

SURVEY

DEMOCRATS V. REPUBLICANS: IS POLITICAL PARTY AFFILIATION A SIGNIFICANT DEMOGRAPHIC VARIABLE IN JURY SELECTION?

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ABSTRACT

This study solicited the views of more than five hundred young, educated adults with two goals: (1) to determine whether political party affiliation is a significant demographic variable in jury selection (*voir dire*) and (2) to determine whether Democrats are softer on crime than Republicans, which has been alleged in the media. Both goals have been achieved. The evidence shows the views of rank-and-file Democrats and Republicans do not differ much when it comes to the seriousness of most crimes. If the views of the party leaders differ, it shows that their views are not those of the rank-and-file. It also provides evidence that prosecutors and defense counsel would be wasting their time trying to determine whether a potential juror is a Democrat or Republican, except for the eight cases found in this study.¹

INTRODUCTION

The present study is part of a larger study that examines the relationship between attitudes toward crime and various other

1. The authors encourage other scholars to replicate this study and have provided the original survey instrument.

demographic variables including: gender,² race and ethnicity,³ age,⁴ immigration status,⁵ political party affiliation (Democrat v. Republican), position on the political spectrum (left, right, centrist)⁶, marital status,⁷ religion (Catholic, other Christian, agnostic/atheist),⁸ religiosity (frequency of church attendance)⁹ and tax evasion.¹⁰ One goal of these studies is to determine whether these are significant demographic variables for purposes of jury selection. Another goal of the present study is to determine whether Democrats are softer on crime than Republicans, which has been alleged in the media.

The present study examines the relationship between political party affiliation and attitude toward seventy-five crimes. Establishing such a relationship might satisfy some curiosity since there is a perception that Democrats tend to be softer on crime than Republicans, although this view has been disputed.¹¹ In some

2. Robert W. McGee, Yanira Petrides & Wendy Gelman, *Is Gender a Significant Demographic Variable in Jury Selection? Results of a Survey* (unpublished manuscript) (on file with author).

3. Robert W. McGee, Yanira Petrides & Wendy Gelman, *Is Race or Ethnicity a Significant Demographic Variable in Jury Selection? Results of a Survey* (unpublished manuscript) (on file with author).

4. Robert W. McGee, Yanira Petrides & Wendy Gelman, *Is Age a Significant Demographic Variable in Jury Selection? Results of a Survey* (unpublished manuscript) (on file with author).

5. Robert W. McGee, Yanira Petrides & Wendy Gelman, *Is Immigrant Status a Significant Demographic Variable in Jury Selection? Results of a Survey* (unpublished manuscript) (on file with author).

6. Robert W. McGee, Yanira Petrides & Wendy Gelman, *Lefties v. Righties: Is Position on the Political Spectrum a Significant Demographic Variable in Jury Selection? Results of a Survey* (unpublished manuscript) (on file with author).

7. Robert W. McGee, Yanira Petrides & Wendy Gelman, *Is Marital Status a Significant Demographic Variable in Jury Selection? Results of a Survey* (unpublished manuscript) (on file with author).

8. Robert W. McGee, Yanira Petrides & Wendy Gelman, *Is Religion a Significant Demographic Variable in Jury Selection? Results of a Survey* (unpublished manuscript) (on file with author).

9. Robert W. McGee, Yanira Petrides & Wendy Gelman, *Is Religiosity a Significant Demographic Variable in Jury Selection? Results of a Survey* (unpublished manuscript) (on file with author).

10. Robert W. McGee, Yanira Petrides & Wendy Gelman, *If the Punishment Should Fit the Crime, How Serious is Tax Evasion? Results of a Survey* (unpublished manuscript) (on file with author).

11. Froma Harrop, *Who Says Democrats are Soft on Crime?*, NEWSWEEK (Mar. 24, 2022, 7:30 AM), <https://www.newsweek.com/who-says-democrats-are->

democratically controlled cities and states, crime is increasing. In some places, there is no bail, resulting in individuals being released as soon as paperwork is processed. Some crimes, such as shoplifting, are not prosecuted if the dollar value of the theft is below a certain threshold amount.¹² Those policies are generally instituted by Democratic politicians. However, such policies are not supported by the Democratic rank-and-file. Thus, the soft-on-crime policies are not representative of Democrats in general. One goal of this research is to determine whether rank-and-file Democrats are generally softer on crime than rank-and-file Republicans.

