

IS THE JUSTICE SYSTEM FAIR TOWARD TRANSGENDER INDIVIDUALS?

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by

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## **DEDICATION**

I dedicate this paper to my parents, for paying for my education without which I would not have been able to take the honors thesis class, or have an education.

## ABSTRACT

Previous research has shown that the criminal justice system can at times be discriminatory towards minorities. While most of this research has focused on racial discrimination, few studies have evaluated discrimination directed towards the LGBT community. The current study looked at whether there was discrimination against individuals from the LGBT community, specifically transgender individuals in the Texas justice system. A study was conducted to see whether people were more likely to find transgender persons more guilty than people whose gender identities identified with their sex for the same crimes. Participants in the current study were asked to read several vignettes and determine the guilt of the individual. The perpetrator was manipulated to be either a man, woman, transgender man, or transgender woman. The research found that the gender identity made a difference in the murder and robbery crimes but not for the prostitution and peeping crimes. However, contrary to predictions transgender individuals were actually found to be less guilty of murder and robbery than cisgender individuals, while transgender and cisgender individuals were found to be equally guilty for the crimes of prostitution and peeping. These results were not what I had expected, as I thought there would be more prejudice against transgender individuals and they would be more likely to be found guilty. Regardless, results indicate that transgender individuals may be treated differently than cisgender individuals by the justice system, but that they may be treated more leniently.

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Finally, I would like to thank myself for taking the time and effort to complete this paper.

## **PREFACE**

For my research, I knew I wanted to look at something that would relate to the Criminal Justice System. I started to look towards jury selection and doing research on how that may make a difference in juror decisions and whether the race of the defendant makes a difference to the outcome of the trial. This made me realize that a good amount of research had been conducted evaluating the effects of race on trial decisions so I started to look at issues related to the LGBT community and whether a person being a member of the LGBT community affected how they were treated in the Criminal Justice system. There was some research conducted on this topic, but I realized that not much research had been done focusing on transgender individuals, in particular. That's when I decided that I would determine whether there were any biases against the transgender community in the Criminal Justice by looking at whether people were more likely to find them guilty of certain crimes compared to cisgenderers (people whose gender matches the sex they were born with).

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## **IS THE JUSTICE SYSTEM FAIR TOWARD TRANSGENDER PERSONS?**

Through the course of history, America has developed as a nation comprising peoples of various ethnic and religious backgrounds. Diversity is a prominent feature of the American nation (“Diversity in America: Celebrating Our Cultural Heritage,” 2018). Despite this diversity, however, minorities experience a great deal of bias at various levels in American society (Edkins, 2011; Stotzer, 2014).

Previous research has been conducted to evaluate whether there is injustice in the criminal justice system against minorities or underrepresented groups. This research is extremely important, as the first step of solving a problem is acknowledging that a problem exists in the first place. No matter how much a person wants to believe that the justice system is fair, there is evidence of injustice towards certain minorities (Kahn, Steele, McMahon, & Stewart, 2017; Mitchell, Haw, Pfeifer, & Meissner, 2005; Mogul, Ritchie & Whitlock, 2012). Does this bias seep into the criminal justice system? Does it prevent the law from being applied fairly and is it just to all of its citizens?

Quigley (2010) presented some statistics to show that there is still racism present in the criminal justice system. Six of the statistics mentioned in the paper are provided here. First, African Americans make up about 14% of drug users in the country but about 37% are arrested for drug offenses. Second, the police are more likely to stop African Americans and Latinos than Caucasian people. In New York City, 80% of the stops made by the police were of African-Americans and Latinos and 85% of them were frisked. Of Caucasian individuals who were stopped, only 8% were frisked. This shows the disparity that exists as people of color make up about half of the population in New York. This statistic is not necessarily saying that the police

are racist, but there is a stereotype that exists that may make the police more likely to stop African Americans and Latinos, as Kahn et al. (2017) show.

Kahn et al. (2017) looked at how the suspect's race may bias police interactions with the suspect. This is an important stage of the criminal justice system, as this initial step decides who will have to go through the process of the criminal sentencing. Latinos and African Americans have more police contact than Caucasians, which includes pedestrian and traffic stops. Their research looked at 139 case studies in which force was used by the police. The research found that Latinos and African Americans were treated with a higher level of force (verbal and physical) than Caucasians in the beginning of the investigation when the officer does not have much information about the crime. The reason for this is implicit racial bias against Latinos and African Americans, as they are perceived to be more aggressive and less cooperative, the officer uses more force against them. This force becomes equal to the force used against Caucasians as the officer gets more information on the crime. This study shows that bias does affect the police officers as well; otherwise, the force used in the beginning would be equal for Latinos, African Americans, and Caucasians.

Third, African Americans are more likely to stay in prison while they are waiting for their trials. In some parts of New York, African American are 33% more likely to wait in prison for their felony trials than Caucasians, as they cannot bond themselves out due to the high bond charges which may have been set that way to ensure that the African Americans could not bond themselves out. Fourth, the United States of America Sentencing commission found that African American offenders were receiving 10% longer sentences than Caucasian offenders for similar crimes. Marc Mauer of the Sentencing Project, said that African Americans were 20% more likely than Caucasians to be sentenced to prison and 21% more likely than Caucasians to get

mandatory minimum sentences, instead of being found innocent (Quigley, 2010). This shows that there may be a possible bias in the criminal justice system that leads to African Americans being more likely to be incarcerated than Caucasians.

Part of the reason for minorities receiving longer sentences is that they are offered harsher sentences in plea bargains than Caucasians (Edkins, 2011). Edkins (2011) looked at why there is such disparity between the sentencing of African Americans and Caucasians. Edkins (2011) found that the injustice happens mainly in the plea bargain phase. Plea-bargaining is the phase where the defense attorney and the prosecuting attorney decide what sentence the defendant should take if they wish to avoid trial. If the defendant decides to not accept the plea bargain, he/she risks getting a potentially higher sentence, which is significant reason for individuals to accept plea bargains. The defense attorney has a lot of power during this bargaining phase because they can persuade their defendant to take the plea bargain, even if it may be unfair. While the defense attorney should be working in the best interest of his or her client, any potential racial biases they may have could unknowingly taint this process. In the Edkins' (2011) study, 95 defense attorneys were surveyed about their experiences with the plea bargaining stage. Edkins (2011) found that the defense attorney first looked at the likelihood of a conviction, what impression the defendant would make on a jury, and then looked at the severity of the crime. Edkins (2011) found that defense attorneys felt that they could get Caucasian defendants shorter or less severe pleas (i.e., shorter jail time or smaller fines) compared to minority defendants. Additionally, attorneys were more likely to add jail time to plea bargains for minority defendants compared to sentences offered to Caucasian defendants. The personal biases of the defense attorneys can make the system more unfair towards minorities as they end up getting harsher sentences than Caucasians as a result of these biases.

