

DO RACE/ETHNICITY AND
GENDER INFLUENCE CRIMINAL
DEFENDANTS' SATISFACTION WITH
THEIR LAWYERS' SERVICES?
AN EMPIRICAL STUDY OF
NEVADA INMATES

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The American legal system embodies the values, history, and culture of American society. Within this system are the courts, an indispensable institution and tool of public policy designed to settle disputes, as well as to create

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and interpret the law. In recent years, the confidence of the American people in their court system has been in question.¹

Because of the importance of our judicial system, there is a significant need for information on how it is perceived. If the system becomes disconnected from the people, its ability to protect and create public policy may be greatly undermined. Patrick A. Bennack, Jr., President and CEO of the Hearst Corporation, recently noted, when comparing the state courts with other institutions: "[T]he courts – that's something different. Here, trust is essential. Here, knowledge is essential. Here, society and institution come together in ways that really define who we would like to think we are as a society – fair, open and protective of the rights of every individual."²

An integral function of the state court system is the just resolution of criminal cases. The establishment of a bond of trust between lawyers, as competent and ethical service providers, and their clients, as "consumers" who feel they are being served professionally and fairly, is particularly important; without it, attorney-client communication will be hindered and the criminal justice system will not function properly. As such, it is important that this relationship be explored and understood.

A number of studies have attempted to gather the public's perceptions of the court system.³ Others have sought to discover how criminal defendants perceive aspects of the criminal justice system.⁴ This article, the result of an

¹ NATIONAL CENTER FOR STATE COURTS & HEARST CORPORATION, HOW THE PUBLIC VIEWS THE STATE COURTS: A 1999 NATIONAL SURVEY (1999) (hereinafter the HEARST REPORT). This study refers to three earlier empirical studies from 1977, 1983, and 1998. The 1977 report commissioned by the National Center for State Courts titled *Public Image of the Courts*, was "notable for its gloomy picture of the courts' standing with the American public, the finding that the public was poorly informed about the courts, and its conclusion that 'those having knowledge and experience with the courts voiced the greatest dissatisfaction and criticism.'" *Id.* at 9. The 1983 report funded by the Hearst Foundation titled *The American Public, the Media and the Judicial System: A National Survey of Public Awareness and Personal Experience*, found that "Americans were largely ignorant about the legal system, that jury service was experienced by only a small proportion of the population and that public opinion about the courts was strongly influenced by the mass media." *Id.* The 1998 report sponsored by the American Bar Association, titled *Perceptions of the U.S. Justice System*, found that relative to former surveys there have been "improvements to the public image of the courts, a vastly increased extent of public involvement with the courts and a positive relationship between such involvement and confidence and in satisfaction with the courts." *Id.* The American Bar Association is also considering the foregoing findings with others "to develop a national strategy to be pursued for several years in every state to strengthen public confidence in the justice system." See Philip S. Anderson, *Learning to Educate the Public*, 85 A.B.A.J. 6 (July 1999). See also James Podgers, *Confidence Game: Bench, Bar Leaders Ponder Strategies To Raise Public Trust In The Courts*, 85 A.B.A.J. 86 (July 1999).

² HEARST REPORT, *supra* note 1, at 2.

³ *Id.* at 1.

⁴ See, e.g., Jonathan D. Casper, *Did You Have a Lawyer When You Went to Court? No, I Had a Public Defender*, 1 YALE REV. L. & SOC. ACTION 4 (1971); JONATHAN D. CASPER, AMERICAN CRIMINAL JUSTICE SYSTEM: THE DEFENDANT'S PERSPECTIVE (1972) (hereinafter AMERICAN CRIMINAL JUSTICE); JONATHAN D. CASPER, CRIMINAL COURTS: THE DEFENDANT'S PERSPECTIVE (1979) (hereinafter CRIMINAL COURTS); Glen Wilkerson, *Public Defenders as Their Clients See Them*, 1 AM. J. CRIM. L. 141 (1972); Burton M. Atkins & E.W. Boyle, *Prisoner's Satisfaction with Defense Counsel*, 12 CRIM. L. BULL. 427 (1976);

extensive empirical study among former criminal defendants residing in the Nevada state prison system, attempts to ascertain whether the criminal defendants' race/ethnicity and gender may predict their perceptions of the quality of their lawyers and their overall satisfaction with their lawyers' services. To this end, this article will demonstrate that criminal defendants who are female and Hispanic are relatively more satisfied with their legal representation. Conversely, this article will show that defendants who are male, and African-American, Caucasian, or Native-American, are the least satisfied. To prove the foregoing, a statistical analysis of survey responses is presented with a subsequent discussion of the outcomes. The article concludes by discussing the implications of our findings for lawyers as service providers and by offering possible avenues of future research in this area.