This research serves another purpose. When prosecutors and defense counsel interview potential members of the jury, they will choose individuals who are friendly to their position. Defense attorneys try to choose people who will likely find their client not guilty. Prosecutors try to choose individuals who will likely find the defendant guilty. Naturally, both sides exclude potential jurors who prevent them from achieving their goal. However, whether

soft-crime-opinion-1691192 [<https://perma.cc/LVY6-99XV>]; Ben Adler, *The Myth That Democrats Are Soft on Crime*, NEWSWEEK (Dec. 15, 2009, 8:00 AM), <https://www.newsweek.com/myth-democrats-are-soft-crime-210582> [<https://perma.cc/APF7-MTRB>]; Bernard Kerik, *Soft-on-Crime Liberals Are Ruining America's Greatest Cities*, REALCLEARPOLITICS (Jan. 23, 2020), https://www.realclearpolitics.com/articles/2020/01/23/soft-on-crime-liberals-are-ruining-americas-greatest-cities_142209.html [<https://perma.cc/993P-PSNT>]; *Soft-on-Crime Democrats Put Criminals Back on the Streets*, AMERICA RISING (Feb. 18, 2022), <https://americarisingpac.org/soft-on-crime-democrats-put-criminals-back-on-the-streets/> [<https://perma.cc/TU45-QYNR>]; Paul Krause, *Why Democrats Don't Care About Crime*, AMERICAN THINKER (July 28, 2021), https://www.americanthinker.com/articles/2021/07/why_democrats_dont_care_about_crime.html [<https://perma.cc/AUN6-H58N>].

12. Emma Colton, *Shoplifters hit Los Angeles area TJ Maxx, casually leave store carrying heap of stolen goods*, FOX NEWS (July 21, 2021, 12:09 PM), <https://www.foxnews.com/us/los-angeles-shoplifters-tj-maxx-california> [<https://perma.cc/R24S-EHXE>]; Lee Ohanlan, *Why Shoplifting Is Now De Facto Legal in California*, HOOVER INST. (Aug. 3, 2021), <https://www.hoover.org/research/why-shoplifting-now-de-facto-legal-california> [<https://perma.cc/4HRC-7H37>]; Antonio Planas, *Shoplifting incident with 80 suspects is worst they've seen, retired police say*, NBC NEWS (Nov. 22, 2021, 8:41 PM), <https://www.nbcnews.com/news/us-news/shoplifting-incident-80-suspects-worst-seen-retired-police-say-rcna6393>.

this approach is ethical is a discussion left for another day.¹³

There are ways to achieve their goals, even though excluding potential jury members based on demographic factors such as race¹⁴ or gender¹⁵ is prohibited. For example, if a defendant is Hispanic there are ways for a prosecutor to exclude Hispanics if the reason for exclusion is race-neutral. A judge allowed a prosecutor to exclude one Hispanic from the jury because a prosecutor asserted he had a “P rule” whereby he “never accepted jurors whose occupations began with a ‘P’ and the individual in question was a pipeline operator.”¹⁶ This ploy might be successful in excluding potential jurors having other demographic characteristics as well, at least if they go before that same judge, but it is questionable whether judges would accept the “P rule.”

While defense counsel may want to exclude as many women as possible, prosecutors may want to include as many women as possible because research shows women tend to hold significantly more severe views toward a wide range of crimes than men.¹⁷ Because of this divergence of view, women may be more likely to convict, and may render punishment that would be more severe than punishments rendered by men.¹⁸ For example, women tend

13. A “good” prosecutor is supposed to seek justice, not conviction. A “good” defense attorney will find ways to get their client back on the street, with the result that they will be able to commit more crimes (assuming they are actually criminals in the first place).

14. See *Batson v. Kentucky*, 476 U.S. 79 (1986) (perhaps the most frequently cited case on excluding potential jurors on the basis of race). See also *Snyder v. Louisiana*, 552 U.S. 472 (2008) (excluding African-American jurors); *Turner v. Murray*, 476 U.S. 28 (1986) (In a capital case where the defendant is accused of an interracial crime, jurors may be informed of the race of the victim and may be questioned about their racial bias). See Theodore McMillian & Christopher J. Petrini, *Batson v. Kentucky: A Promise Unfulfilled*, 58 UMKC L. REV. 361 (1990), for an analysis of *Batson*.

15. *J.E.B. v. Alabama ex rel. T.B.*, 511 U.S. 127 (1994) (expanded *Batson* to include gender-based peremptory challenges).

