides hope for the American legal and justice systems as people are not necessarily making judgments of guilt and punishment based purely on the defendant’s looks.



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