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Examining Attitudes Toward Transgender Defendants

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EXAMINING ATTITUDES TOWARD TRANSGENDER DEFENDANTS

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Kendall Klein
4/22/2022

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ACKNOWLEDGMENTS

To my family and friends,
for their unequivocal belief in me.

Abstract

Individuals who identify as transgender are overrepresented in the criminal justice system due to their increased risk of victimization and contact with law enforcement. Ringger (2018) and Ringger (2020) are two of the few studies that have examined juror perceptions and decisions related to transgender defendants specifically as compared to cisgender defendants. The current study sought to fill this gap by further exploring juror decisions in cases involving transgender defendants. Additionally, the proposed study sought to identify potential attitudinal predictors of guilt and blame for transgender defendants. In this study, participants read crime vignettes featuring transgender and cisgender male and female defendants accused of either prostitution or drug possession. Following the vignettes, participants made judgments of guilt and completed measures related to perpetrator blame, sexism, and attitudes toward transgender individuals. Guilt decisions and blame perceptions were harsher for prostitution compared to drug possession, regardless of defendant sex and gender identity. Transphobia and sexism emerged as the strongest predictors of guilt judgments and blame perceptions for female defendants and transgender defendants. These findings could aid in jury selection in cases involving transgender defendants.

Examining Attitudes Toward Transgender Defendants

In recent years, the visibility of transgender individuals has significantly increased (Bockting et al., 2020; Dickey & Budge, 2020; Golden & Oransky, 2019; Hope et al., 2016). Many celebrities have publicly transitioned and embraced their identities, using their platforms to raise awareness and increase trans visibility (Hope et al., 2016). Television shows have also contributed to the increased visibility of Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual (LGBTQIA) individuals, with shows such as *Queer as Folk* and *The L Word* (Funk & Funk, 2016; Manuel, 2009). However, increased visibility goes hand in hand with greater discrimination, lack of protections for transgender individuals, and lessened public support (Golden & Oransky, 2019). Currently, anti-transgender legislation is at an all-time high in the United States, with a record number of bills being proposed or passed in several states (Ronan, 2021; Human Rights Campaign, 2016). Legislation filed in March 2021 marks the 82nd anti-transgender bill to be introduced in the 2021 state legislative session (Ronan, 2021). These bills surpass previous years, as well as mark the highest number of anti-transgender bills in history. These bills would impose serious and humiliating burdens on transgender people trying to marry, would repeal existing non-discrimination provisions related to transgender people, and would restrict transgender individuals' access to medically necessary care.

When discussing gender identity, *transgender* is generally used as an umbrella term for any individual who identifies outside of the male-female gender binary that is assigned at birth. Identities such as gender nonconforming, genderqueer, transman, and transwoman, or any identity that is different from what was assigned at birth, would all fit under the term *transgender* (Buck, 2016; Hope et al., 2016). For example, a transman could be someone who was assigned female at birth, but since identifies as a man. On the other hand, *cisgender* is used for any

individual who identifies within the male-female gender binary and with their gender identity assigned at birth. A ciswoman, for example, would be a woman who was assigned a female at birth and has continued to identify that way.

Individuals who identify as transgender are a part of the LGBTQ community, a group whose members are overrepresented in the criminal justice system (Stotzer, 2014; Movement Advancement Project [MAP] & Center for American Progress [CAP], 2016). For example, around 8% of U.S. adults in jails or prisons are LGB, which is more than twice the number of U.S. adults identifying as LGB (Beck & Johnson, 2012; Beck et al., 2011; Gates & Newport, 2013). Additionally, 16% of transgender individuals have reported being incarcerated at least once during their lifetime (Grant et al., 2011). LGBT youth are also overrepresented in juvenile facilities. Only 7% of youth nationwide identify as LGBT, but 12-20% of youth in juvenile facilities are LGBT (Kann et al., 2011).

This overrepresentation is likely due to the specific hardships transgender individuals face that increase their risk of victimization and offending (MAP & CAP, 2016; Woods, 2017). LGBTQ individuals frequently experience social discrimination, violence, harassment, abuse, and family rejection, which often leads to victimization (Buist & Stone, 2014; MAP & CAP, 2016; Woods, 2017). Additionally, transgender individuals experience greater contact with law enforcement due to the rise in quality-of-life policing, which often targets low-income LGBTQ individuals and transgender people of color (MAP & CAP, 2016). Transgender individuals (and transwomen in particular) are also frequently profiled by police as sex workers, regardless of their actual activity (Amnesty International, USA, 2005), and transgender women engaged in sex work are more likely to report a history of arrest and conviction (Cohan et al., 2006). These findings explain, at least in part, the disproportionate number of transgender individuals arrested

and incarcerated for survival crimes (i.e., sex work and drug sales) (Buist & Stone, 2014; Stotzer, 2014; MAP & CAP, 2016).

Transgender individuals have further reported negative experiences that indirectly suggest they could face negative experiences as victims and defendants in the courtroom. For instance, 33% of individuals surveyed reported hearing an attorney, judge, or other court employees making negative remarks about gender expression, gender identity, or sexual orientation. Judges and prosecutors may also attempt to persuade juries that transgender individuals are guilty through the use of stereotypes and misinformation. For example, despite its inaccuracy, the myth that transgender people are being deceptive about their "real sex" has pervaded the legal system and contributes to transgender peoples' mistreatment within legal proceedings (Buist & Stone, 2014). A judge in Oklahoma argued that transgender individuals were "fraudulent" for wanting to change their legal names and ruled against allowing them to do so (MAP & CAP, 2016). Based on the reported mistreatment experienced by transgender individuals, as well as the fact that personal beliefs and cultural norms can play a role in legal decisions, advocates argue that the U. S. criminal justice system is unprepared to represent and treat transgender individuals justly (Buist & Stone, 2014).