16. Cynthia Lee, *A New Approach to Voir Dire on Racial Bias*, 5 U.C. IRVINE L. REV. 843, 850-51 (2015) (citing *United States v. Romero-Reyna*, 889 F.2d 559, 560 (5th Cir. 1989)).

17. See McGee et al., *supra* note 2 (in a survey of attitudes on seventy-five crimes, women viewed almost all crimes to be significantly more serious than men did).

18. See McGee et al., *supra* note 2.

to hold more severe views towards on tax evasion¹⁹ and bribery.²⁰ Of course, excluding individuals from juries solely based on gender or race is illegal, but it is sometimes possible to find ways around the law. Any number of jurors may be dismissed for cause, and a limited number of jurors may be excluded without cause using the peremptory challenge tool.²¹

Some prosecutors or defense counsel might attempt to exclude potential jurors based on their political affiliation or candidates they voted for in the previous election. A study that sampled more than 2000 jurors asked political questions such as, “[d]o you

19. Various studies on attitudes toward tax evasion have found that women are often, but not always, significantly more opposed to tax evasion than are men. See Robert W. McGee, *THE ETHICS OF TAX EVASION: PERSPECTIVES IN THEORY AND PRACTICE* 415-39 (Robert W. McGee ed., 2012); Ashiqullah Pardisi & Robert W. McGee, *THE ETHICS OF TAX EVASION, VOL. 2, NEW PERSPECTIVES IN THEORY AND PRACTICE* (Robert W. McGee & Jovan Shopovski eds., (forthcoming 2023)).

20. Studies have also found women to often view bribery significantly more severely than men. See Robert W. McGee & Serkan Benk, *Gender and Attitudes toward Bribery*, in ROBERT W. MCGEE & SERKAN BENK (EDS.), *THE ETHICS OF BRIBERY: THEORETICAL AND EMPIRICAL STUDIES* (2023) (forthcoming); Teresa Hernandez & Robert W. McGee, *Ethical Attitudes toward Taking a Bribe: A Study of Three Latin American Countries*, 8 INT’L J. BUS. & ECON. 142 (2013) (A study of three Latin American countries - Argentina, Brazil & Colombia - that found women to be significantly more opposed to bribery). An Australian study had the same result. See Teresa Hernandez and Robert W. McGee, *Attitudes toward Bribery in Australia: A Demographic Study*, 24 EURO ASIA J. MGMT. 57 (2014). However, a study of attitudes toward bribery in four Turkic Republics – Azerbaijan, Kazakhstan, Kyrgyzstan and Uzbekistan – found that the differences in male and female mean scores were not significant in all four countries. See Serkan Benk, Robert W. McGee & Tamer Budak, *Attitudes toward Bribery in Turkic Republics: A Comparative Study*. MIRDEC Social Science Conference, Prague, Czech Republic, 72 (July 19-21, 2016). A U.S. study found male and female mean scores to be identical in 1982. By 2006, both genders became less averse to bribery, but the male sample became less averse than the female sample. Males became significantly less averse between 1982 and 2006. Males were also significantly less averse to bribery than females in 2006. See Teresa Hernandez & Robert W. McGee, *Attitudes toward Accepting a Bribe: A Longitudinal Study of the USA*, 14 J. ACCT., ETHICS & PUB. POL’Y 907 (2013).

21. For discussions of the peremptory challenge, see Albert W. Alschuler, *The Supreme Court and the Jury: Voir Dire, Peremptory Challenges, and the Review of Jury Verdicts*, 56 U. CHI. L. REV. 153 (1989); Cynthia Lee, *A New Approach to Voir Dire on Racial Bias*, 5 U.C. IRVINE L. REV. 843 (2015); Raymond J. Broderick, *Why the Peremptory Challenge Should be Abolished*, 65 TEMP. L. REV. 369 (1992); LaCrisha L. A. McAllister, *Closing the Loophole: A Critical Analysis of the Peremptory Challenge and Why It Should Be Abolished*, 48 S.U. L. REV. 303 (2020-2021).

approve of the job president Trump is doing?” and, “[i]f the presidential election were today, would you vote for Trump?”²² Such information might be useful to both sides if political affiliation or preference could make a difference in outcomes. However, even if such political questions cannot be asked as part of voir dire, it is possible to find this information by searching voter rolls on the internet. These records often list political party affiliation.

