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Gendered Injustice: How Prosecutor Gender Impacts Perceptions of Defendant Culpability

Morgan Stalcup,^a Jacqueline Lee,^b Chae Jaynes,^a Scott Liebertz^c

^a *University of South Florida*

^b *Boise State University*

^c *University of South Alabama*

ABSTRACT AND ARTICLE INFORMATION

This study investigates how prosecutor gender impacts perceptions of defendant culpability in the criminal court system. While factual guilt and evidence should determine culpability, anecdotal beliefs and research suggest that extra-legal factors, such as attorney gender, may influence legal outcomes. Past studies have shown that female attorneys may face disadvantages in negotiations, but little research has explored whether prosecutor gender affects perceptions of defendants. This issue becomes increasingly relevant as more women enter the legal profession. Using a nationwide sample of 471 American adults, this study explores three key questions: 1) whether a prosecutor's gender influences perceptions of defendant culpability, 2) how respondent gender affects these perceptions, and 3) whether respondent gender moderates the influence of prosecutor gender. To evaluate the impact of prosecutor gender on defendant culpability, this study uses an experimental vignette design manipulating prosecutor gender. Ordered-logistic analysis shows that cases involving female prosecutors result in higher perceptions of defendant culpability relative to cases with male prosecutors. Notably, female respondents are more likely to attribute higher culpability to defendants when the prosecutor is female or when no prosecutor gender is indicated, compared to male respondents. Policy implications and future directions for research are also discussed.

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The criminal court system is greatly impacted by a defendant's culpability, both factual guilt and perceptions of guilt. This influence ranges from defendant willingness to accept guilt based on how they view their own culpability (Frazier & Gonzales, 2021; Lee et al., 2023, Wilford et al., 2021b) to juror decisions in a trial (Berman et al., 1995; Porter et al., 2010) to defense attorney plea recommendations and judicial sentencing (e.g., Hellgren & Kassin, 2022; Steffensmeier et al., 1998). When it comes to prosecutors, arguably the most powerful actor in the courtroom (Davis, 2007) in a system dominated by pleas (Devers, 2011; Pastore & Maguire, 2003), the prosecutor should be certain of the defendant's guilt when negotiating a plea. In the rare case of a jury or bench trial, the prosecutor is tasked with proving every element of the offense beyond a reasonable doubt to the appropriate fact finder.

While perceptions of defendant culpability should be influenced by relevant factors such as evidence strength, extra-legal factors, such as prosecutor or defense counsel gender should, in theory, not be relevant. However, there are widespread anecdotal beliefs that attorney gender *may* matter. For instance, in advertising, attorneys acknowledge (and defend against or promote, depending on their gender) the belief that male defendants may benefit by hiring a female attorney for domestic violence, sex crimes, or civil cases such as divorce or child custody (e.g., Blank Law, 2022; The Firm For Men, 2023; Micklin Law Group, 2023; Miles, 2017). There are also evidence-based reasons to expect that attorney gender may impact case outcomes, as studies have consistently shown that women fare worse as negotiators relative to men (Barron, 2003; Bowles et al., 2005; Stuhlmacher & Walters, 1999). The problem, however, is that little to no research has examined whether attorney gender impacts perceptions of defendant culpability. This is increasingly an issue as higher proportions of women are electing to work within the legal system (American Bar Association [ABA], 2021). Amidst this shifting landscape, the power dynamics within the courtroom, notably those of the prosecutor, come under closer scrutiny, prompting a critical examination of how attorney gender shapes the administration of justice.

Using a nationwide sample of 471 American adults, the current study aims to explore three critical research questions:

- 1) Does a prosecutor's gender impact survey respondent perceptions of defendant culpability?
- 2) How do these perceptions differ by respondent gender?

- 3) Is the influence of prosecutor gender moderated by respondent gender?

Within these research questions, we anticipate the following hypotheses:

H1: Defendants with female prosecutors will be perceived as more culpable compared to defendants with male prosecutors.

H2: Male respondents will perceive defendants as significantly more culpable compared to female respondents.

H3: Respondent gender will moderate the relationship between prosecutor gender and perceptions of defendant culpability, with the male respondents exhibiting more negative evaluations of defendants prosecuted by female prosecutors than female respondents.

While research exists addressing the experience of female officials in general, little research specifically targets female attorneys working in a criminal court context. In answering these research questions, our intention is to elaborate on the role of extra-legal factors, such as attorney gender, in shaping court-related perceptions and outcomes. We begin by reviewing research on perceptions of defendants, courts, and courtroom actors.