Juror Perceptions of Gender and Sexual Minority Victims and Offenders

In addition to experiencing mistreatment from court and legal staff, LGBTQ individuals face further potential inequities in the courtroom from jurors. Research on mock juror perceptions of LGBTQ victims and offenders has yielded mixed results, with some suggesting gender and sexual minority victims and defendants are perceived differently than cisgender and heterosexual victims and defendants, while other research has found no differences. With respect to blame attributions for LGBTQ victims, Karakus and Göregenli (2011) found no differences in

victim blame between transgender, gay, or lesbian victims compared to other male, female, or non-specified victims. A follow-up study (Thomas et al., 2016) using a similar vignette also found mock jurors did not assign more blame to a transgender victim compared to a male victim with a non-specified gender identity. However, in some cases, blame attributions for LGBTQ victims may be influenced by attitudinal predictors. Heterosexism (or lower support for gay community members) was associated with a greater tendency to blame a gay hate crime victim (Plumm et al. 2010). Additionally, anti-transgender prejudice predicted blame for all victims and was a stronger predictor of blame for a transgender victim than a "non-specified" victim (Thomas et al., 2016). On the other hand, Gamblin et al. (2018) found that racism influenced sentencing more than homophobia for either Black or gay victims of hate crimes.

With respect to sentencing decisions, Cramer et al. (2013) found perpetrators of hate crimes against transgender victims received shorter sentences than gay victims, but sentence length did not differ between transgender and African American victims. Cramer et al. (2014) further found that sentencing decisions for perpetrators of hate crimes against African American, transgender, and gay victims depended on mock jurors' need for cognition (NFC) and whether they supported the hate crime penalty enhancement. Jurors who did not support the penalty enhancement and reported lower NFC gave perpetrators of hate crimes against a transgender victim the shortest sentences, compared to an African American or gay victim. The authors suggested these findings could be driven by either transphobia or by a general lack of understanding or knowledge regarding transgender individuals. Taken together, these findings suggest that gender and sexual minority victims may or may not receive greater blame attributions, and that biases may exist against transgender victims when it comes to perpetrator sentencing decisions.

With respect to studies examining juror perceptions of LGBTQ defendants, findings have also been mixed. In response to a case on prostitution, participants were more likely to perceive a transgender heterosexual female defendant as guilty compared to a cisgender heterosexual female defendant (Ringger, 2018). Gay male defendants were more likely to receive guilt judgments (Wiley & Bottoms, 2009) and to be sentenced more harshly (Salerno et al., 2014) than heterosexual male defendants in cases of child and adolescent sexual abuse. Further, guilt ratings were higher for gay men and lesbians than heterosexual defendants in a case of intimate partner homicide (Coons & Espinoza, 2018), and gay men, lesbians, and heterosexual men were more likely to be perceived as guilty compared to heterosexual women in a case of partner homicide (Ragatz & Russell, 2010). However, defendants' sexual orientation did not affect ratings of guilt in a case of domestic violence (Stanziani et al., 2018).

Very few studies have attempted to identify attitudinal predictors of juror decisions for LGBTQ defendants. In a case on spousal homicide, jurors gave higher ratings of guilt for all defendants (both homosexual and heterosexual) if they were higher in benevolent sexism and lower in hostile sexism toward men, as well as lower in benevolent sexism toward women (Russell et al., 2009). In another study involving gay defendants, mock jurors holding the most anti-gay attitudes and endorsing the stereotype of gay men as child molesters made the most pro-prosecution judgments (Wiley & Bottoms, 2013). More recently, across a series of different crimes, Ringger (2020) found jurors were more likely to believe transgender heterosexual females to be guilty compared to cisgender heterosexual females, but this pattern did not hold between cisgender gay males and cisgender heterosexual females. Transphobia was not found to be a stronger predictor for transgender defendants' guilt. Instead, jurors who expressed higher

levels of transphobia were more likely to perceive defendants as guilty regardless of gender identity or sexual orientation.

Overall, while there is some variation in findings, the majority of studies examining juror perceptions based on defendant sexual orientation or gender identity demonstrate some type of bias against LGBTQ offenders. Ringger (2018) and Ringger (2020) are two of the few studies that have examined juror perceptions and decisions related to transgender defendants specifically. The current study sought to fill this gap by further exploring juror decisions in cases involving transgender defendants. Additionally, the current study sought to identify potential attitudinal predictors of guilt for transgender defendants. Given the dearth of research in this area, and given the negative experiences reported by transgender individuals within the criminal justice system (Buist & Stone, 2014; MAP & CAP, 2016; Woods, 2017), it is critical to further examine juror perceptions of transgender defendants.

Perceptions of Perpetrator Blame for LGBTQ Victims and Defendants

In addition to victim blame and guilt judgments, mock juror research has also compared perceptions of perpetrator blame based on victim sexual orientation. Perceptions of perpetrator blame have been shown to increase in anti-gay hate crime situations (Rayburn et al., 2003; Cramer et al., 2013). Further, greater perceptions of perpetrator blame in these situations are also associated with more severe sentencing decisions (Cramer et al., 2010). However, no studies to date have measured perpetrator blame for LGBTQ defendants. Therefore, in addition to examining judgments of guilt, the current study assessed mock jurors' perceptions of blame for transgender defendants. Understanding the nature of blame attribution toward both victims and defendants is important within the judicial system, as blame judgments may influence subsequent legal decisions such as sentencing or civil damage awards (Cramer et al., 2013).

The Current Study

The purpose of the current study was to replicate and extend the mock juror perception literature for transgender defendants. Closely following the procedure of Ringger (2020), juror perceptions of transgender and cisgender defendants were compared. The current study contributed to the literature in the following ways. Rather than varying both sexual orientation and gender identity, the current study focused on only manipulating gender identity (transgender vs. cisgender defendants). Attitudinal predictors of decisions related to transgender defendants were also examined, as it is important to understand which attitudes are more predictive of guilt judgments and perceptions of blame. Compared to Ringger (2020), the current study utilized more specific attitudinal measures of transphobia and sexism, as research has found more specific attitudes tend to be better predictors of behavior than general attitudes (Ajzen & Fishbein, 1977). Similarly, juror decisions may be better predicted by specific, case-relevant attitudes (Costantini & King, 1980; Lafree et al., 1985).

Closely following the procedure of Ringger (2020), the current study compared juror perceptions for two types of crimes: prostitution and drug possession. These crimes were chosen due to the disproportionate number of transgender individuals arrested and incarcerated for survival crimes (i.e., sex work and drug sales) (Buist & Stone, 2014; Stotzer, 2014; MAP & CAP, 2016). Further, defendant sex was manipulated within each crime condition. Transgender and cisgender female and male defendants were used in both crime vignettes. This allowed for gender identity and defendant sex comparisons to be made across crime scenarios.

