



# PsychLaw

## A likely story?

*“...defendants who are seen as more feminine (with stereotypically feminine traits) are less likely to be viewed negatively “*

Alibi's can be an integral part of any criminal brief, but what aspects of an alibi or of the alibi witness are important to the jurors? Given that alibis can easily be falsified, how are jurors influenced by this information? Given that stereotypes have been found to be influential in mock juror decision-making, it is possible that jurors will use gender stereotypes to evaluate the believability of a defendant's testimony, thus making verdict decisions on the basis of extra-legal information. A study in Canada<sup>1</sup> was designed to determine whether mock jurors would evaluate a defendant's alibi differently as a function of gender stereotype consistency, and whether this perception of the alibi would then influence verdict decisions in a simulated murder trial.

A large body of research has investigated the traits stereotypically assigned to men and women. In general, women tend to be viewed as gentle, warm and passive, whereas men are perceived as tough and aggressive. Previous research has demonstrated that mock jurors may rely on stereotypes when making decisions in criminal trials, and that stereotype-congruent crimes (e.g. violent crime for Black defendants, corporate crime for White defendants) are more likely to be found guilty or sentenced more harshly than those who are charged with stereotype-inconsistent crimes.

In the current research a total of four trial transcripts were created. These transcripts were identical, except for the gender of the defendant (manipulated to be either a man or a woman, depending on condition), the gender of the victim (manipulated in accordance with the defendant's gender, such that the defendant was always married to an opposite-gender spouse),

and the nature of the alibi (manipulated to be either masculine—shopping for tools at a hardware store—or feminine—shopping for skincare products at a store in a mall).

The research demonstrated that defendant gender did predict perceptions of femininity, which in turn predicted the believability of the defendant's testimony, his or her likeability ratings, and the degree to which participants found the alibi to be compelling. The more feminine the defendant in the eyes of the mock jurors, the more they believed his or her testimony, liked him or her, and put stock into his or her alibi, and the more mock jurors believed the testimony of the defendant, the less certain they were of his or her guilt. Defendant impressions also influenced verdict certainty, such that participants were less certain of the defendant's guilt when they had favourable impressions of him or her. Consequently gender stereotypes do seem to affect mock jurors, such that defendants who are seen as more feminine (with stereotypically feminine traits) are less likely to be viewed negatively, and in turn, convicted of murder.

The implication of this research largely appears to be that perceptions of defendant femininity are influential in a murder trial. Given that aggression and violence are stereotypically associated with men, it is unsurprising that defendants who were viewed as more feminine were less likely to be convicted of a crime as violent as murder. The influence of femininity on other trial perceptions, and the influence of extra-legal factors such as defendant likeability on guilt ratings, suggests that even with the presence of judicial instructions, mock jurors focused on legally irrelevant criteria when making their verdict decisions.

*“...perceptions of femininity, predicted the believability of the defendant's testimony, “*

<sup>1</sup> Maeder, E.M., & Dempsey, J.L. (2012). A likely story? The influence of type of alibi and defendant gender on juror decision-making. *Psychiatry, Psychology and Law*, DOI:10.1080/13218719.2012.727066



## Dangerous decisions

Based on another's facial appearance, observers rapidly make inferences about his/her character prior to any interpersonal interaction. One of the first inferences made upon viewing a stranger's face is an assessment of his/her trait trustworthiness; observers come to instantaneous (less than 1/10th of a second) and confident decisions about whether a face can be trusted, based on cues gleaned from facial structure. These evaluations play a major role in subsequent decisions about others in various interpersonal contexts and can contribute to prejudice and/or discrimination.

In legal settings, such evaluations can hold tremendous consequences. For example, individuals with perceived baby-faced qualities receive relatively lenient sentences while attractive defendants are perceived as more honest and are less likely to be deemed guilty than their unattractive counterparts. The high-stakes involved with trustworthiness decisions in a court setting are likely to generate an increas-

ingly conscious engagement of the defendant's characteristics. However, the initial impression of a defendant's trustworthiness is likely to have an enduring influence on the manner in which new information concerning the target is interpreted and assimilated by judges and jurors. Specifically, the initial evaluation can influence subsequent inferences concerning the defendant (or other witness) by making decision-making about him/her increasingly irrational. Findings to date suggest that untrustworthy-looking faces put into motion a form of tunnel vision decision-making that exaggerates the importance of incriminating evidence and undervalues that of exculpating information

Recent research<sup>1</sup> examined the effects of participant biases and attitudes towards the legal system, and how they relate to legal decision-making. Participants attributed more positive traits to trustworthy faces relative to untrustworthy faces. Trustworthy faces were considered to be more attractive, kinder, less aggressive, and less likely to commit

crimes. In addition, individuals with unbiased legal attitudes were more likely to exonerate a perceived untrustworthy defendant. In contrast, more racially biased participants were less likely to be influenced by exonerating evidence for an untrustworthy looking defendant.

While the observed effects were statistically significant, they were not large and practical applications of the findings should be approached with caution. The results are nevertheless in accordance with previous work on tunnel vision, and they suggest that untrustworthy faces activate personal biases related to the importance of appearance-based assessments in legal decisions. The subsequent tunnel vision reduces the likelihood that exonerating evidence will be considered in evaluations of guilt or innocence, which ultimately may contribute to wrongful convictions. In general, the results suggested that character evaluations, based in part on facial appearance, interact with various biases and attitudes to shape the manner in which evidence of an individual is assessed.

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<sup>1</sup> Korva, N., Porter, S., O'Connor, B.P., Shaw, J. & Brinke, L. (2012). Dangerous decisions: influence of juror attitudes and defendant appearance on legal decision-making. *Psychiatry, Psychology and Law*, DOI:10.1080/13218719.2012.692931

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