Literature Review

The Role of Defendant Culpability

The role of factual guilt and perceptions of guilt have been studied extensively for prosecutors and judges, highlighting how these factors shape critical decision-making processes. For instance, research on prosecutors has demonstrated that in sexual assault cases, a victim's "risky behavior" can be associated with lower odds of a case being charged and that this effect is driven, at least in part, by prosecutor concerns over juror views of victim culpability and credibility (Spears & Spohn, 1997; see also Spohn et al., 2001). Similarly, sentencing research has demonstrated that judicial perceptions of defendant culpability and blameworthiness are associated with sentencing severity (Steffensmeier et al., 1998; Ulmer et al., 2023). Because culpability perceptions are woven throughout courtroom decision-making, they shape many stages of the process.

While much guilty plea research focuses on the influence of external factors such as offer severity, probability of conviction, and defendant guilt (Dervan & Edkins, 2013; Redlich & Shteynberg, 2016;

Zimmerman & Hunter, 2018), it has only recently extended to understanding how defendants view themselves and their own guilt. Hypothetical defendants randomized into a guilty condition tend to report higher willingness to accept a plea than innocent defendants, and there is always a proportion of factually innocent defendants willing to accept a plea (Dervan & Edkins, 2013; Lee et al., 2021; McAllister & Bregman 1986; Petersen et al., 2020; Quickel & Zimmerman, 2019; Tor et al., 2010; Wilford et al., 2021b; Zimmerman & Hunter, 2018; Zottoli et al., 2016). This body of literature thus indicates that defendant culpability is a key predictor of whether a defendant will accept a plea; as one would expect, people who are guilty are more willing than those who are innocent to admit guilt through the mechanism of plea acceptance.

More recently, work has begun to disentangle factual guilt (i.e., hypothetical defendants are explicitly told they are guilty) from *perceptions* of guilt (i.e., asking hypothetical defendants how guilty they view themselves). Using a “choose your own adventure” survey methodology, Frazier and Gonzales (2021) examined how these defendants would react to a campus sexual assault allegation vignette. Results indicated that many defendants did not perceive themselves to be guilty, even if they legally were. Moreover, factors about the event, such as the other person being intoxicated, lowered self-perceptions of guilt despite that being irrelevant to their guilt at court. Wilford and colleagues (2021a) found that in a mock in-person cheating scenario, some factually guilty respondents provided their own self-perceived innocence as a reason to reject a plea offer. In addition, other new research has shown that defendant perceptions of their culpability operate somewhat independently from factual guilt in that not all people who are factually guilty view themselves as such (Lee et al., 2023). Perceptions of culpability are not only subjective but they can also diverge sharply from factual guilt and complicate legal processes.

Studying public perceptions of defendant culpability is essential because these perceptions affect juror/lawyer decisions and also extend beyond the courtroom to influence societal attitudes and legal policies. First, jurors’ assessments of culpability directly shape trial outcomes and sentencing decisions. Moreover, broader societal beliefs about culpability indirectly affect legal standards and practices in several ways as culpability influences legal standards and practices by shaping public opinion, which in turn affects policymaking, judicial decisions, and sentencing trends. Elected judges and prosecutors often align their actions with public attitudes to maintain legitimacy, leading to harsher punishments during periods of heightened

punitiveness. Additionally, shifts in public mood can impact the implementation of policies, with broader punitive sentiment driving tougher legal standards and practices (Pickett, 2019). Public attitudes contribute to the social legitimacy of legal institutions and can influence policy decisions, particularly in high-profile cases (Pickett et al., 2013). Understanding public views can help illuminate potential biases and ensure that justice is administered fairly and equitably.

While the public are not directly courtroom actors, they hold significant power in shaping the justice system through their votes. Prosecutors and judges, two of the most influential courtroom actors, are often elected officials. As such, public perceptions of culpability can influence not only individual cases but also the types of leaders who are entrusted with immense discretion in charging decisions, plea negotiations, and sentencing. Understanding these perceptions is crucial for appreciating their ripple effects on the justice system, including how elected officials carry out their duties in alignment with public expectations.

This body of work thus demonstrates that defendant culpability plays a key role for all parties involved: Judges sentence defendants more harshly if they view them as more blameworthy, prosecutors make charging decisions based on how they think a jury will react, and defendants decide whether to accept a plea based on how guilty they think they are. What is currently unknown, however, is the role that attorneys play in shaping these perceptions of culpability. Within this study, we focus on the role of the prosecutor.