The current study also utilized a more representative sample of U.S. adults, as opposed to a college student sample. Research has found younger and more educated individuals show less homophobia and transphobia (Kassing et al., 2005; Norton & Herek, 2013), therefore, stronger

effects of attitudinal predictors may be found in a more representative sample (Ringger, 2020).

Finally, demographics were analyzed to determine whether specific variables were significantly

related to juror decisions and perceptions.

Study Design and Hypotheses

A 2 x 2 x 2 between-subjects design was used, with defendant gender identity

(transgender vs. cisgender), defendant sex (male vs. female), and type of crime (prostitution vs.

drug possession) as the independent variables. Guilt decision and attributions of perpetrator

blame were the dependent variables of interest. Additionally, attitudinal measures were predictor

variables. Based on prior research, the following hypotheses were made:

1. Overall, jurors will be more likely to believe that transgender defendants are guilty

over cisgender defendants. It is possible jurors will assign higher attributions of

perpetrator blame to the transgender defendants than the cisgender defendants.

2. It is possible jurors will be more likely to believe defendants are guilty based on

gender identity and defendant sex. This could translate to perpetrator blame attributions

as well. Differences in guilt and perpetrator blame may emerge between transgender men,

cisgender men, transgender females, and cisgender females.

3. Overall, jurors may be more likely to believe defendants are guilty based on the type of

crime (prostitution or drug possession). Jurors may also assign higher attributions of

perpetrator blame based on the crime condition. The potential direction of any effects is

not clear, however.

4. It is expected that within the prostitution crime condition, jurors will be more likely to

judge the transgender female defendant as guilty than the cisgender female defendant

(Ringger, 2018; Ringger, 2020). It is possible this finding will translate to perpetrator

blame as well. Given the dearth of research looking specifically at transgender vs. cisgender male defendants, it is unclear whether any differences in guilt or perpetrator blame will emerge based on the type of crime for transgender/cisgender male defendants.

5. Jurors with higher levels of either type of prejudice (transphobia or sexism) may be more likely to find all defendants guilty and/or blameworthy, regardless of the defendant's gender identity, compared to jurors with lower levels of prejudice.

6. Jurors' theoretically relevant prejudicial attitudes may be stronger predictors of guilt and/or perpetrator blame for the corresponding defendant-type. In other words, transphobia may predict guilt and/or perpetrator blame more strongly for the transgender defendants than the cisgender defendants.

Method

Participants

Participants for the study were recruited through CloudResearch powered by Amazon's TurkPrime. This method was chosen because CloudResearch can obtain data from participants across multiple regions nationally. All participants were compensated for their participation by receiving $0.50 through CloudResearch.

In total, data from 354 participants were retained for analysis. Data from five participants were removed due to being outliers. Nineteen participants failed attention check questions and were not included in analysis.

The majority of participants were female ($n = 252$; 71.2%), between the ages of 25-34 years old ($n = 86$; 24.3%), heterosexual ($n = 305$; 86.2%), white ($n = 284$; 80.2%), had a bachelor's degree ($n = 134$; 37.9%), earned between $20,001-$40,000 ($n = 86$; 24.3%), practiced Christianity ($n = 163$; 46%), were liberal ($n = 155$; 43.8%), were married ($n = 154$; 43.5%), and

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were cisgender (n = 348; 98.3%). The full listing of demographic characteristics in included in a separate table in Appendix I.

Materials

Crime Scenarios

The current study utilized crime scenarios describing prostitution and felonious possession of marijuana, as used in Ringger (2020). Each vignette, approximately half a page in length, summarized a police officer's testimony. For example, in the drug possession crime vignette, the police officer stopped the driver for a non-functioning tail-light and smelled marijuana in the car, which gave them probable cause to search the vehicle. The officer found marijuana in the car and determined the car belonged to the defendant's wife. Specifying that the car belonged to the defendant's spouse was included to imply that the defendant was heterosexual. The defense counsel's recommendation that the defendant plead not guilty and not take the stand (i.e., to exercise their 5th amendment rights), and the statute under which the defendant was charged were also included in the vignette. The vignettes for each crime are identical except for the gender identity of the defendant (cisgender vs. transgender) and the defendant sex (male vs. female). See Appendix E for copies of the vignettes.

The four types of defendants were a cisgender female, a cisgender male, a transgender female, and a transgender male. The vignettes included information that implied the defendant's gender identity. For example, in the prostitution crime vignette, gender identity is indicated by the sections of the adult classified website Backpage.com, in which the defendant advertised their services. Sexual orientation is also suggested by the gender of the defendant and client. To increase the likelihood that participants would notice the information about the defendant's gender identity, background information on the defendant was included in the vignettes as well.

This is similar to what has been used in earlier research (see Coons & Espinoza, 2018; Ringger, 2020).

The vignettes were intentionally designed to be somewhat ambiguous, which is consistent with other experimental research on juror decisions (Quas et al., 2002; Salerno et al., 2014; Wiley & Bottoms, 2009, 2013). Given that jurors' biases are more likely to be evident if the evidence is not overwhelmingly in favor of the prosecution and there is uncertainty about the defendant's guilt, vignettes were intentionally designed to be somewhat ambiguous (Quas et al., 2002; Salerno et al., 2014; Wiley & Bottoms, 2009, 2013; Ringger, 2020).

Case Judgments

Participants assessed the guilt of the defendants on a 5-point scale from *definitely not guilty* to *definitely guilty* (Ringger, 2020), as well as the degree of guilt confidence on a 11-point scale from *not at all confident* to *completely confident*, which is conceptually similar to scales utilized in other research (Quas et al., 2002; Salerno et al., 2014; Stanziani et al., 2018; Wiley & Bottoms, 2009, 2013).

Perceptions of Blame Scale

The Perceptions of Blame Scale (PBS; Rayburn et al., 2003) was used to measure attributions of perpetrator blame. The scale consists of 14 bipolar adjectives (e.g., violent-nonviolent), each of which are rated on a seven-point scale. A total score that represents a composite score of perpetrator blame is calculated after reverse scoring six pairs of adjectives. The PBS has demonstrated high internal consistency values (Cramer et al., 2010).