Fifth, a report by the Sentencing Project showed that two thirds of the people found to be serving life sentences in the United States are people of color. Sixth, statistics by the United States Bureau of Justice shows that African American males are five times more likely to end up in jail than Caucasian males, and Latino males are three times more likely to end up in jail than Caucasian males (Quigley, 2010). The statistics provided show that people of color have a higher chance of going to jail than Caucasians; this may be due to the stereotype that exists against them that sees them as being more likely to have committed the crime. These statistics show that bias does exist in the criminal justice system based on people's race.

## **PROBLEMS WITHIN THE JURY SYSTEM**

A jury has the power to find someone either innocent or guilty and this one decision can have a great impact on the defendant's life. Who gets to make this important decision? How are the members of the jury selected? Is the jury system equal and fair to each and every citizen in the United States or does it end up favoring some more than others?

In the United States, states or counties have a computer system that selects hundreds of people at random from a registry to serve on juries. These potential jurors are selected from the list of people that are registered to vote and have a valid driver's license. As a result, people who are not registered to vote and who do not have a valid driver's license will not be considered for jury duty. Once these potential jurors have been identified, they are all then summoned to court, which they are legally obliged to attend. Once summoned to a particular court, the prosecutor and defense attorney are allowed to ask several questions in order to select preferred jurors. Additionally, both sides get to exclude 10 people each. The judge, prosecuting attorney, and

defense attorney all get to have some say in the jury selection process in order to decide who is selected for the jury. The judge and attorneys try their best to make sure that no one that has any bias against or in favor of the defendant is selected. However, it is still not perfect as not every individual gets asked a question and some may not make their prejudice known. This way people with biases can end up on a jury and may be able to convince other jurors that the defendant should be treated more harshly because of the race they belong to along with other potential biasing factors (Texas Judicial Branch, 2017).

Research has been done to look at bias in the jury system. Mitchell et al. (2005) looked at the inconsistency that exists within the research on racial bias in jury decision making. They conducted a meta-analysis of all the previous research that existed on racial bias to be able to investigate the discrepancy that exist within the literature, as some research reported that racial bias existed while others reported that it did not. Racial bias is defined as the disparate treatment of racial out groups instead of focusing on minorities. The research concluded that a small amount of racial bias in jury decision making is found within most of the studies.

Sommers and Ellsworth (2001) conducted a study, where they focused on Caucasian jurors, to see if Caucasian jurors tend to be more biased against African-American defendants than to Caucasian defendants. The reason they focused on Caucasian jurors is because it very likely for a jury to be predominantly consisting of Caucasian people. Interestingly, they found that Caucasian jurors were not prejudiced against African-American defendants in cases with a salient racial issue as there was a motivation for them to appear unprejudiced. On the other hand, they were prejudiced in cases where the racial issue was not salient as there was not motivation to hide the racial bias.

An example of how racial bias may influence the decision of a jury is the case against Miguel Pina Rodriguez. He was arrested after two girls identified him as the man that groped them at a horse barn. The prosecution mainly relied on the witnesses for their case. The defense showed that it was not possible for the girls to have seen him properly and explained the numerous problems with eyewitness identification. Additionally, Mr. Rodriguez had an alibi for the time the girls were assaulted. The alibi and he were Hispanic so could that have played a role in why the jury found them guilty or was it because the prosecutor's case was more convincing? In this case, two of the jurors told the defense attorneys that one of them was biased against the defendant because of his race. The juror later told the court that he thought the defendant was guilty, because as a former police officer, he had learned that most Mexicans were guilty of crimes against women. The judge decided that the juror's opinion and rank led to Mr. Rodriguez being given an unfair trial in which his race played a role in the jury's verdict. In this case, the defendant did get a chance to show that the first trial was biased in an appeal. This case had a positive result as the racism was identified and an appeal was filed. However, what about the cases in which the jury's racism is never discovered (Totenberg, 2013)?

Another example is the case against Duane Buck, an African-American male, who was found guilty of a double murder. The prosecuting attorney brought in an expert who testified that African-American people were more likely to commit crimes (Ford, 2017). As a result, Mr. Buck was sentenced to death. Mr. Buck's attorney felt that this expert testimony led to Mr. Buck not receiving a fair trial and filed for an appeal. The case was appealed, and his sentence was reduced to a life sentence. There is no way to know to how much the race of the defendant played a role in the decision making of the jury, as the racism of the jury was not apparent. In

most cases, it is difficult to prove that the verdict was biased because of the race of the defendant and hence the defendant was never given an appeal (Ford, 2017).

Another potential problem is if there is bias in the jury deliberations. It is also difficult to determine how much of an effect bias during jury deliberations would have. It would be very difficult to prove unless one of the jurors is willing to testify about this bias. However, since the jury's discussions are kept secret, there is no record made of their deliberations. Thus, the only people who know what went on in the jury room are the jurors themselves. As a result of this process, there is no way to specifically determine how they came to the conclusion that they did. This makes it very difficult to make sure that there was no bias against the defendant and that the decision was made with only justice in mind.

## **DISCRIMINATION AGAINST THE LGBT COMMUNITY**

While there has been extensive research looking at racial discrimination in the criminal justice system, fewer studies have been conducted evaluating similar biases towards members of the LGBT (Lesbian, Gay, Bisexual, Transgender) community. While not nearly as common, there have been a few studies evaluating discrimination against the LGBT community in the criminal justice system. For example Mogul et al. (2011) discussed the experiences people in the LGBT community have had with the criminal justice system. They explained the criminal archetype (“recurring, culturally ingrained representations that evoke strong, often subterranean emotional associations or responses”) (Mogul, et al. 2011, p. 23) that makes people view the LGBT community as being deceptive, dangerous, and treacherous. These beliefs that LGBT community is deceptive, dangerous, and treacherous surely affect the discrimination they face in the criminal justice system, as they are more likely to be criminalized. These criminal

archetypes affect the social construction of what crime is and the discrimination faced by LGBT members in the courtroom.

This discrimination can affect the LGBT member's view of the criminal justice system. Nadal, Quitanilla, Goswick, and Sriken (2015) evaluated marginalized groups, in accordance to race and ethnicity, and found that these marginalized groups have a more negative perception of the criminal justice system. Nadal et al. (2015) hypothesized that people in the LGBT community, since they too were a marginalized group, would be expected to report similar negative experiences of the criminal justice system. This negative perception influences their willingness to report a crime, which can be problematic as it prevents the LGBT victim from getting justice and a criminal gets to go free.