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The Prosecutor Role

Prosecutors occupy a pivotal position within the criminal justice system, uniquely situated to shape case outcomes through their decision-making authority. While a defense attorney aims to reduce perceptions of a defendant’s culpability, the prosecutor must establish that a defendant is guilty beyond a reasonable doubt. Prosecutors stand at the head of the criminal justice system (Bibas, 2009; Miller, 2004; Sklansky, 2017) with significant and largely unreviewable discretion in determining who should face criminal charges and the nature and severity of those charges (Brooklyn Defender Services, 2018; Davis, 2007; Spohn, 2018). In fact, many would argue that the prosecutor holds the most powerful role in the courtroom (e.g., Davis, 2007; Jacoby & Ratledge, 2016). In addition, during the plea-bargaining process, prosecutors are the critical party for negotiation with defense attorneys. While judges have the final approval for guilty plea terms, most guilty pleas in the United States are negotiated,

indicating that prosecutors, rather than judges, played a key role in the determination of final charge and sentence severity (Alschuler, 1976; Johnson & Hernandez, 2021). While research has consistently demonstrated that prosecutors hold a critical and powerful role in shaping plea-bargaining, research is less clear in how prosecutor demographics shape their influence

The Role of Gender in Shaping Perceptions

Socialization reinforces traditional gender roles and stereotypes, shaping societal expectations for men and women in various domains, including leadership. Men are expected to be assertive, confident, dominant, ambitious, and rational breadwinners, while women are conversely expected to be warm, cordial, caring, and emotional homemakers (Eagly & Karau, 2002; Eagly, 2004). These ingrained expectations often disadvantage women occupying positions of power, creating barriers that can manifest in negotiation outcomes and public perceptions. For instance, gender roles and their internalization create conditions in which women fare worse in negotiations compared to men, with research demonstrating that women are often perceived as less effective negotiators (Barron, 2003; Bowles et al., 2005; Stuhlmacher & Walters, 1999).

Holding a position of power and authority, such as a prosecutor, may also impact these perceptions and the ability of an attorney to sway others to act in their favor. For instance, role congruity theory contends that prejudice is formed against women in leadership positions due to the incongruity between the traditional female gender role and positions of leadership (Eagly & Karau, 2002). Therefore, women in leadership roles may be perceived less favorably than men occupying the same position and evaluated more poorly (Eagly & Karau, 2002). Women who violate social gender expectations by simply participating in traditionally male positions can also be penalized within public opinion (Rudman et al., 2011). For instance, this penalty includes heightened scrutiny of their competence (Dolan, 2010; Lawless, 2004) and increased evaluation standards (Funk, 2019; Plickert & Sterling, 2017).

Conversely, research indicates that women in positions of power may also strategically use their gender stereotypes to their advantage. For example, when women are put in a position of power, they improve in negotiations and decrease the gender disparity in negotiation outcomes when they behave in accordance with gender stereotypes (Hong & van der Wijk, 2013). In a survey experiment with diplomats in the Council of the European Union, researchers found that female representatives who behaved “stereotypically weak and vulnerable” were better off

in negotiations as their vulnerability triggered a chivalrous reaction where men were more likely to support their bargaining proposal. Notably, this dynamic was particularly pronounced in contexts with more traditional gender role expectations in which diplomats were from counties with more traditional gender roles (Naurin et al., 2019, p. 469). This suggests that even at an elite level, there may be “strategic opportunities for female negotiators to take advantage of the stereotype” (Naurin et al., 2019, p. 485).

Despite these broader discussions of gender and leadership, research on the role of gender within the criminal justice system, particularly among attorneys, remains limited. The existing evidence focuses mostly on public opinion of attorneys, suggesting that female prosecutors experience increased public and emotional stressors because of pressure to balance gender and professional expectations (Park et al., 2022). Male attorneys are perceived to be more credible and more highly ranked as experts in the field as compared to their female counterparts (Hahn & Clayton, 1996; Hodgson & Pryor, 1984; Salerno et al., 2018). Hahn and Clayton (1996) show that male attorneys are perceived as more successful than female attorneys when playing a significant role during testimony in a trial.

Further, female attorneys also experience significantly fewer advantages within a court setting due to extralegal expectations associated with their gender such as emotionality stereotypes (Hahn & Clayton, 1996; Szmer et al., 2010). These stereotypes discourage female attorneys from utilizing presentation styles traditionally associated with masculinity, such as aggression, despite these presentation styles being significantly more effective in the courtroom (Hahn & Clayton, 1996; Szmer et al., 2010). In addition, if female attorneys were to adhere to presentation styles typical of feminine emotionality, such as passivity, they are continually penalized.