ATTMW Transgender Attitude Measure

The current study used the recently developed Attitudes Toward Transgender Men and Women measure (Billard, 2018) to assess explicit transgender attitudes. The scale measures attitudes toward two identities: transgender men and transgender women.

The ATTMW is scored by averaging participants' responses to each item using a rating scale of 1 (*strongly disagree*) to 7 (*strongly agree*). Higher scores indicate greater anti-transgender prejudice while lower scores indicate less prejudice. Altogether, there is strong empirical support for the ATTMW scale as a reliable, valid, and useful measure of attitudes toward transgender men and women (Billard, 2018).

Ambivalent Sexism Inventory

The Ambivalent Sexism Inventory (Glick & Fiske, 1996) was used to measure sexism as a predictor of guilt and blame perceptions for defendants. The Ambivalent Sexism Inventory (ASI) measures both *hostile sexism* and *benevolent sexism*. There is strong empirical support for Glick and Fiske's (1996) theory of ambivalent sexism as well as the convergent, discriminant, and predictive validity of the ASI.

Manipulation and Attention Check Items

Procedure

Participants completed the study using Qualtrics, there were eight possible scenarios they could encounter. Qualtrics presented participants with one of the eight crime vignettes at random, therefore each participant only encountered one of the crimes (possession or prostitution) and one type of defendant (cisgender female, cisgender male, transgender female, or transgender male).

For the scenario they received, participants read the vignette, indicated the defendant's guilt, completed the perceptions of perpetrator blame scale, and answered attention/manipulation check questions with regards to the defendant. Performance feedback was also included (see Appendix H) to encourage participants' completion of the survey. An attention check question was placed immediately after the vignette, where participants were asked what crime, the defendant was accused of and had to provide an answer in their own words. After responding to the scenario, participants then responded to the items in the Attitudes Toward Transgender Men and Women (ATTMW) scale, the Ambivalent Sexism Inventory (ASI), and the demographic items. Manipulation check questions were placed before debriefing. Participants were asked the gender of the defendant and if there was information in the scenario to indicate the defendant was transgender. If the participant answered yes to this question, they were then asked the gender identity of the defendant and their assigned gender at birth. Lastly, they were debriefed.

Results

Guilt Decisions

To determine if there were differences between guilt decisions based on gender identity, sex of the defendant, and type of crime, a three-way ANOVA was conducted. A significant main effect for Type of Crime (F (1, 353) = 23.026, $p < .001$) was found, which revealed higher guilt judgments for prostitution than drug possession, across both defendant gender identity and sex. Pairwise comparisons revealed that cisgender males ($p = .010$), transgender males ($p = .004$), and transgender females ($p = .021$) were judged as more guilty for prostitution than drug possession. Guilt decisions were not significantly different between cisgender and transgender defendants (F (1, 353) = .279, $p = .598$). All other main effects and interactions were non-significant. See Table 1 for the means and standard deviations by condition.

Table 1

Means and standard deviations for guilt decisions by condition.

	Cisgender		Transgender	
	Male	Female	Male	Female
Type of Crime	*M* (SD)	*M* (SD)	*M* (SD)	*M* (SD)
Prostitution	4.20 (1.24)*	4.27 (1.34)	4.41 (1.06)*	4.29 (1.17)*
Drug Possession	3.48 (1.55)	3.75 (1.15)	3.61 (1.43)	3.67 (1.40)

Note. *p < .05. Scores were on a 5-point scale from 0 = *definitely not guilty* to 5 = *definitely guilty.*

Guilt Confidence

A three-way ANOVA was conducted to determine if there were any differences between guilt confidence based on gender identity, defendant sex, and type of crime. A significant main effect for Type of Crime (F (1, 353) = 26.823, p < .001) was found, which revealed participants had higher confidence in guilt decisions for prostitution than drug possession. No other main effects were significant. This same pattern held for the significant three-way interaction (F (1, 353), = 10.778, p = .001). Participants had higher guilt confidence for cisgender females (F (1, 353), = 14.024, p < .001) and transgender males (F (1, 353), = 21.46, p < .001) accused of prostitution than drug possession. Further, guilt confidence was higher for cisgender males (F (1, 353), = 7.922, p = .005) accused of drug possession than transgender males and cisgender females. Guilt confidence was higher for transgender females accused of drug possession than transgender males accused of drug possession (F (1, 353), = 4.595, p = .033).

Perceptions of Blame

A three-way ANOVA was conducted to determine if there were any differences between perceptions of blame based on gender identity, sex of the defendant, and type of crime. There was not a significant effect of gender identity, indicating that perceptions of blame were not

significantly different between cisgender and transgender defendants. Further, a significant main effect for Type of Crime (F (1, 353) = 21.658, $p < .001$) was found, which revealed higher perpetrator blame attributions for prostitution than drug possession. Additionally, there was a significant Type of Crime x Defendant Sex interaction (F (1, 353) = 4.732, $p = .030$), which indicated that female defendants were considered more blameworthy for prostitution compared to drug possession ($p < .001$). All other main effects and interactions were non-significant. See Table 2 for means and standard deviations by condition.

Table 2

Means and standard deviations for perceptions of blame by condition.

		Total	
	Total	Male	Female
Type of Crime	*M* (SD)	*M* (SD)	*M* (SD)
Prostitution	53.41 (14.71)*	51.56 (14.18)	55.22 (15.07)*
Drug Possession	46.46 (13.55)	47.88 (11.66)	45.02 (15.16)

Note. *$p < .05$. The scale consists of 14 bipolar adjectives (e.g., violent-nonviolent), each of which are rated on a seven-point scale. A total score that represents a composite score of perpetrator blame was calculated.

Prejudicial Attitudes as Predictors of Overall Guilt Judgments and Blame Perceptions

Multiple regressions were conducted to determine if specific prejudicial attitudes were stronger predictors of guilt judgments, perpetrator blame, and guilt confidence, regardless of the defendant's gender identity or sex. Scores on the ATTM and ATTW were found to be highly correlated, and therefore, were combined to form one ATTMW score used in analyses. Findings revealed ATTMW scores ($B = .008$, $p < .001$) and Benevolent Sexism ($B = -.017$, $p = .010$) significantly predicted guilt judgments overall. In regard to perceptions of blame, only ATTMW scores ($B = .125$, $p < .001$) were a significant predictor.