I. LAWYER SATISFACTION AND RACE/ETHNICITY

A number of studies have touched on the correlation between race and lawyer satisfaction. In a 1977 study in New York, a research group led by Stewart O'Brien maintained that defendants "were often street-wise young African-Americans who learned a negative attitude toward the 'system' and its institutions. They believe that lawyers . . . are just another extension of those oppressed institutions . . ." ⁵

More recently, a study was conducted of defendants of various races (including Caucasian, African-American, and Hispanic) in Chicago, Miami, and Kansas City, to determine if race influenced how defendants perceived their lawyers generally. The study revealed that the type of attorney representing the defendant had no effect on the chance of incarceration for any racial or ethnic group examined. ⁶ Although this study did not incorporate the defendants' perceptions of their lawyers, it might indicate, in general, that the type of lawyer involved or the race of their client has no actual effect on the outcome. This, in turn, may result in little difference in how satisfied criminal defendants of different races are with their lawyers.

Indeed, one commentator, Ineke Haen Marshall, has noted that, partly because of legislative pressures and social changes, the "most egregious racial inequalities in the criminal justice system have been reduced or eliminated." ⁷ She admits, however, that few scholars would make an "unqualified claim that there is no racism in the system." ⁸ On the other hand, a recent report issued by

Geoffrey P. Alpert & Donald A. Hicks, *Prisoners' Attitudes Toward Components of the Legal System*, 14 CRIMINOLOGY 461 (1977); Stewart O'Brien et al., *The Criminal Lawyer: The Defendant's Perspective*, 5 AM. J. CRIM. L. 283 (1977) (hereinafter O'Brien); Roy B. Flemming, *Client Games: Defense Attorney Perspective on Their Relations with Criminal Clients*, 2 AM. B. FOUND. RES. J. 253 (1986). See also *When You Need a Lawyer*, CONSUMER REP., Feb. 1996, at 34 (discussing a poll conducted of readers and their perceptions of lawyers as service providers). It is interesting to note that criminal lawyers were perceived second to the last in terms of satisfaction with divorce lawyers ranking last. *Id.* at 37.

⁵ O'Brien, *supra* note 4, at 308.

⁶ SAMUEL WALKER, *THE COLOR OF JUSTICE* 131-32 (2000).

⁷ INEKE HAEN MARSHALL, *MINORITIES, MIGRANTS, AND CRIME* 10 (Ineke Haen Marshall ed., 1997).

⁸ *Id.*

the Leadership Conference on Civil Rights contends that "blacks and Hispanics are disproportionately targeted by police, unfairly victimized by 'racially skewed' charging and plea bargaining decisions by prosecutors, given harsher sentences by judges and deeply impacted by 'get tough' crime policies enacted by lawmakers."⁹

One recent study, conducted in 1999 by the National Center for State Courts and the Hearst Corporation offers some helpful analogies on how Hispanics view their lawyers relative to other racial groups.¹⁰ This study posed a series of questions to a nationally-selected sample. These questions dealt with how the various racial and ethnic groups perceived the treatment which persons of their own racial/ethnic group received in the state courts, compared to the courts' treatment of other races. The study revealed that only about thirty-three percent of Hispanic respondents saw themselves as receiving "Somewhat Worse" or "Far Worse" treatment than other racial groups.¹¹ In contrast, forty-seven percent of Caucasians/non-Hispanics and sixty percent of African-Americans felt that Hispanics were treated "Somewhat Worse" or "Far Worse."¹² Thus, Hispanics saw themselves as being treated much better than other groups saw them as being treated! Notably, most Americans in this study perceived themselves as being "treated either better or the same as others." The important exception, however, was African-Americans, seventy percent of whom felt they are treated "Somewhat" or "Far Worse" than others.¹³ Although this study tests different factors and respondents than ours, it may provide beneficial analogies since lawyers are, after all, an integral part of the state court system. Thus, if Hispanics view the system more positively, lawyers may share in the glow.

