Judicial Decision-Making Research and Reforms

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The Project

- Late 2015: State court approached American Bar Foundation for a study on bias in judging
- Scope: race, gender, income, representation status
  - I took the opportunity to pitch a big project!
- Spent a year developing the study alongside the judicial committee
- Launched the study in Spring 2017 and collected data from 2/3 of the trial judges in the state
The Project

- Manipulations & Measures:
  - Cognitive Style
  - Gender Ideology
  - Race IAT
  - 5 Hypothetical Cases (with experiments)
  - Interventions: Accountability, Deliberation
  - Working Conditions
  - Demographics
Initial Findings

• Judges’ cognitive styles and race IAT scores resemble the general population

• Judges rated their abilities to avoid race & gender bias higher than any other judicial skill

• Case outcomes were influenced by:
  • Litigant race
  • Race IAT scores
  • Litigant gender
  • Gender ideology
  • Litigant SES
  • Litigant representation status
Initial Findings

• Accountability intervention did not work
• Deliberation intervention showed promise

• Expertise/specialization was associated with greater disparities in case outcomes, not less

• Judges experience many working conditions that create barriers to deliberativeness (e.g., time pressure, multitasking)
Policy Reforms & Education

• Educational Initiatives:
  • New courses at 2018 and 2020 judicial education conference
  • New course at the annual New Judge training
  • Implicit bias training sessions for specific districts & sub-groups who request them
    • Self-represented litigant coordinators
    • Chief Judges
    • Judicial Peer Evaluators
    • New Judge Mentors
Policy Reforms & Education

- Defined “bias awareness” as a core competency
- Instituted a minimum requirement for CJE hours on Bias and Diversity Content  
  - Helped write the definitions
- Instituted a policy encouraging every educational convention course to incorporate content on bias  
  - Workshopped with curriculum coordinators and individual session faculty
- Teach judges & administrators how to identify policy, rule, and technology reforms
Next Steps for Research

- Closer look at Deliberativeness interventions

- Mechanisms for the Expertise effect:
  - Heuristic processing
  - Over-confidence
  - Reduced motivation to control prejudice
  - Emotion
  - Selective memory of stereotypical cases
  - Greater skills needed for motivated reasoning
Next Steps for Policy & Education

• Present to AJA/NBA

• Help to write new 3-year curriculum for Judicial College

• Advocate for specific policy reforms statewide
  • Example: risk assessment software for bond courts

• Expand to non-judicial justice partners:
  • Guardians ad litem
  • Court clerks and Trial Court Administrators
  • Probation officers
Rewarding Outcomes & Experiences

• Research “deliverables”
  • 2 articles so far, more to come
  • Material for larger grant proposals

• Research benefits:
  • More intimate knowledge of how the law works
  • Broader exposure

• Personal sense of mission and meaning

• More ongoing positive feedback & rewards
Challenges

• It’s risky to invest so much time outside of the university— the potential CV payoffs are unknown

• Psychology journals often see the research as “just applied” or “better for a specialty journal”
  • Have to show theoretical contributions
  • Sometimes have to downplay legal & policy implications
Lessons Learned

• Listen a LOT during the early stages
  • Learn how to deliver a research product they can use
  • Learn how to tailor my pitches to their concerns

• Take the time to teach scientific concepts and communicate in their language

• Get buy-in from community leaders

• Be mindful of multiple perspectives within the community

• Say “Yes” a lot
Thank You

- State Supreme Court
- Administrative Office of the Court
- Judicial College