Prejudicial Attitudes as Predictors of Guilt Judgments and Blame Perceptions by Defendant Type

To determine whether specific prejudicial attitudes were stronger predictors of guilt judgments based on the type of defendant, a series of multiple regressions were run on select data cases. ATTMW scores were not a stronger predictor of guilt decisions for transgender defendants ($B = .005$, $p = .011$) compared to cisgender defendants ($B = .005$, $p = 0.028$). ATTMW scores were stronger predictors of blame perceptions for transgender defendants ($B = .152$, $p < .001$) than cisgender defendants ($B = .096$, $p < .001$).

Looking at prediction strength based on type of defendant, ATTMW scores significantly predicted guilt judgments for transgender female defendants ($B = .006$, $p = .030$), but not for cisgender females, cisgender males, or transgender males. Further, ATTMW scores significantly predicted perceptions of blame for cisgender male defendants ($B = .106$, $p < .001$), transgender male defendants ($B = .158$, $p < .001$), and transgender female defendants ($B = .150$, $p < .001$). Only Hostile Sexism significantly predicted perceptions of blame for cisgender female defendants ($B = .426$, $p < .001$).

Looking at prediction strength based on type of defendant and type of crime, ATTMW scores significantly predicted perceptions of blame for transgender female prostitutes ($B = .156$, $p < .001$). Hostile sexism ($B = .752$, $p < .001$) and benevolent sexism ($B = -.432$, $p = .027$) significantly predicted perceptions of blame for cisgender female prostitutes. Prejudicial attitudes were not significant predictors of blame perceptions for any other type of defendant and type of crime combinations.

Discussion

The current study aimed to replicate prior findings showing that transgender defendants received greater guilt judgments than cisgender defendants. Only two studies (Ringger, 2018; Ringger, 2020) had examined juror perceptions and decisions related to transgender defendants compared to cisgender defendants. The current study further sought to extend this research and by examining potential attitudinal predictors of guilt and blame for transgender defendants.

Overall, findings provided mixed support for the study's hypotheses. The present study did not replicate Ringger's (2020) finding that transgender defendants receive greater guilt judgments than cisgender defendants. However, the findings from the current study are consistent with other recent studies investigating differences based on gender identity. Noble (2019) did not find guilt judgment differences between transgender and cisgender defendants, and Carter et al. (2022) found that the likelihood the defendant committed the crime, conviction rates, and verdict confidence were not different based on the victim's gender identity.

The lack of difference based on gender identity could be due to research design, as Ringger (2020) utilized a within-subjects design while the present study used a between-subjects design, as did Noble (2019) and Carter et al. (2022). Within-subjects analyses often provide a boost in statistical power, whereas between-subjects results inherently have noise and therefore may miss real and meaningful patterns (Charness et al., 2012). It is possible that this shift in methodology could, at least in part, explain why the finding was not replicated. Future research should attempt to test this question of whether a within-subjects design is more likely to reveal differences based on gender identity.

Even though guilt decisions were not significantly different between cisgender and transgender defendants overall, participants judged cisgender males, transgender males, and

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transgender females as more guilty for prostitution than drug possession. This pattern did not appear for cisgender female defendants. These findings suggest that guilt decisions are harsher for sex crimes compared to drug crimes, regardless of defendant sex and gender identity. It is possible that attitudes toward marijuana and prostitution are behind this finding. Exclusive marijuana use is increasing among young adults overall, especially among college students (Odani et al., 2019). The number of older adults using cannabis is also increasing, due to the perceived risk of regular cannabis use decreasing (Han et al., 2021). Additionally, Americans increasingly favor legalizing cannabis for both recreational and medical uses (Carliner et al., 2017). Overall, acceptance of marijuana use and attitudes towards decriminalization could explain why participants did not judge as harshly for marijuana possession. While the public has become more accepting of prostitution overall (Cao et al., 2017), it is likely still less acceptable than marijuana possession.

Findings also showed that jurors' relevant prejudicial attitudes were stronger predictors of guilt and perpetrator blame for the corresponding defendant type, contrary to what Ringger (2020) found but consistent with other studies (Cramer et al., 2013; Thomas et al., 2016). Transphobia significantly predicted guilt judgments and perceptions of blame for transgender female defendants, as well as blame for transgender female prostitutes, while hostile and benevolent sexism significantly predicted perceptions of blame for cisgender female prostitutes, but not for other defendant types. Overall, these findings suggest prejudicial attitudes (transphobia and sexism) could lead to biased decisions against transgender defendants. This information could prove to be useful within the context of jury selection in cases involving transgender defendants. These findings also call into question whether gender minority defendants could expect to receive a fair trial. Given that transgender individuals are

overrepresented in the legal system (Stotzer, 2014; MAP & CAP, 2016), this is especially problematic.

Additional findings revealed that cisgender and transgender female defendants, but not cisgender or transgender male defendants, were considered more blameworthy for prostitution compared to drug possession. These findings suggest that female defendants are judged more harshly for sex crimes than male defendants, regardless of gender identity. Prior research has found that participants perceived female prostitution more negatively than male prostitution (Morton et al., 2012). Participants also indicated believing that male prostitutes enjoy sex with customers more often than female prostitutes. In addition, being female was found to be a significant predictor of supporting increased criminalization of prostitution (Morton et al., 2012). Given the high number of female participants in the present study, this could have contributed to the harsh judgments against female defendants accused of prostitution.

Limitations and Future Directions

The findings from this study are not without limitations. Our sample of participants was disproportionate in terms of gender, race, religion, and gender identity. Given that many of the participants were white, female, Christian, and cisgender, it is possible the data was affected. In addition, this study was limited by a reliance on a binary approach to gender identity. This study measured attitudes toward only two identities under the "transgender" umbrella (men and women), there are other transgender and non-binary identities as well that were not included.

Additionally, future research could include the use of a mock-trial for participants to engage in. In-person studies would likely be more similar to the true jury experience. Participants may feel there are higher stakes with an in-person mock trial than with an online survey. Allowing participants to deliberate with other "jury members" could provide interesting findings,

for example, there may be polarization effects if there are people with strong attitudes toward transgender defendants.