I. METHODOLOGY

The study asked seventy-five questions to more than 500 individuals of varying backgrounds, genders, religions, ethnicities, and political persuasions. On a scale of 1 to 100, respondents were asked to grade how serious they considered various types of criminal behavior. Responses were tallied using a scale where 1–20 was considered “not serious,” 21–40 was considered “somewhat serious,” 41–60 was considered “serious,” 61–80 was considered “very serious,” and 81–100 was considered “extremely serious.”

The respondents consisted of undergraduate and graduate students attending a large, urban, public university located in Miami. The students attended the University’s business school and were enrolled in more than ten classes, with each class focusing on aspects of business law. These classes were taught in either face-to-face, hybrid, or online teaching modalities.

Respondents were directed not to place their names or any other identifying information on the survey. Responses were completely anonymous, and participation was voluntary. However, the survey requested the respondents provide some general background information by placing an “X” next to various inquiries regarding employment status, undergraduate or

22. John Campbell, Jessica Salerno, Hannah Phalen, Samantha Bean, Valerie Hans, Less Ross & Daphna Spivack, *An Empirical Examination of Civil Voir Dire: Implications for Meeting Constitutional Guarantees and Suggested Best Practices*, (Univ. of Denver, Sturm Coll. of Law, Legal Research Paper Series, Working Paper No. 11-20, 52 (2020)). Whether they would be able to exclude individuals on this basis is questionable, but prosecutors and defense attorneys might find such information useful when selecting and excluding jurors, especially if being a democrat or republican might make a difference. The purpose of the current study is to answer this question.

graduate status, academic major, gender, ethnicity, age range, marital status, religion, attendance at organized religious service, place of birth, political party affiliation and, finally, ranking respondent's status on a ten-point political spectrum, with "1" being to the "left" and "10" being to the "right."

The survey was created using the Qualtrics survey tool. Respondents were given a web link to the survey by their respective class instructors. The demographics of the study are summarized below in Table 1.

A. Table 1: Respondent Demographics

Table 1		
Respondent Demographics		
	n	%
GENDER		
Female	288	52.3
Male	263	47.7
Total	551	
AGE		
Under 21	140	25.3
21–30	346	62.5
31–40	55	9.9
41–50	9	1.6
50+	4	0.7
Total	554	
EMPLOYMENT		
Self-employed	39	7.1
Full-time	176	31.8
Part-time	205	37.1
Unemployed	133	24.1
Total	553	
MARITAL STATUS		

Married	54	9.8
Divorced	16	2.9
Single (never married)	470	85.0
Other	13	2.4
Total	553	
ACADEMIC MAJOR		
Accounting	108	19.5
Other Business	381	68.9
Law	1	0.2
Other	63	11.4
Total	553	
ETHNICITY		
African American	50	9.0
Asian	21	3.8
Hispanic	392	70.9
Non-Hispanic White	55	9.9
Other	35	6.3
Total	553	
STUDENT STATUS		
Undergraduate	451	81.6
Graduate	102	18.4
Total	553	
RELIGIOUS SERVICE ATTENDANCE (once a month)		
No	395	71.3
Yes	159	28.7
Total	554	
RELIGION		
Agnostic/Atheist	70	12.7
Catholic	221	40.0

Jewish	12	2.2
Muslim	11	2.0
Other Christian	160	28.9
Other	79	14.3
Total	553	
BORN IN USA		
Yes	294	53.6
No	255	46.4
Total	549	
POLITICAL AFFILIATION		
Democrat	173	31.3
Republican	107	19.4
Independent	97	17.6
Other/None	175	31.7
Total	552	
POSITION ON POLITICAL SPECTRUM		
1 Far Left	21	4.0
2	19	3.6
3	43	8.1
4	46	8.7
5	186	35.2
6	78	14.8
7	57	10.8
8	41	7.8
9	19	3.6
10 Far Right	18	3.4
Total	528	
Left (1-3)		
Left (1-3)	83	15.7
Centrist (4-7)		
Centrist (4-7)	367	69.5
Right (8-10)		
Right (8-10)	78	14.8
Total	528	

II. FINDINGS

The findings are presented in the tables below. Table 2 displays the means, standard deviations, sample sizes for the two categories, and the p-values. The difference in mean scores is significant if $p < 0.05$. The difference in mean scores is weakly significant if $p \geq 0.05$ but < 0.10 . P-values may be calculated using several different statistical formulas. The results generally do not differ much (sometimes they do), but some formulas are better than others. This article used Welch's unpaired t-test because it does not assume variances are equal, which they usually are not.²³

