

Gender Discrimination in the Decision to Convict

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I. Introduction

There are many areas in which discrimination occurs and alters outcomes for those affected in a negative way. Discrimination is seen in labor markets and evidence is suggesting that it is also prevalent in the judicial system. With the promise of a fair trial, it is surprising that aspects unrelated to the actual case such as race, age, and political preference of jury members have been shown to affect trial outcomes (Anwar, Bayer, and Hjalmarsson 2012; 2014; 2015).¹ This is of economic importance as the outcomes of these trials carry significant consequences for the defendant which affect the rest of his or her life. This comes in the form of long prison sentences with many crimes having mandatory minimums, a criminal record, reduced job opportunities upon release, and various other social ramifications.

This paper contributes by exploring the role of gender composition in juries for both misdemeanor and felony criminal trials. Preliminary findings indicate that jurors favor own-gender defendants, and that these effects are heterogeneous across various crime categories.

II. Empirical Model and Methodology

A concern in evaluating the impact of jurors in trial outcomes is that jurors are selected to serve and are not randomly assigned to cases. This creates a selection issue and we can no longer identify the causal effect of a jury's gender composition which is the primary aim. Instead, we exploit the random variation in assignment to jury pools and the ordering of potential jurors in an instrumental variable approach. We construct an instrument for the probability of the number of males selected based on the ordering of the potential jurors and their gender. The main idea is that if more men are discussed first then, with a limit on how many potential jurors can be struck, it is more likely that more males will be seated for the jury trial. Empirically, this is highly correlated with the number of males that are selected to serve on the panel without the selection issue. The predicted number of males is then interacted with the gender of the defendant to estimate effects of gender discrimination in a rigorous manner.

Each trial has a predicted number of males based on the pool of jurors assigned to the case, the defendant's gender, and typically several charges ranging in degree of severity and their corresponding outcomes. For this reason we arrange the data such that every charge is an individual observation weighted by the total number of charges in the case. This allows our

¹ These studies are most similar to this project as they consider how juries affect trial outcomes while other studies have also shown discrimination in other aspects of the judicial system (See Crystal Yang 2015).

outcome variable to be whether or not the jury convicted the defendant of a particular charge while not weighting any particular case too heavily.

III. Description of Data

We utilize administrative data from counties in Florida covering all criminal trials for the past two years.² The data are split into two components: case information and juror selection information. Florida offers a unique setting in which to examine the role of juror gender in trials as data on both trials and the juror selection process are publicly available.

Case information includes the defendant's name, date of birth, race, charges, severity of each charge (third degree misdemeanor, first degree felony, etc), outcome of each charge (guilty, not guilty, etc), and the judge that presided over the case. We use the disposition of each charge as our outcome variable, defendant's gender as a variable of interest, and are able to control for other case observables.

Data on the juror selection process is vital as our identification strategy relies on having detailed data on the pool of jurors chosen from and not just those that were selected to serve. For every jury trial, we have the entire panel of jurors selected from including gender and the order discussed. This allows us to construct an instrument for the gender composition of the jury deciding the case as the predicted gender composition as described above. We also have information on which members were actually selected to show that there is a strong correlation between the two variables.

IV. Expected Results and Preliminary Findings

We expected an overall difference in gender behavior and a degree of gender discrimination. Preliminary findings support this indicating that jurors favor own-gender defendants. For example, jury panels with more men are less likely to convict male defendants. These effects are heterogeneous across various crime severities and categories. Results are strongest in drug related cases likely due to the subjective nature of such cases. In general, we find that women are less likely to convict compared to their male counterparts across all crime categories.

V. How the Presentation will initiate Conversation

This presentation will initiate conversation on the prevalence of discrimination and what steps can be done to address these issues. More specifically, how judicial systems can be designed to reduce such biases. This is a concern as matters unrelated to the case are being shown to affect the outcomes of criminal trials which carry heavy consequences in the lives of the defendants.

² The data currently includes records from the third and fourth largest counties in Florida by population: Hillsborough and Palm Beach.