Nadal et al. (2015) found that the experience of individuals in the criminal justice was influenced by five main domains. The first is gender presentation. In this, the individual is more likely to have a better experience with the criminal justice system if they conform to the stereotypes of their gender. LGBT members had to act masculine/feminine according to their genders and pass the notions of heteronormative genders to be treated well in the criminal justice system. The second is the influence that intersectional identities, such as the individual's race and social class, play a role in their encounter with the criminal justice system. Caucasian individuals had more positive experiences than people of color did. The third domain are the systemic and political issues. This includes police profiling as in having policies that wrongfully target LGBT members. It also includes police sensitivity, such as the police not being as understanding about a homosexual man getting a restraining order against an ex-lover than a heterosexual woman doing the same. Finally, the individual's awareness of his or her rights is

another component of the systematic and political issues. This includes their knowledge of how much they know about there being support in the law for them. The fourth domain includes the experiences of discrimination like micro aggressions, hate crime, and vicarious discrimination the individuals had lived through. The last domain is help-seeking behaviors of the criminal justice system. This domain evaluates whether the individual would seek help from the criminal justice system if ever needed. This depended on the trust that the individuals had in the police and their geographic locations.

Center for American Progress, Movement Advancement Project (2016) discussed the discrimination against the LGBT in the criminal justice system. They list three factors that lead to discrimination in the entering the criminal justice system phase. The first is discrimination and stigma, which may cause them to be kicked out of their homes so they end up on the streets. This makes it harder for them to get basic necessities like a job, shelter, and hence are more likely to be homeless which increases their chances of having run-ins with the police. The second factor is discriminatory enforcement of laws, which are the HIV criminalization laws and the state indecency laws that disproportionately target LGBT people. The third factor that plays a role is harmful policing strategies and tactics, like using more force when dealing with members of the LGBT community. The project mentioned how people belonging to the LGBT community are more likely to be incarcerated and then treated harshly. LGBT members are more likely to be discriminated against in legal proceedings. In a survey, 44% of LGBT respondents reported having a negative experience with the justice system. They were less likely than other defendants to get adequate representation or counsel, and they also experienced discrimination from juries. As a result, they were disproportionately imprisoned at higher rates where they are more likely to receive additional unfair treatment. For example, 28% of

homosexual inmates were placed in solitary confinement while only 18% of heterosexual inmates were placed in solitary confinement. Homosexual inmates were more likely to be mistreated by the staff and sexually abused by other inmates. The survey also pointed to the additional challenges they faced once they did get out of the jail to re-build their lives as they reported a lack of support from parole officers, probation, and re-entry programs and, like many ex-criminals, they felt discriminated against due to their criminal record making it harder for them to find work.

Some of the statistics reported by the Center for American Progress (2016) are that in 2011- 2012, 7.9% of individuals in state and federal prisons identified as lesbian, gay, or bisexual, as did 7.1% of individuals in city and county jails. This is approximately double the percentage of all American adults who identify as LGBT (3.8%). This shows that there is a higher proportion of LGBT members behind bars than there is in the community. Sixteen percent of transgender and gender non-conforming respondents to the National Transgender Discrimination Survey indicated they had spent time in jail or prison, with higher rates for transgender women (21%) and lower rates for transgender men (10%). Comparatively, about 5% of all American adults will spend time in jail or prison during their lifetimes. In a 2015 survey of young people at seven juvenile detention facilities across the country, an estimated 20% identified as LGBT or gender non-conforming, including 40% of girls and 14% of boys. This is over two times the percentage of all youth who identify as LGBT or gender non-conforming (an estimated 7-9%) in community samples. These statistics show that there is a disparity between the LGBT people in the community and the country compared to those who are incarcerated or in juvenile facilities. In other words, individuals from the LGBT community are over-represented in prisons, jails, and juvenile facilities.

## **DISCRIMINATION AGAINST THE TRANSGENDER COMMUNITY**

“Around the world, evidence suggests that transgender people face significant rates of violent victimization and are at heightened risk of being murdered because of their gender nonconformity.” (Stotzer, 2014, p. 171).

While it appears that discrimination appears to exist against transgender individuals in the criminal justice system, there is also evidence to suggest that discrimination exists against transgender individuals in the work place in Texas. Kielich (2017) argued that even though the federal, state, and even some municipality laws prohibit gender discrimination in the work place, it still exists. Kielich (2017) found that 79% of the transgender individuals reported being harassed or mistreated at work, 26% lost their job, 22% were denied from getting a promotion, and 45% were not hired for a job because they were transgender.

Discrimination does also exist against transgender individuals on a political level in the state of Texas. For example, Judge Reede O’Conner, a federal district judge in the northern district of Texas, issued an injunction to block a law that restricted the federal government from blocking insurers, doctors, or hospitals from discriminating against transgender people. Judge O’Conner blocked a law that protected transgender individuals by making sure that a doctor or hospital cannot refuse treatment based on the fact that the person went through a gender reassignment surgery. The same judge also previously issued an injunction to block an Obama administration rule that forbid schools to discriminate based on gender identity (Hiltzik, 2017).

Another example of discrimination against the transgender community on a political level is of Lieutenant Governor Dan Patrick of Texas. He announced a bill in 2016 that required

transgender people to use public restrooms that align with their biological sex in places like schools, public universities, and government buildings, rather than their current or preferred gender. This has been viewed as discrimination against transgender people as they are not allowed to use the bathroom that aligns with their self-identified gender (Jarvie, 2017).

## **DISCRIMINATION AGAINST TRANSGENDER INDIVIDUALS IN THE CRIMINAL JUSTICE SYSTEM**

As the last section shows, there is discrimination against transgender individuals in the community. Due to this discrimination and the societal lack of understanding gender identities and the general distrust of difference, transgender youth are at higher risk for being involved in the juvenile justice system. They face rejection, harassment, and even physical abuse from their family members, schools, and communities which may force them to run away, drop out, be put in the child welfare system. Due to this, they are more likely to end up homeless, between 20% and 40% of homeless youth are members of the LGBT community. Being homeless without income puts them at a high risk for arrest as they are more likely to commit crimes and at higher risk for being convicted by adults to commit crimes. For many of these youth, their gender identity played a role in why they were arrested; transgender youth are more likely to be criminalized for inappropriate sexual behavior simply because they are transgender, not because of any inappropriate actions. They are also more likely to be arrested by the police for crimes such as prostitution even when they were not engaged in those activities. Their gender identity also played a role in their needs after they had been arrested as juvenile justice personnel are not always prepared to ask appropriate questions, meet the youth's needs, and provide supportive services. The detention facility and their fellow inmates mistreat them at times. For many of these youth, their gender identity is relevant when they are brought to the courtroom.

Transgender youth maybe placed in high security as there was no other correctional facility willing to take them due to their sexual identity (Marksamer, 2008).