A. *Table 2: List of Offenses by Political Affiliation: Democrats and Republicans*

		Democrats			Republicans			
Q	Offense	Mean	S.D.	n	Mean	S.D.	n	P value
1	Bicycle theft	39.9	27.2	171	41.1	27.3	106	0.7221
2	Robbery	73.5	25.4	171	75.8	23.3	106	0.4414
3	Shoplifting	58.0	28.0	171	55.5	29.0	106	0.4806
4	Carjacking (stealing a car while the owner is in the car)	85.1	21.9	171	85.1	20.1	106	1.0000

23. See Graeme D. Ruxton, *The unequal variance t-test is an underused alternative to Student's t-test and the Mann-Whitney U test*, 17 BEHAVIORAL ECOLOGY, 688, 688-90 (2006) (Welch's t-test does not assume equal variances, and "performs as well as, or better than, the Student t-test in terms of control of both Type I and Type II error rates whenever the underlying distributions are normal."); See also Marie Delacre, Daniël Lakens & Christophe Leys, *Why Psychologists Should by Default Use Welch's t-test Instead of Student's t-test*, 30 INT'L REV. SOC. PSYCH., 92, 92-101 (2017) (Welch's t-test "provides a better control of Type 1 error rates when the assumption of homogeneity of variance is not met, and it loses little robustness compared to Student's t-test when the assumptions are met.").

5	Stealing a car that is parked	77.3	22.8	170	78.1	22.1	106	0.7729
6	Slashing the car tires of someone you don't like	60.5	28.7	171	64.7	28.3	105	0.2351
7	Stealing \$50 from your employer	70.2	28.2	169	66.8	29.2	106	0.3420
8	Stealing \$50 from a friend	68.5	29.0	169	65.0	30.6	106	0.3473
9	Stealing \$50 from a stranger	67.5	28.1	170	63.8	29.9	106	0.3074
10	Stealing \$50 from a store (that undercharged you on a purchase)	54.6	32.3	171	53.8	31.9	105	0.8406
11	Avoiding a fare on a bus (that is owned by the local government)	36.3	29.1	170	41.7	30.8	106	0.1494
12	Avoiding a fare on a bus (that is owned by a private company)	37.1	29.3	169	41.6	30.7	106	0.2299
13	Avoiding an entrance fee to a park owned by the government	35.3	30.0	167	38.7	30.8	106	0.3702
14	Avoiding an entrance fee to a park owned by a private company	37.7	29.7	170	39.5	29.9	106	0.6263
15	Cheating on an exam	53.0	33.0	170	49.5	34.5	106	0.4055
16	Purchasing a term paper and	60.8	32.3	170	54.7	34.4	106	0.1440

	submitting it as your own							
17	Accounting fraud	79.4	26.1	170	76.9	25.9	106	0.4376
18	Insurance fraud (auto accident)	74.6	27.7	169	77.4	24.7	105	0.3850
19	Insurance fraud (hurricane damage)	73.0	28.2	170	73.7	26.2	105	0.8346
20	Insurance fraud (medical claim)	75.1	27.2	170	77.0	24.9	106	0.5525
21	Insider stock trading	73.9	27.1	166	69.9	29.6	104	0.2658
22	Ticket scalping (purchasing a ticket to an event and reselling it at a higher price)	37.0	32.5	168	33.6	31.9	106	0.3946
23	Social Security fraud	81.9	24.7	168	83.0	22.5	106	0.7048
24	Medicare fraud	76.9	26.8	168	77.7	24.2	106	0.7985
25	Claiming government benefits to which you are not entitled	69.3	27.5	169	70.8	28.5	106	0.6672
26	Sneaking into a movie without paying	30.0	29.9	169	32.9	31.2	105	0.4481
27	Buying a pirated CD/DVD	26.6	29.2	170	27.2	28.5	106	0.8663
28	Copying software illegally	40.6	32.8	170	37.4	33.2	106	0.4348
29	Cheating on your tax return	68.3	29.5	169	69.1	28.7	106	0.8241