Still, the foregoing discussion regarding Hispanics must be tempered by the facts. According to crime statistics, Hispanics are over-represented in both police and prison cells.¹⁴ A study in Monterey County, California indicates that Hispanics receive harsher treatment in the criminal process.¹⁵ Another study shows that Hispanics (as well as African-Americans) are more likely to be discriminated against in the justice systems and receive tougher sentences than Caucasian defendants.¹⁶ Other studies in Tucson, Arizona, and El Paso, Texas, have demonstrated that Hispanics receive less favorable pretrial release outcomes, are more likely to be convicted in jury trials, and receive more severe sentences than Caucasians receive in those cities.¹⁷ A 1987 study in Los Angeles found that Hispanic males were most likely to be prosecuted fully,

⁹ Michael A. Fletcher, *Criminal Justice Disparities Cited*, WASH. POST, May 4, 2000, at A2.

¹⁰ See HEARST REPORT, *supra* note 1, at 37-39.

¹¹ *Id.* at 39.

¹² *Id.*

¹³ *Id.* at 38.

¹⁴ MARSHALL, *supra* note 7, at 15.

¹⁵ See generally Hisauro A. Garza, ADMINISTRATION OF JUSTICE: CHICANOS IN MONTEREY COUNTY, in 3 LATINOS IN THE UNITED STATES 47, 47-56 (A.S. Lopez ed., 1995).

¹⁶ M.D. Holmes & H.C. Daudistel, ETHNICITY AND JUSTICE IN THE SOUTHWEST: THE SENTENCING OF ANGLO, BLACK, AND MEXICAN ORIGIN DEFENDANTS, in 3 LATINOS IN THE UNITED STATES 125, 125-38 (A.S. Lopez ed., 1995).

¹⁷ GARY D. LAFREE, OFFICIAL REACTIONS TO HISPANIC DEFENDANTS IN THE SOUTHWEST, in 3 LATINOS IN THE UNITED STATES 159, 159-184 (A.S. Lopez ed., 1995).

followed by African-American males, Anglo males, and females.¹⁸ Thus, although the general Hispanic population may be more positive in its views of the American legal system, Hispanic criminal defendants may not be. This negative attitude may also result in a dissatisfaction with their lawyers.

Due to various factors, Native Americans, as a racial group, have been the subject of relatively little research.¹⁹ Still, the studies that have been conducted are mixed. One study indicates that Native Americans are more likely to receive prison sentences and serve longer prison sentences before being paroled than non-Native Americans, while another study maintains that Native Americans receive more "lenient treatment than non-Indians."²⁰

In light of these studies, the authors considered when formulating their hypothesis, whether Caucasians might perceive their lawyers with greater satisfaction than African-Americans, Hispanics, and Native Americans. In at least two of the above studies the authors contend that reforms in the legal system have eradicated the most blatant racism that once existed despite the lingering, perhaps more subtle, problems that may still hinge on race.²¹ Despite these differences, it is our contention that, based on the foregoing analogies to the court system, all groups in this study will perceive the quality of their lawyers quite similarly, with statistically insignificant differences among the racial groups. In contemplation of the above discussion, we hypothesize that:

H₁: There is no difference in the perception of the quality of lawyers based on the race of the inmate.

II. LAWYER SATISFACTION AND GENDER

Although the authors were unable to find studies on how female criminal defendants perceive their lawyers, there have been studies of how female criminals are perceived by others directly or indirectly involved in the criminal justice system. These results, in turn, may offer insights in the formulation of our hypothesis. For example, studies in the United Kingdom regarding perceptions of female criminals revealed that both the police and the public,²² as well as magistrates,²³ the media,²⁴ and judges,²⁵ all tend to trivialize "women's offending," or have explained "offender's behavior in terms of situational fac-

¹⁸ Cassia Spohn, *The Impact of Ethnicity and Gender of Defendants on the Decision to Reject or Dismiss Felony Charges*, 25 CRIMINOLOGY 175 (1987).

¹⁹ See MARSHALL, *supra* note 7, at 17 (discussing how the process of identifying who a Native American is can be difficult since members "tend to be a loose residue of the tribes, rather than a racial entity.") (citing H. HACKER, BLACK AND WHITE, SEPARATE, HOSTILE, UNEQUAL 5 (1992)). Moreover, Native Americans are often subject to multiple jurisdictions, including tribal, state, and federal.

²⁰ *Id.* at 19 (citing R. BACKMAN, A. ALVAREZ & C. PERKINS, DISCRIMINATORY IMPOSITION OF THE LAW: DOES IT AFFECT SENTENCING OUTCOMES FOR AMERICAN INDIANS? (1996); NATIVE AMERICANS, CRIME AND JUSTICE 197-208 (M.O. Nelson & R.A. Silverman eds., 1996)).