The present study investigated guilt judgments and perceptions of blame, but sentence length is another variable of interest related to juror decision making. Noble (2019) found that high transphobia was a predictor of a longer recommended sentence, suggesting it is possible that a person who is highly transphobic has other characteristics that cause them to be harsher on people who commit crimes. Future research could provide more insight into how participants' transphobia relates to recommending longer sentences.

Altogether, findings from the present study contribute to the literature by examining potential attitudinal predictors of guilt and blame for transgender defendants as well as providing more data regarding guilt decisions and perceptions of blame for specific types of crimes. More research is necessary to untangle the many factors that affect juror perceptions of transgender defendants.

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Appendices

Appendix A – Perceptions of Blame Scale

violent	1	2	3	4	5	6	7	nonviolent
gentle	1	2	3	4	5	6	7	forceful
maniacal	1	2	3	4	5	6	7	sane
good natured	1	2	3	4	5	6	7	vicious
malicious	1	2	3	4	5	6	7	kind
blameless	1	2	3	4	5	6	7	blameworthy
fault	1	2	3	4	5	6	7	faultless
harmful	1	2	3	4	5	6	7	harmless
hurtful	1	2	3	4	5	6	7	innocuous
responsible	1	2	3	4	5	6	7	irresponsible
careful	1	2	3	4	5	6	7	reckless
conscientious	1	2	3	4	5	6	7	careless
reliable	1	2	3	4	5	6	7	unreliable
dependable	1	2	3	4	5	6	7	undependable

Appendix B – Attitudinal Measures

Attitudes Toward Transgender Men and Women (ATTMW)

The ATTMW (or each subscale, depending on your use for the measure) is scored by averaging responses to each item. Response options range from 1 (*strongly disagree*) to 7 (*strongly agree*) and are scored such that higher scores indicate greater anti-transgender prejudice, while lower scores indicate less prejudice.

The italicized language below should always precede the items of each subscale. In the list of scale items, (R) indicates that the item is reverse-scored, while an asterisk (*) indicates that the item is unique to that subscale. These indicators should be removed from the version of the scale displayed to respondents.

The Attitudes Toward Transgender Men (ATTM) Subscale

The following statements concern transgender men. The term "transgender man" is used to describe people who were identified as female at the time of their birth but who currently live their daily lives as men. Be sure to read the prompts carefully and to answer honestly. Please rate your agreement with the following statements on a scale from 1 (strongly disagree) to 7 (strongly agree).

1. Transgender men will never really be men.

2. Transgender men are not really men.

3. Transgender men are only able to look like men, but not be men.

4. Transgender men are unable to accept who they really are.

5. Transgender men are trying to be someone they're not.

6. Transgender men seem absolutely normal to me. (R)*

7. Transgender men are denying their DNA.

8. Transgender men cannot just "identify" as men.

9. Transgender men are misguided. *

10. Transgender men are unnatural.

11. Transgender men don't really understand what it means to be a man.

12. Transgender men are emotionally unstable. *

The Attitudes Toward Transgender Women (ATTW) Subscale

The following statements concern transgender women. The term "transgender woman" is used to describe people who were identified as male at the time of their birth but who currently live their daily lives as women. Be sure to read the prompts carefully and to answer honestly. Please rate your agreement with the following statements on a scale from 1 (strongly disagree) to 7 (strongly agree).

1. Transgender women will never really be women.

2. Transgender women are only able to look like women, but not be women.

3. Transgender women are not really women.

4. Transgender women are trying to be someone they're not.

5. Transgender women are unnatural.

6. Transgender women don't really understand what it means to be a woman.

7. Transgender women cannot just "identify" as women.

8. Transgender women are unable to accept who they really are.

9. Transgender women only think they are women. *

10. Transgender women are defying nature. *

11. Transgender women are denying their DNA.

12. There is something unique about being a woman that transgender women can never experience. *

The Ambivalent Sexism Inventory (ASI)

Below is a series of statements concerning men and women and their relationships in contemporary society. Please indicate the degree to which you agree or disagree with each statement using the following scale: *0 = disagree strongly; 1 = disagree somewhat; 2 = disagree slightly; 3 = agree slightly; 4 = agree somewhat; 5 = agree strongly.*

1. No matter how accomplished he is, a man is not truly complete as a person unless he has the love of a woman.

2. Many women are actually seeking special favors, such as hiring policies that favor them over men, under the guise of asking for "equality".

3. In a disaster, women ought not necessarily to be rescued before men.

4. Most women interpret innocent remarks or acts as being sexist.

5. Women are too easily offended.

6. People are often truly happy in life without being romantically involved with a member of the other sex.

7. Feminists are not seeking for women to have more power than men.

8. Many women have a quality of purity that few men possess.

9. Women should be cherished and protected by men.

10. Most women fail to appreciate fully all that men do for them.

11. Women seek to gain power by getting control over men.

12. Every man ought to have a woman whom he adores.

13. Men are complete without women.

14. Women exaggerate problems they have at work.

15. Once a woman gets a man to commit to her, she usually tries to put him on a tight leash.

16. When women lose to men in a fair competition, they typically complain about being discriminated against.

17. A good woman should be set on a pedestal by her man.

18. There are actually very few women who get a kick out of teasing men by seeming sexually available and then refusing male advances.

19. Women, compared to men, tend to have a superior moral sensibility.

20. Men should be willing to sacrifice their own well-being in order to provide financially for the women in their lives.

21. Feminists are making entirely reasonable demands of men.

22. Women, as compared to men, tend to have a more refined sense of culture and good taste.

Appendix C – Demographic Questionnaire

1. What is your age?
   a. 18-24 years old
   b. 25-34 years old
   c. 35-44 years old
   d. 45-54 years old
   e. 55-64 years old
   f. 65-74 years old
   g. 75 years or older

2. What is your sexual orientation?
   a. Heterosexual or straight
   b. Lesbian or gay
   c. Bisexual
   d. Queer
   e. Other

3. What gender were you assigned at birth?
   a. Male
   b. Female
   c. Intersex

4. What is your current gender identity?
   a. Male
   b. Female
   c. Trans male/transman
   d. Trans female/transwoman
   e. Genderqueer/gender nonconforming
   f. Other