In addition, Garcia-Retamero and López-Zafra (2006) discussed prejudice applied to women in leadership positions especially when acting in a field incongruent with their gender roles; however, female respondents were particularly prejudiced towards women leaders. Female respondents consistently viewed women leaders as less qualified and less successful than male leaders (Garcia-Retamero & López-Zafra, 2006). Both men and women penalize successful women in leadership positions; however, women are especially punitive (Parks-Stamm et al., 2008). Hodgson and Pryor’s (1984) study found that women consistently rated the credibility and ability of female attorneys significantly lower than male attorneys; they rated female attorneys lower in a variety of characteristics such as less intelligent, less

expert, and less experienced than male attorneys (Hodgson & Pryor, 1984). When looking at perceptions of defendant culpability, particularly in the context of various genders of prosecutors, moderation analysis becomes particularly relevant. Focusing specifically on female respondents and examining how their perceptions might be influenced by the gender of the prosecutor adds a crucial layer of insight. No known research specifically addresses female prosecutors or their role in shaping culpability perceptions, and these considerations inform the current study.

Current Study

The current study seeks to advance the understanding of the role of prosecutorial gender in their ability to shape perceptions of defendant culpability. Given that women are rising in numbers as employees and court actors within the criminal justice system (ABA, 2021; Hurwitz & Lanier, 2008), this question is increasingly important. We first aim to assess perceptions of defendant culpability. Because prosecutors are often evaluated by their ability to obtain guilty verdicts (Bresler, 1996; Burke, 2006; Spohn, 2018), we focus on assignment of guilt/culpability to a defendant as an indicator of prosecutorial capability. Second, we focus on the gender of the prosecutor, which, as explained in more detail above, is critical as female attorneys have traditionally faced barriers in proving their ability and earning credibility in their work (Hahn & Clayton, 1996; Hodgson & Pryor, 1984; Salerno et al., 2018). Because female prosecutors occupy a unique position within the criminal justice system, we explore similar questions in the public's evaluations. Third, we complete our analysis by further evaluating the potential moderating role of respondent gender in perceptions of culpability and prosecutorial capability. Women in leadership positions like prosecutors often face additional scrutiny from other women as they consistently battle penalties attached to their evaluations as compared to men in leadership positions (Garcia-Retamero & López-Zafra, 2006; Hodgson & Pryor, 1984; Parks-Stamm et al., 2008). By using moderation, the model can discern whether the influence of the prosecutor's gender on culpability perceptions is amplified, diminished, or remains consistent for female respondents and how gender roles extend beyond the roles of courtroom actors. Thus, this study seeks to specifically answer three research questions:

(1) Do perceptions of a defendant's culpability differ based on the gender of the prosecutor?

(2) Do perceptions of a defendant's culpability differ based on the gender of respondents?

(3) Is the effect of a prosecutor's gender on perceptions of defendant culpability moderated by the gender of a respondent?

Methods

This study used survey data from a nationwide sample of United States adults. The broader survey included questions about respondent demographics and political issues, in addition to the vignette used here. Qualtrics Panels, a widely employed tool in social science research, recruits users from a diverse pool, offering a cost-effective means to approximate the national population (Qualtrics, n.d.). Numerous studies have attested to the platform's efficacy (Fox et al., 2021; Jaynes et al., 2022; Moule et al., 2019), establishing it as a prevalent choice for research studies. All respondents were above the age of 18. The survey was designed to last for approximately 20 minutes for participant convenience and to ensure that the attention of participants was maintained throughout the survey. In total, 532 individuals completed the survey. There were some instances of non-response to specific survey questions.¹ As a result, our final analytic sample consisted of 471 respondents (88.5% of total sample) who provided complete information for all the variables included in our analysis.

Vignette Design

To evaluate the impact of prosecutor gender on defendant culpability, this study used an experimental survey with three vignette conditions randomly manipulating prosecutor gender (male vs female vs no gender mentioned). To do this, respondents were presented with a vignette about a court case and asked to imagine the following:

District Attorney (DA) [Jane Atkins/John Atkins/The District Attorney] is prosecuting a defendant charged with Assault. [She/He/The District Attorney] explains that a bystander witnessed an individual matching the defendant's description punching and kicking the victim outside of a gas station. [She/He/The District Attorney] also shows a video recording from the gas station of an individual attacking the victim wearing clothes that seemed to match what the defendant was seen wearing that same day.

The manipulations are in bold, and thus, Frame 1 included the name John and the pronoun “he,” Frame 2 included the name Jane and the pronoun “she,” and Frame 3 only referred to the District Attorney without any gender indication.