²¹ See *supra* notes 6-7 and accompanying text.

²² Rebecca Horn & Clive R. Hollin, *Police Beliefs About Women Who Offend*, LEGAL CRIMINOLOGICAL PSYCHOL. 193 (1997).

²³ PAT CARLIN, OFFENDING WOMEN (Anne Worrall ed., 1990).

²⁴ BRONWYN NAYLOR, CRIME AND GENDER 77 (R. Emerson Dobash, Russell P. Dobash & Lesley Noaks eds., 1995).

tors or personal pathology."²⁶ Thus, in light of this research, one commentator noted that female offenders are "rendered harmless regardless of the acts they have committed."²⁷

Horn and Hollin also found in their study regarding how a police and non-police sample viewed female criminals, that "[w]omen offenders are not thought to possess personal characteristics which make them particularly prone to crime."²⁸ Moreover, they detected a perception that "harsh punishment was thought to be inappropriate for women offenders, who were thought to respond well to attempts at rehabilitation. This, in turn, may reflect a belief that since women are not 'natural criminals' they are more likely to be persuaded away from crime."²⁹ A revealing example of this perception was put forth by Wilczynski in a study of how courts responded to men and women who had killed their children.³⁰ The study found that courts were reluctant to send women to prison, preferring to give them psychiatric and/or custodial sentences. Whereas, Horn and Hollin reported that most men receive a prison sentence, even where a "psychiatric" plea was used.³¹

Empirical studies in the United States indicate a similar result to those conducted in the United Kingdom. Nagel and Weitzman discussed several studies that revealed women were treated preferentially in the criminal legal system by "being kept out of jail pending trial, in not being convicted and in not being sentenced to jail if convicted."³² The authors believed these differences might have been caused by judges who assume that women are "weaker and open to harm from jailing," and are "less dangerous to society, more easily deterred from repeating their crime and more speedily rehabilitated."³³

More recently, Katz and Spohn found that judges favored females over males in bail decisions and pretrial releases.³⁴ Spohn also found females to be significantly less likely to be sentenced to prison than males.³⁵

We queried four county public defenders (PDs) in Clark County, Nevada's most populous county, which encompasses the Las Vegas Valley, whether they felt women might be favored over men in the county criminal justice system. One female PD felt, based on her experience, that many of the crimes committed by women are crimes that are not as dangerous and destructive to others as those committed by men.³⁶ This was confirmed by our study in which the only

²⁵ Ania Wilczynski, *Images of Women who Kill their Infants: The Mad and the Bad*, 2 *WOMEN & CRIM. JUST.* 71 (1991).

²⁶ Horn & Hollin, *supra* note 22, at 195.

²⁷ *Id.*

²⁸ *Id.* at 200.

²⁹ *Id.*

³⁰ Wilczynski, *supra* note 25, at 75-76.

³¹ Horn & Hollin, *supra* note 22, at 200.

³² STUART S. NAGEL & LENORE J. WEITZMAN, *THE SCALES OF JUSTICE* 108 (Abraham S. Blumberg ed., 1973).

³³ *Id.* at 113.

³⁴ Charles M. Katz & Cassia Spohn, *The Effect of Race and Gender on Bail Outcomes: A Test of an Interactive Model*, 19 *AM. J. CRIM. JUST.* 161 (1995).

³⁵ Cassia Spohn, *Gender and Sentencing of Drug Offenders: Is It Chivalry?*, 9 *CRIM. JUST. POL'Y. REV.* 365 (1999).

³⁶ Interview with Linda Bell, Clark County Public Defender, in Las Vegas, Nev. (Jan. 13, 2000).

crimes that women committed at a higher percentage of their total crimes than men were the following: narcotics (18.8% women v. 14.4% men); child neglect (.8% women v. .1% men); forgery (3.3% women v. 2.2% men); embezzlement (3.3% women v. .4% men); probation violation (7.3% women v. 1.2% men); and felony prostitution (4.5% women v. .1% men). Thus, she contends, because of the less threatening nature of these crimes, a woman's experience with her lawyer, and the system in general, may not be as negative as that experienced by a man. Moreover, the PD noted that if women are involved in the more serious personal or property crimes, such as murder,³⁷ they are often accompanying a man who is generally the primary actor in the crime.³⁸ In such situations, the women are given the chance to plea for a lesser crime in exchange for testifying against the more serious perpetrator: the man.³⁹ This might enable their lawyers to remove them from, or at least mitigate, a potentially longer imprisonment.