5. Please choose one of the following to indicate your primary ethnic identity:
   a. African American
   b. Asian American
   c. White, non-Hispanic
   d. White, Hispanic

    e.   Middle Eastern

    f.   Alaskan/Pacific Islander

    g.   Other

6. What is your highest level of education?

    a.   No formal education

    b.   High school diploma/GED

    c.   Some college

    d.   College degree

    e.   Vocational training

    f.   Bachelor's degree

    g.   Master's degree

    h.   Professional degree

    i.   Doctorate degree

    j.   Other

7. What is your household income?

    a.   Under $20,000

    b. $20,001 - $40,000

    c. $40,001 - $60,000

    d. $60,001 - $80,000

    e. $80,001 - $100,000

    f. $100,001 or over

8. What religion do you practice?

    a.   Christianity

    b.   Mormonism

    c.   Judaism

    d.   Catholicism

    e.   Greek Orthodoxy

    f.   Hinduism

    g.   Buddhism

    h.   Sikhism

    i.   Islam

j. None

k. Other

9. What is your political orientation?

    a. Conservative

    b. Liberal

    c. Independent

    d. Other

10. What is your relationship status?

    a. Single

    b. In a relationship

    c. Married

    d. Other

Appendix D – Debriefing Form

Thank you for your participation!

In this study, different participants were given different information about the defendant in a legal case. For example, you either read a case about prostitution or marijuana possession and the defendant in that case was either transgender or cisgender. We were interested in seeing how the gender identity of a defendant might affect potential jurors' decisions about their guilt and blame and if certain attitudes predict these decisions.

If you have any questions or concerns about this research project, or any questions or concerns about your rights as a participant in psychological research, please contact Kendall Klein, at kendall.klein@und.edu or Dr. Alison Kelly, at alison.e.kelly@und.edu.

PROSTITUTION, cisgender, female:

A 24-year-old heterosexual cisgender woman (that is, she has indicated that she is a female, and she was born as a female) stands accused of prostitution.

According to police testimony, as part of an undercover sting operation, police had discovered the woman's ad posted on the adult classified website Backpage.com in the escort and female-seeking-male sections. The ad offered sex services for men. A male undercover officer called the phone number in the ad, set a date, and was given the address of the hotel. Upon arrival, the officer was greeted at the door of the hotel room by the woman. Once in the room, the officer negotiated for sex in exchange for $200, and then made the arrest.

No other evidence of wrong-doing or questionable behavior is alleged of the defendant.

At the recommendation of legal counsel, the defendant is pleading "not guilty" to the charge of prostitution and is not taking the stand (that is, she is exercising her 5th amendment right to avoid potential self-incrimination).

The following statute exists regarding the charge:

A person commits the offense of prostitution when he or she performs or offers or consents to perform a sexual act, including but not limited to sexual intercourse or sodomy [that is, oral or anal sex], for money or other items of value.

PROSTITUTION, transgender, female (transwoman):

A 24-year-old heterosexual transgender woman (that is, she has indicated that she is a female, although she was born as a male) stands accused of prostitution.

According to police testimony, as part of an undercover sting operation, police had discovered the transwoman's ad posted on the adult classified website Backpage.com in the escort and transsexual sections. The ad offered sex services for men. A male undercover officer called the phone number in the ad, set a date, and was given the address of the hotel. Upon arrival, the officer was greeted at the door of the hotel room by the transwoman. Once in the room, the officer negotiated for sex in exchange for $200, and then made the arrest.

No other evidence of wrong-doing or questionable behavior is alleged of the defendant.

At the recommendation of legal counsel, the defendant is pleading "not guilty" to the charge of prostitution and is not taking the stand (that is, she is exercising her 5th amendment right to avoid potential self-incrimination).

The following statute exists regarding the charge:

A person commits the offense of prostitution when he or she performs or offers or consents to perform a sexual act, including but not limited to sexual intercourse or sodomy [that is, oral or anal sex], for money or other items of value.

PROSTITUTION, cisgender, male:

A 24-year-old heterosexual cisgender man (that is, he has indicated that he is a male, and he was born as a male) stands accused of prostitution.

According to police testimony, as part of an undercover sting operation, police had discovered the man's ad posted on the adult classified website Backpage.com in the escort and male-seeking-female sections. The ad offered sex services for women. A female undercover officer called the phone number in the ad, set a date, and was given the address of the hotel. Upon arrival, the officer was greeted at the door of the hotel room by the man. Once in the room, the officer negotiated for sex in exchange for $200, and then made the arrest.

No other evidence of wrong-doing or questionable behavior is alleged of the defendant.

At the recommendation of legal counsel, the defendant is pleading "not guilty" to the charge of prostitution and is not taking the stand (that is, he is exercising his 5th amendment right to avoid potential self-incrimination).

The following statute exists regarding the charge:

A person commits the offense of prostitution when he or she performs or offers or consents to perform a sexual act, including but not limited to sexual intercourse or sodomy [that is, oral or anal sex], for money or other items of value.

PROSTITUTION, transgender, male (transman):

A 24-year-old heterosexual transgender man (that is, he has indicated that he is a male, although he was born as a female) stands accused of prostitution.

According to police testimony, as part of an undercover sting operation, police had discovered the transman's ad posted on the adult classified website Backpage.com in the escort and transsexual sections. The ad offered sex services for women. A female undercover officer called the phone number in the ad, set a date, and was given the address of the hotel. Upon arrival, the officer was greeted at the door of the hotel room by the transman. Once in the room, the officer negotiated for sex in exchange for $200, and then made the arrest.

No other evidence of wrong-doing or questionable behavior is alleged of the defendant.

At the recommendation of legal counsel, the defendant is pleading "not guilty" to the charge of prostitution and is not taking the stand (that is, he is exercising his 5th amendment right to avoid potential self-incrimination).

The following statute exists regarding the charge:

A person commits the offense of prostitution when he or she performs or offers or consents to perform a sexual act, including but not limited to sexual intercourse or sodomy [that is, oral or anal sex], for money or other items of value.

POSSESSION, cisgender, female:

A 25-year-old heterosexual cisgender woman (that is, she has indicated that she is a female, and she was born as a female) stands accused of marijuana possession.

According to police testimony, a driver was stopped when an officer noticed a taillight was out on the defendant's car. The officer indicated that when the window was rolled down, he smelled marijuana. After a probable cause search, approximately 1.3 ounces of marijuana was discovered under the driver's seat. The woman was then arrested for marijuana possession.

After running the license plate of the vehicle, it was determined that the vehicle was registered to the defendant's husband.