An assault was chosen to be the offense in the hypothetical case because of its growing frequency, yet it is not too violent, taboo, or political in a manner that respondents may be overly willing or unwilling to assign guilt without additional information. Physical assaults also tend to be more frequently reported by bystanders compared to other crimes such as theft and sexual assault (Nicksa, 2014). Because of this likelihood of reporting, we anticipated that respondents would be more willing to assign culpability to the defendant providing outcome variability.

Dependent Variable: Perceptions of Defendant Culpability

After presenting respondents with the vignette assault case, they were asked, “On a scale of 1-7 (1 = very unlikely; 2 = moderately unlikely; 3 = slightly unlikely; 4 = neither likely nor unlikely; 5 = slightly likely; 6 = moderately likely; 7 = very likely), how likely or unlikely is the defendant to be guilty?” In this vignette, guilt and culpability are synonymous because culpability is factual or perceived responsibility for a fault, and this blameworthiness is indicative of the perceptions of guilt surrounding a defendant.

Vignette Manipulation

Within the vignette, *prosecutor gender* and associated pronouns were randomized across participants so that respondents received one of three frames (male prosecutor, female prosecutor, or no gender indicated for the prosecutor). Each frame was identical except for the name of the district attorney and the corresponding pronouns. When given only a first name, research suggests that individuals perceive many differences regarding the characteristics of that person (Steele & Smithwick, 1989). Traditional male names, like John, are often connoted to have more masculine characteristics, less ethical caring, and carry more successful characteristics than female names, such as Jane (Mehrabian, 2001).

Additional Variables

In this analysis, additional variables were included based on prior literature; we included variables that may be related to perceptions of culpability in this case. First, we included racial and *ethnic minority* (White = 0, Minority = 1).² Age of the respondent in years was also included. Prior literature

has suggested that as individuals age, they are more likely to adhere to the traditional gender roles prevalent in their youth by encouraging stereotypical gendered behaviors (Koenig, 2018). In addition, political conservatism is often associated with stronger adherence to social conventions and endorsement of traditional gender roles (Claessens et al., 2020; Makwana et al., 2018). Because evaluations of individuals in leadership positions can be associated with individual differences in political ideology, we included *Republican political party identification* to find how individuals think of themselves politically (1 = Strong Democrat, 2 = Democrat, not very strong, 3 = Independent, leans Democrat, 4 = Independent, 5 = Independent, leans Republican, 6 = Republican, not very strong, 7 = Strong Republican). *Religious importance* was also measured using a Likert scale (1 = not important at all, 2 = not very important, 3 = somewhat important, 4 = very important) as it is also considered that religion may hold its own set of gender expectations that may impact perceptions of prosecutor gender. Individuals who adhere more strictly to religious practices are more likely to also closely adhere to beliefs associated with sexism and traditional gender roles (Francis, 1997; Whitehead & Perry, 2019).

Analytical Strategy

Because of the experimental survey design, we were able to present a parsimonious analytic strategy for identifying associations between prosecutor gender and defendant culpability perceptions. An ordinal logit model is best-suited regression for the current ordinal dependent variable.³ Ordinal logit models are designed to handle ordered categorical outcomes, providing a more accurate representation of the data when the dependent variable has a natural order but the distances between categories are not precisely known. Ordinal logit models are also robust in the face of violations of assumptions, such as heteroscedasticity or non-normality of residuals, which can be problematic for OLS models (Long & Freeze, 2014). Thus, we used an ordinal logit model to estimate the average effect of male and female prosecutors on defendant culpability perceptions. To account for other demographics that might affect perceptions of gender and/or culpability, we also included control variables for respondent ethnic minority identification, age, religious importance, and political ideology.

Results

We begin with presenting descriptive results for our dependent variable. Randomization of the survey appeared effective, as chi-squared and

Table 1: Descriptive Statistics ($n = 471$)

Variable	Mean	SD	Min	Max
<i>Dependent Variable</i>				
Defendant Culpability	5.311	1.401	1	7
<i>Manipulated Prosecutor Gender</i>				
Female Prosecutor	0.362	0.481	0	1
Male Prosecutor	0.339	0.474	0	1
No Gender Indicated	0.299	0.458	0	1
<i>Respondent Characteristics</i>				
Female	0.522	0.500	0	1
Racial/Ethnic Minority	0.154	0.361	0	1
Age	52.90	16.12	18	93
Republican Party Identification	3.925	2.118	1	7
Religious Importance	2.021	1.082	1	4

ANOVA tests indicated that no significant differences ($p < 0.05$) emerged across conditions concerning gender, ethnic/minority identification, age, political ideology, religious importance, and prosecutor gender. The average defendant culpability score was 5.311 indicating a tendency for individuals to find defendants at least somewhat culpable (see Table 1). There was also variation in culpability scores, as perceptions ranged from 1 “very unlikely” to 7 “very likely”.