Both the scientific studies and the interviews suggest that, although going through the process leading to a criminal conviction cannot be anything but negative, it may be a less negative experience for women. If this is the case, a woman's perception of her attorney may involve a less dissatisfying and a more productive relationship compared to a man's experience with his lawyer.⁴⁰ For these reasons, we hypothesize that:

H₂: There is a more positive perception of the quality of lawyers based on whether the inmate is female.

III. RESEARCH ISSUES

We were generally interested in gaining an insight into various constructs pertaining to the Nevada criminal legal system.⁴¹ Our primary interest was to discover criminal defendants' (who are now inmates in state prisons) perceptions of the quality of their lawyers, as well as their overall level of satisfaction with their representation. We were interested in this group since it had been fully exposed to various segments of the criminal justice system. Other constructs were considered for examination, such as complaint behavior and perception of bias within the criminal justice system. These constructs, which included among other things, perceptions of judges, juries, and prosecutors, will be the subject of later analysis.

³⁷ *Id.*

³⁸ It should be noted that in our study women were convicted of murder. For example, 1.6% of the total crimes committed by women were second degree murder, 1.6% of their crimes were first degree murder, and .8% were attempted murder.

³⁹ Interview with Linda Bell, *supra* note 36.

⁴⁰ It should be re-emphasized that our study reflects our sample's attitudes as criminal defendants, not as inmates. In the case of being an inmate, the results may be different. For example, a report of women inmates in the United States by Amnesty International details numerous human rights violations against women in prison. *Report: Women Inmates' Rights Violated*, LAS VEGAS REVIEW-JOURNAL, Mar. 5, 1999, at 9A (discussing treatment of women in U.S. prisons).

⁴¹ A construct measures a characteristic. In this case, criminal defendants' level of satisfaction with lawyers as service provider. See NARESH K. MALHOTRA, *MARKETING RESEARCH: AN APPLIED ORIENTATION* 302 (1996).

A. *Methodology*

The Nevada Department of Prisons was contacted for authorization to conduct a census study of inmates at all Nevada state prisons.⁴² After the prisons' requirements were fulfilled, the design of the questionnaire began. The prison department required approval of the final survey instrument, as did the Human Subjects Committee at the University of Nevada, Las Vegas. These approvals were obtained.

B. *Questionnaire*

Questions were written to measure the constructs of satisfaction (at all levels of the judicial system), quality, bias within the system, and complaint behavior. Demographic questions, including race and gender, were also written so that various groups of inmates could be compared. The survey instrument was pre-tested at one of the state's prisons. There were thirty-six volunteer inmates present for the pre-test. The composition of this group reflected the general population of that prison. Additionally, the composition of this group was diversified based on race, age, and crime. The crimes of this population ranged from drug offenses to white-collar crime and murder. The inmates were asked to complete the survey instrument – a process which lasted more than four hours. Following completion, each of the questions was discussed in detail, both for content and style. The survey was then modified by adding and removing various questions. Nearly every question was then rewritten to reflect the language and understanding of the inmate population.

C. *Sample*

Our census of prisoners in the state was conducted in 1997. In total, 8,188 surveys were distributed via the inter-prison distribution system. The surveys were counted and crated; then researchers attached appropriate, personalized letters of instructions and delivered them to a central location. Subsequently, they were delivered to the appropriate prisons for distribution to inmates. The reverse process was used to return the completed surveys to the researchers. A small percentage of surveys were returned directly via mail. Instructions were clear as to the individuals at each prison who were responsible for distributing surveys to and collecting surveys from the prisoners. At that time, there were nineteen prisons in the state. Of those nineteen prisons, two held female prisoners and the rest held male populations. English and Spanish versions of the survey were available. Each inmate had one night to complete the survey. They were given an envelope in which to place the completed survey and then seal it. They were instructed to return the completed survey in the sealed envelope to their guard the next morning. Of the 8,188 surveys that were distributed, 1,867 surveys were completed and useable for the study. This represents a 22.8% response rate.⁴³ Due to cost and time limitations, there were no

⁴² A census is the complete enumeration of the elements of a population. In this study, it was all the inmates in all the prisons in Nevada. A sample, on the other hand, is a subgroup of the population selected in a study. *Id.* at 323.

⁴³ The researchers felt the response rate, which yielded the large number of usable surveys for analyses, was very good, considering the "unique" group being questioned. In the pre-

follow-up letters or incentives given to increase the response rate.⁴⁴ Once completed surveys were returned, they were entered into an SPSS database for further analysis.⁴⁵

D. Demographics

The data was cleaned by obtaining frequencies for each question, and data entry problems were corrected.