No other evidence of wrong-doing or questionable behavior is alleged of the defendant.

At the recommendation of legal counsel, the defendant is pleading "not guilty" to the charge of marijuana possession and is not taking the stand (that is, she is exercising her 5th amendment right to avoid potential self-incrimination).

The following statute exists regarding the charge:

It shall be unlawful for any person to possess, have under his or her control, manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute marijuana. Any amount weighing over 1 ounce is considered to be a felony.

POSSESSION, transgender, female (transwoman):

A 25-year-old heterosexual transgender woman (that is, she has indicated that she is a female, although she was born as a male) stands accused of marijuana possession.

According to police testimony, a driver was stopped when an officer noticed a taillight was out on the defendant's car. The officer indicated that when the window was rolled down, he smelled marijuana. After a probable cause search, approximately 1.3 ounces of marijuana was discovered under the driver's seat. The transwoman was then arrested for marijuana possession.

After running the license plate of the vehicle, it was determined that the vehicle was registered to the defendant's husband.

No other evidence of wrong-doing or questionable behavior is alleged of the defendant.

At the recommendation of legal counsel, the defendant is pleading "not guilty" to the charge of marijuana possession and is not taking the stand (that is, she is exercising her 5th amendment right to avoid potential self-incrimination).

The following statute exists regarding the charge:

It shall be unlawful for any person to possess, have under his or her control, manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute marijuana. Any amount weighing over 1 ounce is considered to be a felony.

POSSESSION, cisgender, male:

A 25-year-old heterosexual cisgender man (that is, he has indicated that he is a male, and he was born as a male) stands accused of marijuana possession.

According to police testimony, a driver was stopped when an officer noticed a taillight was out on the defendant's car. The officer indicated that when the window was rolled down, he smelled marijuana. After a probable cause search, approximately 1.3 ounces of marijuana was discovered under the driver's seat. The man was then arrested for marijuana possession.

After running the license plate of the vehicle, it was determined that the vehicle was registered to the defendant's wife.

No other evidence of wrong-doing or questionable behavior is alleged of the defendant.

At the recommendation of legal counsel, the defendant is pleading "not guilty" to the charge of marijuana possession and is not taking the stand (that is, he is exercising his 5th amendment right to avoid potential self-incrimination).

The following statute exists regarding the charge:

It shall be unlawful for any person to possess, have under his or her control, manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute marijuana. Any amount weighing over 1 ounce is considered to be a felony.

POSSESSION, transgender, male (transman):

A 25-year-old heterosexual transgender man (that is, he has indicated that he is a male, although he was born as a female) stands accused of marijuana possession.

According to police testimony, a driver was stopped when an officer noticed a taillight was out on the defendant's car. The officer indicated that when the window was rolled down, he smelled marijuana. After a probable cause search, approximately 1.3 ounces of marijuana was discovered under the driver's seat. The transman was then arrested for marijuana possession.

After running the license plate of the vehicle, it was determined that the vehicle was registered to the defendant's wife.

No other evidence of wrong-doing or questionable behavior is alleged of the defendant.

At the recommendation of legal counsel, the defendant is pleading "not guilty" to the charge of marijuana possession and is not taking the stand (that is, he is exercising his 5th amendment right to avoid potential self-incrimination).

The following statute exists regarding the charge:

It shall be unlawful for any person to possess, have under his or her control, manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute marijuana. Any amount weighing over 1 ounce is considered to be a felony.

Appendix F – Manipulation Checks

1. What gender was the defendant?

    a. Male

    b. Female

    c. Other: ___

    d. I don't know or I don't remember

2. Was there information in the case to indicate that the defendant was transgender?

    a. Yes

    b. No

    c. I don't know or I don't remember

[If respondent answers yes to the above question, then the respondent will be asked:]

3. *Which gender did the defendant identity as?*

    a. *Male*

    b. *Female*

4. *Which gender was the defendant born as?*

    a. *Male*

    b. *Female*

5. What was the defendant's sexual orientation?

    a. Heterosexual

    b. Gay or lesbian

    c. I don't know or I don't remember

Appendix G – Attention Check

1. What crime was the defendant accused of?

    a. _____

Appendix H – Performance Feedback

1. Keep going! There are a few more sections, stick with it.

2. Almost done! Just a few more questions.

Appendix I – Demographic Characteristics Table

Table 3

Demographic Characteristics of Participants

Characteristic	n	%
Gender		
Female	252	71.2
Male	98	27.7
Nonbinary	2	0.6
Prefer not to say	1	0.3
Transgender		
Yes	2	0.6
No	348	98.3
Prefer not to say	3	0.8
Age		
18-24 years old	9	2.5
25-34 years old	86	24.3
35-44 years old	85	24
45-54 years old	69	19.5
55-64 years old	65	18.4
65-74 years old	34	9.6
75 years or older	5	1.4
Sexual orientation		
Heterosexual or straight	305	86.2
Lesbian or gay	12	3.4
Bisexual	31	8.8
Queer	2	0.6
Other	3	0.8
Relationship status		
Single	127	35.9
In a relationship	67	18.9
Married	154	43.5

Other	5	1.4
Race/ethnicity		
Black or African American	22	6.2
Asian	21	5.9
White	284	80.2
Middle Eastern	2	0.6
American Indian or Alaska Native	2	0.6
Hispanic, Latino, or Spanish Origin	22	6.2
Education		
No formal education	2	0.6
High school diploma/GED	33	9.3
Vocational training	18	5.1
Associate's degree	50	14.1
Some college	60	16.9
Bachelor's degree	134	37.9
Master's degree	43	12.1
Doctoral degree	7	2
Professional degree	6	1.7
Income		
Under $20,000	50	14.1
$20,001-$40,000	86	24.3
$40,001-$60,000	80	22.6
$60,001-$80,000	48	13.6
$80,001-$100,000	33	9.3
$100,001 or over	55	15.5
Religion		
Christianity	163	46
Mormonism	1	0.3
Judaism	9	2.5
Catholicism	30	8.5
Hinduism	2	0.6
Buddhism	5	1.4

Islam	3	0.8
None	113	31.9
Political orientation		
Conservative	95	26.8
Liberal	155	43.8
Independent	91	25.7
Other	11	3.1

Note. *N* = 354.