Marksamer (2008) explained how law, legal representation, and policy are constantly failing the transgender youth present in the juvenile delinquency systems throughout the United States. He described a particular individual named Destiny, a transgender female. She was put in T-Max, where she was sexually and physically assaulted. Her defense attorney and the presiding judge did nothing to move her as they thought it was best for her to be placed there and her own fault for dressing feminine. Her defense attorneys held a bias against transgender individuals but was still allowed to represent her and treated her case with his bias. At T-Max, she was also written up for acting like a girl and they tried to convince her to act like a male for her “own good.” This is one example of how the system failed as it did not provide the transgender youth with the proper representation. Another way that the system has failed transgender individuals is that the system does not always provide the medical health care needed by transgender individuals and does not respect their gender identity. Due to the failure of the system, transgender individuals are more likely to end up spending more time in the criminal justice system.

Another reason that transgender individuals end up in the criminal justice system is their relationship with police officers. Serpe and Nadal (2017) showed that transgender individuals are more likely to have negative interactions with the police. Their research showed that transgender individuals are less likely to have a positive perception of the police than cisgender individuals are. This may be due to biased or unfair police practices like unwarranted detainments and profiling. They were less likely to feel comfortable when approaching the police compared to cisgender men and women as they did not have a very positive perception of

the police. This also makes transgender individuals less likely to report crimes and get justice which is due to fear of a second victimization.

Stotzer (2014) also evaluated discriminatory behavior of police officers towards transgender individuals. Stotzer (2014) evaluated the interaction between the criminal justice personnel and law enforcement and transgender individuals in order to better understand the experiences of transgender individuals who come into contact with the criminal justice system. They found that in the studies that they looked at that 7-81% of transgender individuals had been incarcerated and 35-72% had been arrested. Additionally, 65% of transgender individuals reported disrespect and poor case handling, 7.7% of 401 transgender individuals across the United States reported unjustified stops and arrest, and 12-65% of transgender individuals had experienced negative interactions with law enforcement and criminal justice personnel. Stotzer (2014) also found that large percentages of transgender individuals in institutional settings, like prisons, reported abuse committed towards them by criminal justice personnel, including assault and harassment, and reported a lack of protection from the other inmates. For example, 15% of transgender individuals reported sexual assault and 16% reported physical assault while in institutional settings (Stotzer, 2014).

As the previous research illustrated, transgender individuals are more likely than other inmates to be mistreated in prison (Stotzer, 2014). Another way they are discriminated against in prison is that they are not housed in the facility of their self-identified gender. The research by Sumner and Jenness (2014) investigated how previously sex segregated prisons have adjusted to having transgender prisoners. They found that transgender correctional policy is shaped by security and safety. There is agreement that the inmates should be housed in prisons that match their sex (anatomy). However, they also found that there is disagreement amongst the enforcers

about the policies that are related to hormonal treatment (i.e., whether they should provide transgender individuals with hormonal treatment or not) and other medical decisions.

Green (2016) evaluated another way that the transgender criminal justice system is discriminatory towards transgender individuals. Green (2016) found that there are no formal guidelines about the placement of convicted transgender felons and their medical treatment while they are in prison. If they are placed inappropriately, then it can lead to discrimination against them and may even put their safety at risk. Green (2016) interviewed attorneys who were defending transgender clients in order to evaluate their experiences during the trial. Green (2016) found that attorneys thought that gender self-identification reduced the amount of discrimination face by transgender clients in the prison system. Green (2016) also found that administrators and judges in the United States justice system need to be more educated about the transgender community so that they can be sure to put them in safe housing.

Whitman (2012) looked at the difference between the experiences of transgender individuals and cisgenderers (individuals whose gender conforms with their sex) within the criminal justice system. Whitman (2012) found that transgender individuals are more likely to face discrimination than cisgenderers. Yet, they were less likely to seek help from law enforcement. They were more likely to have an interaction with the police due to being homeless or to having a lower socio-economic status. They also were more likely to experience harassment as well as physical and sexual abuse while being incarcerated than cisgenderers (Whitman, 2012).

The purpose of the current study was to investigate potential discrimination against transgender individuals in the criminal justice system, specifically in the trial phase.

Discrimination against any group of people, specifically in the legal system, is cause for alarm. In addition to the obvious alarm that people may be treated differently by the legal system, discrimination can affect a person's physical, cognitive, and emotional health (Sutin, Stephen, Carretta, & Terracciano, 2014).

To date, there have been very few studies conducted that have evaluated the discrimination that transgender individuals face in the criminal justice system in Texas. Thus, the purpose of the current study was evaluating whether there was discrimination against transgender people in the justice system in Texas. In order to investigate how jurors might view transgender individuals compared to cisgender individuals, four different vignettes were presented to undergraduate students, who were acting as potential jurors to see whether they would be more likely to find transgender individuals guilty compared to cisgender individuals. Considering the research that has already been conducted, I expected that the participants would be more likely to give a guilty verdict when the individual committing the crime was a transgender individual compared to when the perpetrator was cisgender. Additionally, I evaluated the juror ratings for four different crimes – murder, robbery, prostitution, and peeping. It was expected that the difference in guilt ratings for transgender and cisgender individuals would be greater for sex oriented crimes such as prostitution and peeping.

## **Method**

### **Participants**

The study was made available on the human subject pool software program that is used by the psychology department at Sam Houston State University (SHSU) and was available to all psychology students at SHSU. The total number of participants in the study were 200 students.

The number of students that participated in each of the four versions of the study was 50. The four versions were all the same but the vignettes were counterbalanced so that the different crimes were committed by different genders an equal number of times. Out of the 200 participants, 164 participants were female and 36 participants were male. The average age for the participants was 21.4 years. The participants took part in the study as they received research credits which were either compulsory for a class or counted as extra credit.

## **Design**

The current study utilized a 4 (Gender of individual in the vignette: male, female, transgender male, transgender female) x 4 (Crime: prostitution, murder, robbery, peeping) within-subjects design. The level of guilt (Guilty, Somewhat guilty, Somewhat innocent, Innocent) was the dependant variable and was recorded for each participant after they read each of the four vignettes.

## **Materials**

There were four groups of the vignettes available on a human subject's pool software program that is used by the psychology department at Sam Houston State University. Each group had four different crimes: robbery, peeping, prostitution, and murder. The first vignette described the perpetrator who was engaged in prostitution and had approximately 231 words. The second vignette described the crime of murder and had approximately 257 words. The third vignette described the perpetrator engaged in peeping and was composed of 254 words. The fourth vignette described the perpetrator engaged in robbery and had approximately 267 words. An example of each vignette can be seen in the Appendix. The perpetrator in each vignette was

counterbalanced so that a male, female, transgender male, and transgender female served as the perpetrator for each type of crime equally often.