E. Factor Analysis

Factor analysis was run on SPSS for data reduction and construct development. An initial scree test indicated ten factors.⁴⁶ There were ten eigenvalues greater than one on the initial unrotated orthogonal factor analysis.⁴⁷ Orthogonal analysis was run with VARIMAX rotation to determine the best factor solution.⁴⁸ Based upon theory and factor loadings, a six factor orthogonal solution was determined to be the best fit.⁴⁹ Table 1 reveals the factor loadings (and the seven variables which loaded onto this factor) for the construct for this study: "Lawyer Satisfaction." The other constructs will not be discussed here but will be reported in future studies.

test a number of inmates expressed concern and even paranoia about filling out the surveys despite the guarantees of anonymity.

⁴⁴ The normal kinds of methods for increasing response rates, such as monetary incentives, premiums and rewards, "foot-in-the-door" techniques, and follow-up letters would be difficult, if not impossible, to use with this kind of population. For example, initially the researchers stated that a pencil would be provided to each inmate; however, due to security reasons even that small token was not allowed. For discussion of methods for increasing response rates, see MALHOTRA, *supra* note 41, at 210.

⁴⁵ For a discussion of the efficacy of SPSS applied to an Analysis of Variance (hereinafter ANOVA), see *id.* at 568.

⁴⁶ A scree test is a method for extracting factors. *Id.* at 652. A factor is an underlying dimension that aids in explaining common variance between variables. Factor analysis, unlike ANOVA, does not establish a dependent variable and predictor or independent variables, but instead examines a whole set of interdependent relationships. See *id.* at 645. See *infra* note 52 and accompanying text discussing ANOVA. Factors are sometimes termed "latent variables" which, in turn, can "load" onto the identified factors. In this study, seven variables loaded on to the factor and construct lawyer satisfaction. See *infra* Table 1 for the factor loadings and the seven variables for the construct labeled lawyer satisfaction.

⁴⁷ An eigenvalue represents the amount of variance that is associated with each factor. See MALHOTRA, *supra* note 44, at 651.

⁴⁸ The VARIMAX procedure is the commonly used method for rotating the factors, in an orthogonal rotation, in which the axes are at right angles. The orthogonal rotation identifies the number of variables with high loadings and thus helps in interpreting the factors. *Id.* at 653.

⁴⁹ A factor loading results in simple correlations between the variables and the factors. *Id.* at 647.

TABLE 1: FACTOR LOADINGS FOR THE CONSTRUCT "LAWYER SATISFACTION"

Question	Factor Scores
My lawyer was interested in my case.	.721
My lawyer did everything possible to win.	.829
I could not have asked my lawyer to do more for me.	.708
I am satisfied with my lawyer.	.869
My lawyer was the best lawyer for me.	.828
I would use my lawyer again if I need one in the future.	.856
I would recommend my lawyer to others.	.855

The Pearson correlation coefficient between the seven variables in the construct "lawyer satisfaction" are all significant with p values equal to .000 and an alpha equal to .01.⁵⁰ The Pearson correlation coefficients range from .868 to .460. The construct's reliability was measured using coefficient alpha from SPSS. The coefficient alpha equal to .9309. Since the factor loadings are all above .5, the correlations between variables are all significant, and the reliability of the construct is above .7, the authors determined that it was possible to now sum the variables and create a new construct. This new construct was labeled "lawyer satisfaction."⁵¹ This new variable will now be used to test our hypotheses.

F. Hypothesis Testing

Hypothesis testing was completed by running Analysis of Variance (hereinafter ANOVA) on SPSS.⁵² Hypothesis number one was tested by considering how differences in race influenced the level of satisfaction a defendant had with his or her lawyers.

TABLE 2: ANOVA - LAWYER SATISFACTION AND RACE

	Sum of Squares	Df	Mean Square	F	Significance
Between Groups	157.351	5	31.470	9.024	.000
Within Groups	5583.193	1601	3.487		
Total	5740.544	1606			

⁵⁰ The Pearson correlation coefficient (also called the product moment correlation) measures the strength of association between two metric variables (interval or ratio scaled). See *infra* note 51 and accompanying text for discussion of p values and alpha.

⁵¹ Generally, a coefficient alpha value of .6 or less suggests an unsatisfactory internal consistency reliability of a set of items in a construct. MALHOTRA, *supra* note 41, at 305. Our study arrived at a coefficient alpha of .9309, indicating a strong internal consistency reliability. This result signifies a high degree of repeatability of how the sample might respond to the questions in the survey.