In terms of race and ethnicity, 85% of the sample identified as white, and 15% identified as a racial or ethnic minority. About half of the sample was comprised of females (51%). The average age of this sample was 53 with a wide range between the ages of 18 and 93. Republican party identification responses ranged from 1 “Strong Democrat” to 7 “Strong Republican” with the average leaning toward respondents identifying as independent. Lastly, concerning religious importance, most people in this sample find religion to be very important.

Table 2 presents the findings of ordered-logit analyses evaluating the impact of prosecutor gender on perceptions of defendant culpability. The analysis compared perceptions of defendant culpability when the case involved a female prosecutor relative to a male prosecutor, as well as cases that involved a prosecutor whose gender was not indicated. In Model 1, individuals who viewed the female prosecutor frame had 1.47 times higher odds of attributing increased culpability to defendants as compared to those who viewed the male prosecutor frame ($OR = 1.469$, $p < 0.05$). Similarly, in cases where the prosecutor’s gender was not indicated, respondents had 1.42 times higher odds of assigning higher

defendant culpability ratings as compared to those who received the male prosecutor frame ($OR = 1.423$, $p < 0.05$). However, there was no difference in culpability perceptions between those who viewed the female and no-gender prosecutor frames ($OR = 0.956$, $p = 0.827$, not presented in the table).

Model 2 incorporated respondent characteristics into the model and further confirmed these findings. Specifically, cases with female prosecutors had 1.67 times higher odds of attributing increased defendant culpability ratings even after accounting for additional variables ($OR = 1.673$, $p < 0.01$). Likewise, cases with no gender identified for the prosecutor exhibited similarly elevated perceptions of defendant culpability when controlling for other factors ($OR = 1.600$, $p < 0.05$). Several participant demographic factors emerged as significant determinants of defendant culpability ratings. In answering our second research question, female participants had a 32% lower likelihood of increased defendant culpability perceptions relative to male participants ($OR = 0.679$, $p < 0.05$). Older respondents also had a 1% lower likelihood of elevated perceptions of defendant culpability ($OR = 0.988$, $p < 0.05$). Further, political identification played a significant role where increasing identification with the Republican party was associated with about a 13% lower likelihood of a more serious culpability perception ($OR = 0.871$, $p < 0.001$). Similarly, reporting religion as being more important was also associated with lower likelihood of rating the defendant as more culpable ($OR = 0.777$, $p < 0.001$). Those who identified as a racial or ethnic minority were not statistically different in their culpability

Table 2: Ordinal Logit Model of Defendant Culpability ($n = 471$)

Variable	Model 1		Model 2		Model 3	
	Odds Ratio	SE	Odds Ratio	SE	Odds Ratio	SE
<i>Prosecutor Gender (Male Reference)</i>						
Female Prosecutor	1.469*	0.278	1.673**	0.341	1.143	0.334
No Gender Prosecutor	1.423*	0.276	1.600*	0.333	1.061	0.310
<i>Respondent Characteristics</i>						
Female			0.679*	0.115	0.398**	0.116
Racial/Ethnic Minority			0.711	0.172	0.707	0.172
Age			0.988*	0.005	0.987*	0.005
Political Republican Identification			0.871** *	0.036	0.868***	0.036
Religious Importance			0.777** *	0.060	0.773***	0.059
<i>2-way interactions</i>						
Female Pros. x Female Resp.					2.152+	0.870
No-Gender Pros. x Female Resp.					2.345*	0.978
Notes: + $p < .10$, * $p < 0.05$; ** $p < 0.01$; *** $p < 0.001$ Pros. = prosecutor; Resp=respondent						

perceptions than those who identified as White across Model 2 or Model 3.

In Model 3, we explore our third research question evaluating whether the effect of prosecutor gender on perceptions of culpability perceptions differ by respondent gender. Findings suggested that female prosecutors (relative to male prosecutors) elicited 2.15 times higher odds of assigning stronger culpability perceptions among female respondents as compared to male respondents; this result was marginally significant ($OR = 2.152$, $p < 0.10$). Similarly, when the prosecutor's gender was not identified (relative to a male prosecutor), there were 2.35 times higher odds of assigning stronger culpability perceptions among females ($OR = 2.345$, $p < 0.05$). Conversely, this indicates that while male prosecutors are the least effective at eliciting perceptions of culpability in general, they seem to be even less effective among female respondents.