The evidence against the defendant in the prostitution crime was a video of them during the act of the crime was filmed by a 'self-proclaimed video vigilante' as well as the perpetrator's previous crime record. The evidence against the defendant in the murder crime was that two eyewitnesses identified the defendant and that the defendant fit the general description of the murderer. The evidence against the defendant in the peeping crime was that the victim caught the perpetrator in the act and later identified the perpetrator as well as the perpetrator's previous criminal history for peeping in the past. The evidence against the defendant in the robbery crime was that there was video evidence that showed the perpetrator and accomplices breaking into the house that was robbed. Thus, for each of the crimes there was either eyewitness evidence or a camera that placed the defendant at the scene of the crime. The participant had to consider the information and then decide whether the perpetrator was guilty, somewhat guilty, somewhat innocent, or innocent.

## **Procedure**

The study was available online on a human subject's pool software program that is used by the psychology department at Sam Houston State University. Students had access to the study from wherever they had access to internet. The students were only allowed to sign up for one version of the study in order to avoid data collection from the same participant for two versions of the vignettes.

Participants were informed that they would be given vignettes to read that described four different crimes. After they had read each vignette, they were asked to determine if the

individual was innocent or guilty by selecting one of the four options: guilty, somewhat guilty, somewhat innocent, or innocent by clicking on it.

Once they had answered the question for the first vignette, they were then given the second, third, and fourth vignettes. No question could be left blank to ensure that the participants answered all the questions. The vignettes and questions were typed in a black Arial 12-point font on a white background. Once participants had read and provided their rating for each of the four vignettes, they were asked their age and the gender that they identified with. Upon completion, participants were thanked for their participation.

## **Result**

The current study evaluated whether participants would judge a transgender defendant differently from a cisgender defendant. In order to evaluate this question, an overall *t*-test was conducted to compare the guilt ratings (on a 4-point scale where “4” is “guilty” and “1” is “innocent”) for the cisgender and transgender individuals. Table 1 shows the average guilt ratings based on the defendant’s gender. Contrary to predictions, the *t*-test showed that transgender individuals were less likely to be found guilty than cisgender individuals,  $t(198) = 3.13, p = .002$ . This finding indicates that transgender individuals were treated differently by the legal system, but that they were actually shown to be treated more leniently rather than more harshly compared to cisgender individuals.

To see what caused this difference, additional *t*-tests were conducted to look at each individual crime to see how the nature of the crime affected the guilt ratings of transgender individuals compared to cisgender individuals. It was predicted that transgender individuals would be more likely to be found guilty than cisgender individuals for the crime of prostitution,

but the *t*-test found no significant difference between how transgender individuals and cisgender individuals were judged,  $t(198) = -0.99, p = .32$ . In the peeping crime, it was also hypothesized that transgender individuals would be more likely to be found guilty than cisgender individuals. The *t*-test conducted showed that for the crime of peeping, the gender of the defendant (transgender or cisgender) did not make a difference in how the defendant was judged,  $t(198) = -0.59, p = .56$ .

The gender of the defendant did make a difference for the murder scenarios but not as predicted. Transgender individuals were less likely to be found guilty than cisgender individuals for the murder vignette,  $t(198) = 2.74, p = .007$ . The gender of the defendant also made a difference in how the defendant was judged for the crime of robbery. It was predicted that transgender individuals would be more likely to be found guilty than cisgender individuals, but the *t*-test conducted found that transgender individuals were less likely to be found guilty than cisgender individuals for robbery,  $t(198) = 4.55, p < .001$ .

Overall, the *t*-tests showed that transgender individuals were less likely to be found guilty for murder and robbery, but were treated the same as cisgender individuals for prostitution and peeping.

## **Discussion**

The primary purpose of the current study was to see if the gender of the defendant, whether they identified as transgender or with their biological sex, made a difference on whether the jury found him or her guilty. Overall, the findings did not find any major negative differences between how transgender individuals were treated from individuals whose gender

identified with their biological sex. However, the findings did show that transgender individuals were shown more leniency compared to males and females in the case of murder and robbery.

The current study also looked at various crimes (i.e., murder, prostitution, robbery, and peeping) to better understand if potential jurors might be more likely to find transgender individuals more guilty of certain crimes. Results showed that transgender individuals were treated differently depending upon the different crimes. The results showed that gender of the perpetrator did make a difference in murder and robbery but not for prostitution and peeping. It was expected that transgender individuals would be found to be more liable for crimes that were sexual in nature, such as peeping and prostitution, but may also show a negative bias for other crimes. Results did not support these hypotheses. Contrary to predictions, transgender individuals were treated similarly as cisgender individuals for peeping and prostitution but were treated with more leniency for murder and robbery.

The previous studies mentioned in the introduction show that discrimination is found in the criminal justice system. Marksamer (2008) showed how the legal system was failing transgender youth as they were not being provided with the right representation. Serpe et al. (2017) showed that transgender individuals were more likely to have negative interactions with the police and hence are less likely to have a positive perception of the police. Sumner et al. (2014) showed that transgender individuals were kept in prisons according to sex and that they did not receive the necessary mental health treatment they needed. The current study expected to find a similar discrimination amongst potential jury members. However, results indicated no discrimination against transgender individuals. In fact, the results were the opposite of what was expected as transgender individuals were shown more leniency than cisgender individuals, at least for certain crimes.

The findings showed that there was difference found in how the participants were more likely to find a criminal guilty or innocent based on the gender of the perpetrator. While the current study provides some interesting and novel findings, further research is needed. This future research could help to address some limitations to the current study. For example, the average age of the participants in the current study was 21.4 years. The age range of actual jurors would vary much more than that as it is based on a system that selects jurors at random (i.e., individuals who are residents of Texas and are registered to vote). The current study should be replicated on a group of participants that are a better representation of the age variation as different age groups may have different views on transgender individuals due to being raised in different social environments. Participants in the current study were also all college students. It is likely that they may not share the same social outlooks as the average juror. This could be because of the oftentimes more liberal social outlook found on college campuses compared to other environments or because their level of education may be somewhat higher than the average juror.

Future studies could also take into account the race of the participant to see if certain races are more likely to find a particular gender guilty or not. The current study did not look at the race of the person, only the gender and age. Studying the race would help show if some races are more prejudiced towards transgender individuals or not. This information could be useful as it might help defense attorneys determine who they want as their jury.