⁵² ANOVA is a test of the means of two or more populations. *Id.* at 547.

The specific hypothesis being tested is as follows:

$$H_0: \mu_1 = \mu_2 = \mu_3$$

$$H_a: \mu_1 \neq \mu_2 \neq \mu_3$$

At an $\alpha = .05$ level of significance and a p value of .000,⁵³ the null hypothesis is rejected.⁵⁴ There is a statistically significant difference between at least two races, as determined by the survey. A Scheffe Post Hoc test was run to determine which of the racial groups were significantly different.⁵⁵ The test indicated that Hispanics were significantly different than African-Americans, Native Americans, and Caucasians. Using an interval scale of one through seven, the mean level of lawyer satisfaction for Hispanics was 3.32. The mean level of satisfaction for African-Americans was 2.36. The mean level of satisfaction for Native Americans was 2.36. The mean level for Caucasians was 2.37. The p values were as follows: African-Americans: $p = .000$; Native Americans: $p = .026$; Caucasians: $p = .000$. The mean score for Hispanics was significantly higher than for African-Americans, Native Americans, and Caucasians. H_1 partially fails because Hispanics exhibited statistically significant higher levels of satisfaction in their lawyers than other races.

Our second hypothesis was tested by using "Gender" as the categorical variable and the construct "Lawyer Satisfaction" as the dependent variable.

TABLE 3: ANOVA - LAWYER SATISFACTION BY GENDER

	Sum of Squares	Df	Mean Square	F	Significance
Between Groups	66.710	1	66.710	18.773	.000
Within Groups	5923.670	1667	3.553		
Total	5990.380	1668			

⁵³ A significance level or alpha of .05 or lower is generally considered safe in making statistical inferences. This means that the probability is less than .05 that this relationship could have occurred by chance. *See id.* at 512. If the p value (sometimes referred to as the observed level of significance) is smaller than the significance level (in this case the p value = .000 and is smaller than .05) then, as in this case, we can reject the null hypothesis. *See* MARK L. BERENSON & DAVID M. LEVINE, STATISTICS FOR BUSINESS AND ECONOMICS 368 (Joseph Heider ed., 1993).

⁵⁴ A null hypothesis is used to determine whether a true statistical difference exists between two group means. The null hypothesis is that all means are equal. Therefore, if a null hypothesis is not rejected there is no true difference between the two groups and, therefore, no explanatory relationship. *See* ALVIN C. BURNS & RONALD F. BUSH, MARKETING RESEARCH 469 (Melisa Steffens ed., 1995); BERENSON & LEVINE, *supra* note 53, at 361 (likening a null hypothesis to the American legal system. They analogize it to the principle that an accused criminal is presumed innocent until proven guilty. Thus, in statistical analysis, it is assumed that the average of the means is not different (innocence) unless evidence of guilt is found to demonstrate that the average of the means has changed. If the average of the means changes and it is proven to be statistically significant, then the null hypothesis (innocence) is negated and the alternative hypothesis of guilt is proven).

⁵⁵ The Scheffe Post Hoc Test is a type of multiple comparison test made after the test analysis, such as an ANOVA, to enable the researcher to make an additional comparison of means; in this case, to compare the group Hispanic, with the other race groups. *Id.* at 564.

The specific hypothesis being tested is as follows:

$$H_0: \mu_1 = \mu_2$$

$$H_a: \mu_1 \neq \mu_2$$

At an $\alpha = .05$ level of significance and a p value of .000 the null hypothesis is rejected.⁵⁶ There is a statistically significant difference between the way men and women perceive lawyer satisfaction. The mean for each gender is significantly different. The mean for lawyer satisfaction for males is 2.39 on an interval scale of one through seven. The mean score for females was 3.03. Females, thus, perceive their lawyers more positively and are more satisfied than their male counterparts. H_2 is supported.

IV. POSSIBLE IMPLICATIONS AND FUTURE RESEARCH ISSUES

This study reveals that, at least among former criminal defendants incarcerated in the Nevada state prison system, Hispanics and women are more satisfied with their lawyers as service providers, than are Caucasian, African-American, and Native American men. The practical effect of our research could demonstrate that men, Caucasians, African-Americans, and Native Americans, in particular, sense a deep cynicism of the court system, and thus, their relative dissatisfaction may create a higher probability that they will appeal their conviction by arguing ineffective assistance of counsel. The ensuing appeals may cost the government more in the long run simply because of a defendant's perception of unfairness and incompetence, whether or not it is factually based.