Discussion

To add to the growing body of research exploring the role of the prosecutor in the courtroom workgroup, this paper sought to explore whether a prosecutor's gender impacts perceptions of defendant culpability. Due to demonstrated gender disparities in the legal profession (Hahn & Clayton, 1996; Hodgson

& Pryer, 1984; Salerno et al., 2018; Szmer et al., 2010), we were first interested in exploring whether a prosecutor's gender impacts perceptions of the defendant's culpability. This issue is critical because if there is bias towards a defendant due to prosecutor gender, the defendant may not be receiving a fair trial. Further, we were interested in assessing whether that effect differed based on the gender of the respondent and whether there were any moderating effects between respondent and prosecutor gender.

In evaluating our first research question, a female prosecutor led respondents to rate the defendant as over 1.4 times more culpable than a case with a male prosecutor. Though contrary to our expectations, this finding aligns with some previous research on the paradoxical effects of female leaders occupying traditionally masculine roles. While women in authority generally face perceived incompetence (Rudman et al., 2012), female prosecutors in this study appear to overcome this. A few possibilities might explain this finding, which highlight potential directions for future research, as we discuss in more depth below. Female prosecutors may leverage expectations of compassion and sincerity to boost credibility in arguing defendant culpability (Hong & van der Wijk, 2013; Naurin et al., 2019). People may view women as more careful and sincere and thus give more credence to their assessments that

an individual is guilty; if men are viewed as less compassionate in general, their suggestion that a person is guilty may be viewed as less credible than a female who would potentially only prosecute someone they believed very strongly to be guilty. As Eagly and Karau (2002) noted, some women in leadership positions can strategically utilize feminine stereotypes to their advantage, a tendency that may be possible for female prosecutors. While this is difficult to assess given the nature of the present vignette, future research with more detail into the scenario (or real case) would be helpful.

Looking to control variables included to provide additional context into how jurors make assessments of defendant culpability, our findings are largely in line with previous research on general views of punishment. First, respondents who identified as being more conservative also rated defendants as being less culpable, a finding that is not in line with studies that have found that individuals with higher levels of political conservatism tend to perceive defendants as more deserving of punishment compared to their more liberal counterparts. This finding is somewhat surprising, given that conservative-leaning individuals often approve of a "tough on crime" approach to legal proceedings, advocating for harsher penalties and stricter sentencing measures (Beckett & Sasson, 2000; Jacobs & Carmichael, 2002; Loader, 2020). While future research is necessary to parse out this finding, we hypothesize that a person's support of harsher punishments may be separate from their views on individual defendant culpability.

Further, our results indicate higher religiosity being associated with lower perceptions of defendant culpability. This is in contrast with extant work finding that greater adherence to religion has been shown to be positively associated with punitiveness towards due to traditional and fundamentalist religious teachings emphasizing moral responsibility and accountability (Seto & Said, 2022; Unnever et al., 2005). This suggests, similar to the finding on political party identification, that views towards general criminal justice policies may not predict perceptions of individual cases or people; it is possible that people who view religion as being more important are also less forgiving to individual people. Together, these findings highlight the dynamic nature of attitudes toward criminal defendants, influenced by both ideological beliefs and demographic characteristics.

When considering our second research question regarding how perceptions of defendant culpability differ based on the gender of respondents, female respondents demonstrated lower perceptions of culpability than male respondents. This may be explained by gender norms socializing women to be

more kind, empathetic, and loving towards others (Eagly & Karau, 2002; Eagly, 2004). In evaluation of our third research question, we found evidence of a moderating relationship between prosecutor and respondent gender. Findings suggest that female prosecutors, when compared to their male counterparts, evoke significantly marginally stronger perceptions of culpability among female respondents as compared to male respondents. This contradicts extant research (Eagly & Karau, 2002; Garcia-Retamero & López-Zafra, 2006), which holds that women evaluate female leaders particularly harshly. In this case, female respondents were more persuaded by female prosecutors, despite the potential gender norm violation posed by women occupying the prosecutor role. Rather than backlash, female prosecutors enjoyed an amplifying effect among women in bolstering defendant culpability perceptions. This suggests complex dynamics around gender and leadership evaluations, with discipline-specific and case-specific contexts altering broader biases.