Future studies could also look at what range of sentencing a jury would give as the current study only focused on whether the participant would find the defendant guilty, somewhat guilty, somewhat innocent, or innocent. While the scope of the current study was not designed to evaluate the sentencing phase, future studies could evaluate sentencing in order to determine if

jurors are more prejudiced at the time of sentencing phase. This prejudice towards certain defendant's gender could affect the length of the sentence given by a jury. As the introduction clearly demonstrated, prejudice still exists in the criminal justice system and studies must be conducted to evaluate these biases so that work can be done to eliminate attempt to control or eliminate these biases. The current study takes a step towards answering that question. The current study did not find any prejudice against transgender individuals, but further research should be conducted to see if other populations show the same findings.

The current study helps answer the question about whether jurors are more likely to be prejudiced against transgender individuals or not. It shows that even though there is a disparity between how transgender individuals are treated compared to cisgender individuals, it is in the favor of transgender individuals as they are less likely to be found guilty. The current results further help to see if bias exists within the jury system or not. It is very important to know if bias exists in the criminal justice system to ensure that defendants are getting a fair trial and to ensure that their gender is not playing a role in the jury's decision.

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## APPENDIX

Table 1

*Transgender individuals and cisgender individuals are treated differently by the jury*

Gender	Prostitution	Murder	Peeping	Robbery	Average
Male & Female	3.19	3.41	3.63	3.78	3.50
Transgender	3.32	3.05	3.68	3.24	3.32

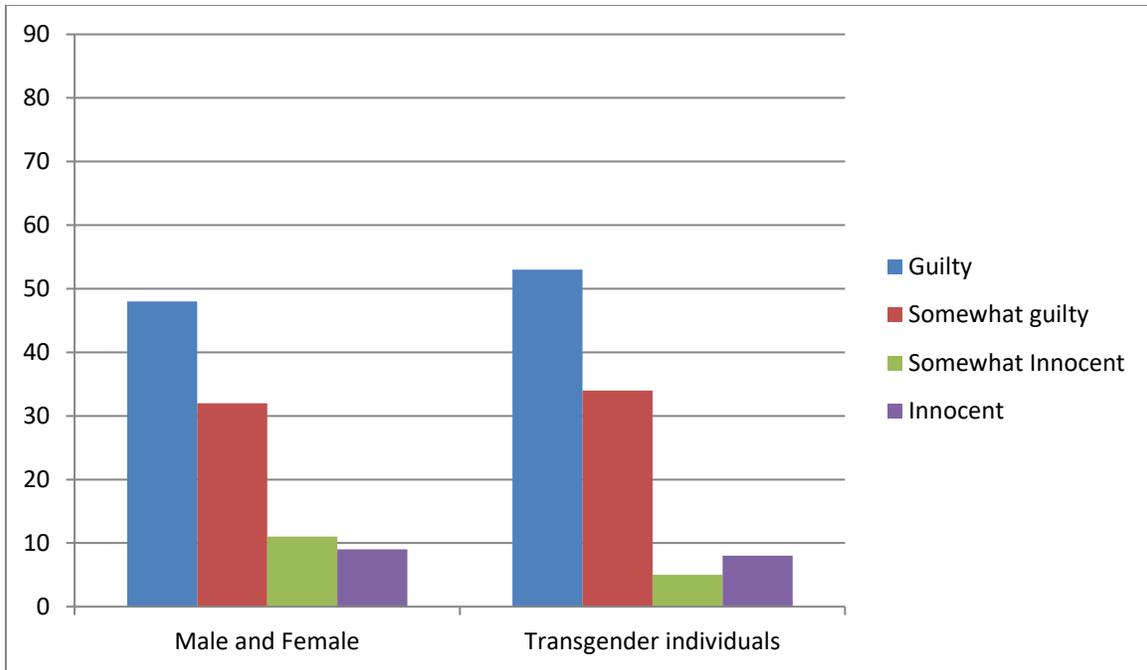


Figure 1. Guilt ratings for the prostitution vignette.

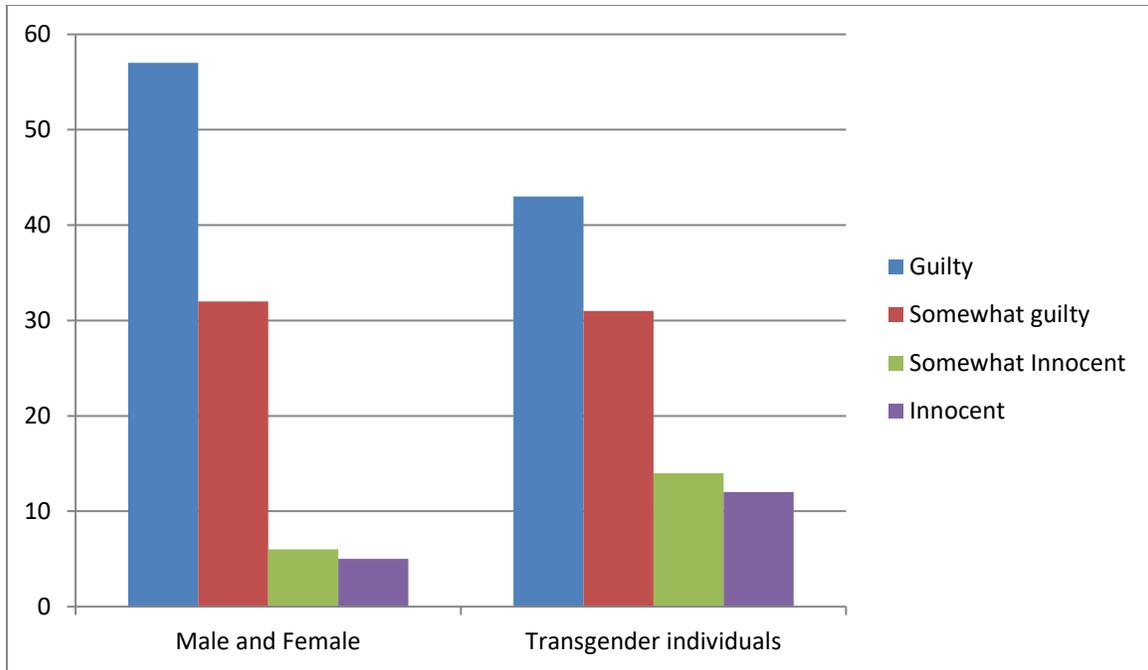
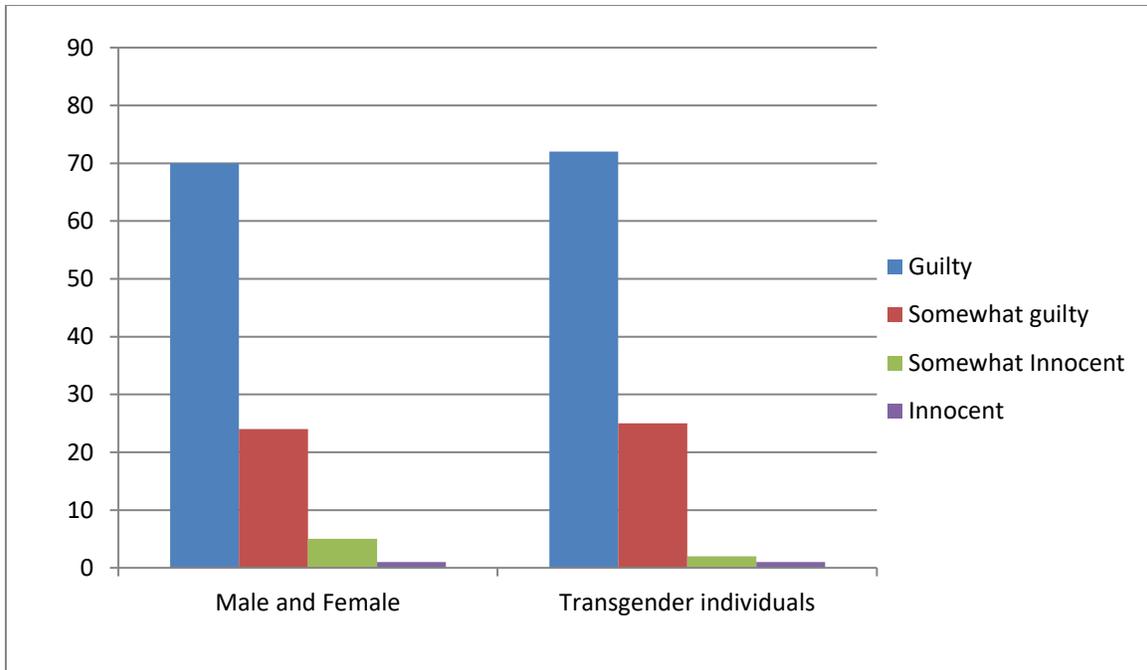