Accordingly, further study in this and other jurisdictions will be necessary to determine whether the disparate reactions (by gender and race) to lawyers as service providers have an impact on the criminal justice system and, if so, whether that may warrant policy changes. One avenue worthy of research may be whether a woman's more positive perception of her lawyer is in fact justified by her lawyer's actions. For example, assuming that a woman may be perceived as less threatening and more susceptible to rehabilitation, does this mean that her lawyer makes a greater effort on her behalf than he or she might for a male client? Do lawyers, for example, perform their duties more conscientiously than they might for a man because of a feeling that the legal system may be more favorable to their client, thus affording them a better chance at helping the female client? Conversely, would the more negative perceptions that men have toward their lawyers result because the lawyer is, in fact, not making enough effort on behalf of his client? Is this because lawyers may perceive the man as more of a lost cause?

⁵⁶ *Id.* If the null hypothesis is rejected, and the alternative hypothesis is proven, it indicates that there is a statistical difference between the means of the two groups. See *supra* note 54 and accompanying text. In testing lawyer satisfaction and gender, the null hypothesis can be rejected since the p value of .000 (sometimes referred to as the observed level of significance) is smaller than the alpha of .05. This demonstrates there was only an insignificant chance that the difference in these means could have occurred randomly. See BERENSON & LEVINE, *supra* note 53, at 361.

Following this line of reasoning, does the dismally low satisfaction among African-Americans, Caucasians, and Native Americans suggest a degree of racism by lawyers? And if so, is this racism real or simply perceived? And why do Hispanic defendants perceive their lawyers so much more positively? Is the lawyer seen as a sort of “knight in shining armor” who is attempting to rescue his client, or do Hispanic defendants perceive the entire criminal court system more positively than do the other groups?

Another issue concerning Hispanic defendants was discovered in follow-up interviews with a number of Clark County court personnel. When posed with the question of why Hispanic criminal defendants might view their lawyers more positively, two Hispanic attorneys offered a thought-provoking response. They speculated that since many of the Hispanic defendants in this county are originally from Mexico, El Salvador, and other Latin American countries, they may be comparing our system, which is relatively fair and predictable, with the often corrupt, unpredictable, and even cruel criminal justice systems in their countries of origin. Hence, the experiences the Hispanic defendants may have had with their lawyers, having been told what to expect (for example, when they would have a preliminary hearing, post bail, etc.) and then seeing these events unfold as promised, would likely be a significant contrast to the ordeals they or others may have experienced in their countries of origin.⁵⁷ Research to discover whether Hispanics are actually reacting this way because of such comparisons could be revealing. Assuming this is the case, additional studies might be necessary to see if this more positive attitude fades among the second and third generations of Hispanic defendants when there are no longer recent memories, but only more distant recollections of what these countries were like.

V. CONCLUSION

Understanding the perceptions of the “consumers” of criminal justice is of crucial importance if the criminal justice system and the courts in general are to operate fairly and efficiently. As Jonathan Casper stated concerning a criminal defendant: “[w]hen the government intervenes in his life, it is, literally his life that is involved. Hence, any evaluation of our system, any attempt to describe it or change it, must take his views and perspective into account.”⁵⁸

Edmund Cahn, another observer of the criminal justice system opined that: “[o]nly when . . . we adopt a consumer perspective are we able to perceive the practical significance of our institutions, laws, and public transactions in terms of their impacts on the lives and homely experiences of human beings.”⁵⁹

Our study attempts to gauge the perceptions of criminal defendants as consumers of their most important service providers – their lawyers. The results demonstrate that perceptions are generally quite uneven according to gender and partially by race/ethnicity. Even though all the criminal defendants tested found themselves in a very negative environment and predicament, women and

⁵⁷ Interviews with Charles Cano, Clark County Public Defender, in Las Vegas, Nev. (Jan. 13, 2000) and Gloria Navarto, Attorney at Law, in Las Vegas, Nev. (Jan. 14, 2000).

⁵⁸ CASPER, *AMERICAN CRIMINAL JUSTICE*, *supra* note 4, at 3.

⁵⁹ EDMUND CAHN, *THE PREDICAMENT OF DEMOCRATIC MAN* 30 (1962).

Hispanics felt significantly better about the quality and satisfaction of their lawyers. We will continue the probe as to why we arrived at these differing outcomes.