Limitations and Future Directions

While this study addresses a gap in the literature, it does not come without limitations. First, this vignette design depicted clear-cut guilt and lacks the ambiguity (for example, evidence strength) present in many real-world legal scenarios. While such scenarios offer valuable insights into specific aspects of decision-making, they may not fully capture the complexities of more nuanced cases that demand persuasive skills and credibility-building efforts from legal professionals. In straightforward cases, where evidence is straightforward and facts are clear, respondents might find it easier to form definitive opinions, potentially influencing perceptions of prosecutor effectiveness based on gender. The lack of complexity in these cases could lead to a more uniform response pattern among respondents, aligning judgments with the apparent clarity of presented information.

Vignettes, by their nature, are hypothetical scenarios constructed for research purposes and do not depict real-life events. Consequently, the causal mechanisms underlying the results derived from vignette-based studies may not directly mirror those in actual situations. Since vignettes only imitate real-world constructs, the factors influencing participants' responses may differ from those in real contexts, therefore caution should be exercised when extrapolating findings to real-life scenarios. However, presenting a clear-cut case in a hypothetical vignette holds significant value for research purposes. It allows for the isolation of specific concepts, such as perceptions of prosecutors, on judgments of defendant

culpability. The simplicity of the scenario enables a focused examination of how individual factors shape judgments in an uncomplicated context, providing a solid foundation and baseline understanding of the dynamics at play. This clear-cut scenario serves as a starting point for more in-depth investigations into the nuanced aspects of legal decision-making. Additionally, the controlled experimental environment facilitates a strategic research process, starting with a well-defined scenario and progressively introducing variations to enhance the study's depth and comprehensiveness over subsequent iterations.

Future research could focus more on “real world” situations. First, in-person experimental simulations of case presentation and jury deliberation would provide helpful insight into the causal mechanism behind the influence of gender on perceptions of guilt. This would also permit for more detail into characteristics of the prosecutor, defendant, and case; all of these may influence how gender influences perceptions of guilt. These types of studies would likely be resource-intensive, but they would provide very rich data. In addition, retrospective analysis of case outcomes, particularly those decided by juries, would provide further insight into how prosecutor gender may shape perceptions of criminal defendants.

Conclusion

Overall, the findings offer valuable contributions to the field, providing foundational insight into the impact of prosecutor gender on defendant culpability. To date, there is a lack of literature addressing the role of gender for prosecutors, particularly in terms of its repercussions on defendant culpability and thus the overall fairness of criminal proceedings. Given that perceptions of defendant culpability hold substantial sway in court-related outcomes, encompassing plea acceptance, verdict decisions, and sentencing severity, comprehending the impact of courtroom actors on these determinations is important. The idea that even seemingly irrelevant factors, such as the gender of the prosecutor, can potentially sway perceptions of culpability emphasizes the necessity of considering this avenue for bias in courtroom decision-making processes. This study, therefore, not only broadens our understanding of a previously unexplored component but also advocates for heightened awareness of potential biases that may influence criminal processing outcomes.

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About the Authors

Morgan Stalcup is a third-year Ph.D. candidate in the Department of Criminology at the University of South Florida. Her research interests include examining how courtroom processes shape the decisions of courtroom actors, the public perceptions of courtroom actors, and how prosecutorial power and discretion contributes to inequality in the justice system.

Jacqueline Lee, Ph.D., is an associate professor in the Department of Criminal Justice at Boise State University. Her research interests includes courts and sentencing, criminal justice policy, inequalities in the justice system, and the integration of social science research with legal research.

Chae Jaynes, Ph.D., is an associate professor in the Department of Criminology at the University of South Florida. Her research interests includes the decision-making of various criminal justice system-related actors as well as considers the decisions around plea acceptance amongst those who have been charged with a crime.

Scott Liebertz, Ph.D., is an associate professor in the Department of Political Science and Criminal Justice at the University of South Alabama. His research interests include public opinion, comparative politics, and the criminal justice system in Latin America.

Endnotes

- ¹ Data were missing on the following variables (number of missing observations in parentheses): *female* (26), *minority* (9), *age* (34), *religious importance* (4), *party identification* (2), and *defendant culpability* (4). We use listwise deletion because of the limited number of cases removed (11.5%) and because multiple imputation requires many assumptions, which we did not believe were met in this case, such as data being missing at random. We also felt that age was a critical control for the study due to its theoretical relationship with perceptions of gender norms.
- ² Ethnic minority was dichotomized as approximately 85% of the sample identified as White with very few respondents identifying as other racial or ethnic minorities (5% Black, 2% Hispanic/Latino, 4% Asian, 3% Other).
- ³ OLS results are substantively similar; full results available upon request.