Figure 2. Guilt ratings for the murder vignette.



*Figure 3.* Guilt ratings for the peeping vignette.

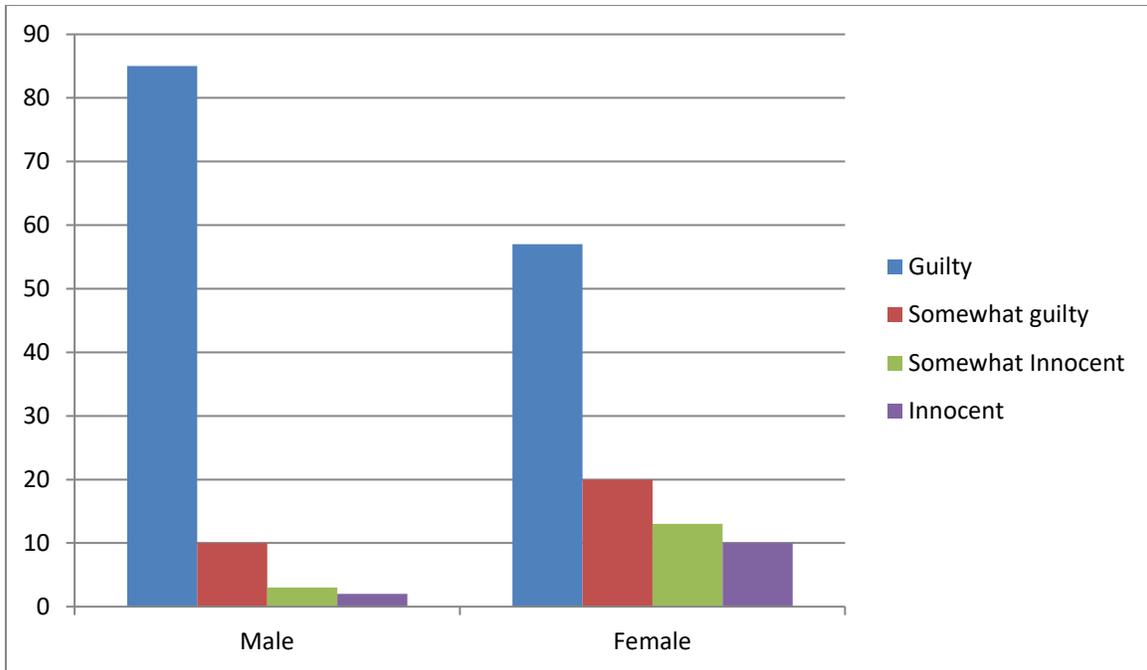


Figure 4. Guilt ratings for the robbery vignette.

## VIGNETTE

### VIGNETTE #1

The defendant, a 30-year-old male, and Blansett were charged with public lewdness after a self-described “video vigilante” named Brian Bates provided Oklahoma City police with footage showing the duo having had sex in the front seat of Blansett’s truck.

According to a probable cause affidavit, Brian Bates, the anti-prostitution avenger, followed Blansett’s Ford F-150 after he spotted the defendant entering the vehicle. When the truck turned down a deserted road leading to a tire yard, Bates launched his drone from an adjacent street.

As seen in Bates’s footage (beginning around the 4:10 mark of the video), he lowered the drone to within a few feet of Blansett’s truck. As detailed in the police affidavits, the footage revealed that defendant’s pants were off and Blansett appeared to be having sexual intercourse with the defendant.

Investigator Ben Lacaze noted that, “Once defendant and the driver saw the drone, they immediately ceased their activity and left the area.” Lacaze, a Vice Enforcement Unit officer, stated that he was “familiar with the defendant and his involvement in prostitution related activity,” adding that the defendant had distinctive facial tattoos that were visible in the drone video.

The defendant’s rap sheet includes convictions for prostitution, credit card theft, cocaine trafficking, larceny, leaving the scene of an accident, and concealing stolen property.

If you were on the jury would you give the defendant a guilty or innocent verdict?

## **VIGNETTE #2**

The defendant, a 29-year-old woman, was charged with the murder of two middle-aged women. The victims, 55-year-old Marjorie Upson and 45-year-old Florence Bell, were murdered in their homes. Both women had lived alone for many years after the deaths of their husbands but had remained active in the community.

Both women were beaten and strangled and suffered blunt force trauma. In addition to being beaten, Bell's throat had also been forcefully cut. In each of the cases, the assailant forcefully broke into the victim's homes during the early afternoon, stole jewelry, emptied the victims' wallets or purses on their beds, and left most other areas of the victims' residences undisturbed.

Two 5th grade students who attended Bach Elementary School, which is located directly across the street from Bell's house, testified that they had seen a woman with a motorcycle enter Bell's house around the time of her murder. The two students identified the defendant in a photo lineup. Additionally, they both identified the defendant's motorcycle as the same make, color, and as having the same custom markings as the motorcycle owned by the perpetrator.

