

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

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- Administrative Office of the Court
- Judicial College