The police suspected the defendant as the murderer of Upson and Bell primarily because she fit the general description of the murderer, lived within 3 miles of both victims, worked a second shift job that would make her available at the time of the murders, and had a motorcycle that was similar to that described by witnesses.

If you were on the jury would you give the defendant a guilty or innocent verdict?

### **VIGNETTE #3**

The defendant, a 30-year-old transgender woman, was arrested for peeping on and filming several women and a 5-year-old child in a women's restroom at the Potomac Mills Mall. The perpetrator filmed a woman in a bathroom stall at the Potomac Mills Mall. One of the victims was a 35-year-old woman who was in a bathroom stall when "she saw a bag moved toward her under the stall divider." According to police, the perpetrator had been filming her while she was going to bathroom. When the victim rushed out of the stall to confront the defendant, the defendant had already begun watching a second woman just one stall over.

The first victim alerted the second woman and then contacted mall security. The defendant was arrested while leaving the mall. The defendant fit the description of the first victim and was wearing the same type of clothes as described by the first victim. The second victim was unable to identify the perpetrator as she did not actually see the perpetrator.

Police suspect that this was not the defendant's first time peeping on women. They believe that the defendant likely spied on a 53-year-old woman in May of 2015 and a 35-year-old and her 5-year-old daughter back in October of 2014, as these previous cases were strikingly similar to the current crimes.

The defendant was charged with four counts of unlawful filming of a non-consenting person and four counts of peeping.

If you were on the jury would you give the defendant a guilty or innocent verdict?

## **VIGNETTE #4**

The defendant, a transgender male, who posed as a UPS delivery driver and three other individuals are wanted in a violent robbery, caught in part on camera, according to Houston police. The robbery occurred on November 22 around 8:40 p.m. local time at a residence on Willers Way in Houston, Texas.

A surveillance camera outside the home captured part of the incident, according to police. In the surveillance footage, the defendant, wearing a UPS jacket and brown baseball cap, and carrying a package, is seen approaching the door to the residence. Police said the defendant rang the doorbell, claiming he needed a signature for the package.

Once the homeowner opened the door, the surveillance footage shows the man forcing his way into the home. Three other suspects brandishing guns and wearing hoodies or masks then appeared and also entered the home. Upon entering, police said the suspects assaulted a man inside the residence with a pistol. At some point during the struggle, a shot was fired, though no one was struck, police said.

The homeowner was later transported to a local hospital for severe neck and head injuries. Two women inside the house were able to grab two small children and lock themselves in closets to stay safe, according to police.

The suspects stole several pieces of jewelry and collectible firearms before fleeing the scene in a getaway car, police said. Authorities are cautioning homeowners in the area to not open the door if they don't recognize their regular delivery person.

If you were on the jury would you give the defendant a guilty or innocent verdict?

# CURRICULUM VITAE

## TASNEEM BAQIR

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### EDUCATION:

Sam Houston State University August 2016-May 2018  
Bachelors of Science in Psychology and Minor in Criminal Justice  
SHSU GPA: 3.78

- Honors College Member
- Dean' s list Fall 2016
- Bearkat Transfer Scholarship
- Emerging Scholars Honor Program Scholarship

Lone Star Community College August 2014- May 2016  
Associates of Arts degree

- Merit Scholar Award
- MC-Joiner Partnership Endowment

### PUBLISHERMENTS:

The Beacon (SHSU Literary magazine) Spring,2017

- Fly Catcher

Viewpoint Articles for the Houstonian March 2017- Present

- "The Global Gag Rule"
- Trump Accuses Obama of Wiretapping
- Switching to Renewable Energy
- Ethical Issues in Advertising
- A Case for Gun Control
- DACA Recession Dreams for Dreamers
- Eyewitness testimonies: more harm than good
- Hikikomori: Why do People Isolate Themselves?
- Child Marriage Problem Reap Domestic Consequences

Interview Articles for Psych2go June 2017- August 2017

- Tutsi genocide: How ordinary citizens can turn into killers? -An interview with Dr. Nicholas Scull
- False Memories- An Interview with Dr. Jeffrey S. Anastasi
- How sexual minority adolescents cope with stress- An interview with Dr. Jeremy T Goldbach
- Bystander Intervention in Cases of LGBT Discrimination- An Interview with AdriennaDessel
- The Changing Roles of Parent- An Interview with Dr. Sarah Banchevsky
- "False Memories and Persuasion Strategies. "- An Interview with Dr. Juliana K. Leding
- College Students Struggling with Autism Spectrum Disorder- An Interview with Dr. Lynn Kern Koegel
- Would it Help Introverts to Act like Extroverts? -An Interview with Dr. John M. Zelenski
- Lucid Dreams; Dream Characters and the Dream Ego- An Interview with Steffen C. E Schmidt
- Eye Witness Testimony- An Interview with Dr. Kristy Martire
- Relation Between Post-Traumatic Stress Disorder, Depression, and Alcohol Consumption
- Stress Experienced by South Asian Adolescents due to Acculturative Stress- An Interview with PratyushaTummala-Narra
- "Know thy enemy: Education about terrorism improves social attitudes toward terrorists"-An Interview with Jordan Theriault
- Challenging the Credibility of Alleged Victims of Child Sexual Abuse

- Risk Factors for PTSD and Depression in Female Survivors of Rape

**WORK EXPERIENCE:**

Sam Houston State University September 2016-Present

- Student Note taker: Attending classes and taking notes for disabled students

Lone Star Community College October 2015-May 2016

- Student Note taker: Attending classes and taking notes for disabled students

Huzefa Engineering services June 2013-June 2014

- -Prepared customer invoices and distributed to each company
- -Made quotations to potential customers

**INTERNSHIP**

Law Office of Kelly T. Weeks and Bruce C. Green August 2017-

Present

- Open files, Prepare NODA, Make billing statements
- Send letters to clients and courts (including NODA, client letter, ALR request forms)
- Get to go to court for ancillary hearings and docket calls and trials
- Attend phone calls and take messages

**VOLUNTEER EXPERIENCE:**

SAAFE house October 2016-May 2017

- Organizing store by product, replacing broken hangers, and maintaining cleanliness
- Pricing donations for resale

Aga Khan Volunteer Services May 2015-July 2015

- Created monthly roster, coordinated shifts for 20 employees
- Calculating duty hours and kept track of each employees services
- Oversaw attendance records in the computer system

**LANGUAGES**

Urdu, English Gujrati

**ORGANIZATIONS:**

- Prelaw society organization member September 2016-May 2017
- Swirl Magazine, Co-editor August 2015- December 2015
- Student Government Association, BELs Senator, safety committee August 2015-December 2015