30	Paying cash to avoid paying sales tax	36.3	32.1	170	36.7	34.9	106	0.9240
31	Failing to report \$10,000 in rental income if the tax liability is \$5,000	63.3	29.6	169	63.3	30.0	105	1.0000
32	Failing to report \$10,000 in rental income if the tax liability is \$2,000	62.5	30.1	169	62.1	29.8	105	0.9144
33	Helping a client cheat on taxes	71.4	29.1	170	72.1	28.1	105	0.8432
34	Running a red light	52.0	32.7	169	48.3	33.8	106	0.3720
35	Driving without a license	50.4	31.8	170	49.1	33.1	106	0.7477
36	Driving without a seatbelt	52.3	34.3	170	41.0	33.3	103	0.0078
37	Using a hand-held cell phone while driving	52.1	32.0	169	44.8	31.7	105	0.0662
38	Speeding – driving 10 mph over the limit in a residential area where children are present	63.8	31.6	170	55.7	30.6	104	0.0369
39	Speeding – driving 10 mph over the limit on an interstate highway	37.2	32.4	170	27.5	29.6	106	0.0113
40	Driving while intoxicated	84.6	23.5	169	83.9	22.5	106	0.8053

41	Illegal parking	36.9	29.1	170	30.5	28.5	106	0.0732
42	Jaywalking (crossing the street in the middle of the block)	28.5	29.2	170	23.2	26.4	106	0.1208
43	Offering to pay a bribe	59.4	30.6	170	55.4	31.6	104	0.3046
44	Paying a bribe when pressured to do so	52.1	32.7	170	54.8	32.6	106	0.5045
45	Soliciting a bribe	63.1	29.7	169	61.1	31.1	106	0.5980
46	Accepting an unsolicited bribe	59.9	30.8	168	59.7	32.8	105	0.9600
47	Violating child labor laws	80.0	26.3	167	78.3	26.3	105	0.6043
48	Paying less than the minimum wage	73.1	27.5	169	74.4	25.7	106	0.6915
49	Hiring illegal immigrants	41.0	33.3	167	52.3	34.9	104	0.0090
50	Not hiring someone because of gender	76.6	28.3	168	73.0	29.1	105	0.3160
51	Not hiring someone because of ethnicity	78.7	27.0	169	75.7	26.9	105	0.3711
52	Not hiring someone because of sexual preference	77.9	27.5	169	72.1	29.6	106	0.1057
53	Not hiring someone because of age	66.9	29.5	170	60.7	33.9	106	0.1223
54	Not hiring someone because they are fat	74.4	28.6	168	66.4	33.4	105	0.0435

55	Not hiring someone because they are ugly	74.2	29.4	170	68.6	32.2	106	0.1479
56	Smoking marijuana	33.3	32.4	171	40.3	37.2	105	0.1128
57	Taking hard drugs	64.7	31.4	171	70.0	31.5	106	0.1744
58	Selling marijuana	50.2	34.8	171	56.3	35.5	106	0.1628
59	Selling hard drugs	74.8	28.3	171	78.8	26.2	106	0.2324
60	Child molestation	93.5	19.5	171	95.7	13.2	105	0.2652
61	Prostitution	63.6	33.3	169	72.8	30.9	106	0.0206
62	Soliciting a prostitute	65.8	33.4	171	71.7	31.4	106	0.1394
63	Rape	95.0	16.0	169	96.7	11.8	106	0.3130
64	Raping a prostitute	93.1	17.9	170	95.4	13.9	105	0.2345
65	Statutory rape (consensual sex between a 24-year-old man and a 17-year-old girl)	77.2	28.6	169	74.1	32.4	106	0.4204
66	Statutory rape (consensual sex between a 24-year-old woman and a 17-year-old boy)	74.8	30.2	170	72.7	34.2	106	0.6046
67	Murdering a nice person who has a family and who is a productive member of the community	94.3	19.9	171	97.2	11.4	106	0.1245
68	Murdering a prostitute	94.9	17.9	171	96.7	11.5	106	0.3092
69	Murdering a drug dealer	92.1	20.8	170	91.9	18.8	106	0.9343

70	Murdering a homeless person	94.9	18.8	169	97.1	10.2	106	0.2106
71	Murdering a member of Congress	95.1	18.8	171	96.8	12.1	106	0.3607
72	Murdering a local politician	95.0	18.7	170	97.0	12.0	106	0.2801
73	Murdering a lawyer who specializes in suing people	94.8	18.8	170	96.4	12.2	105	0.3929
74	Murdering a lawyer who specializes in defending people who are being sued	95.6	17.1	170	96.4	12.0	106	0.6488
75	Murdering someone who asked you to kill them because they have a terminal disease and are in a lot of pain	72.5	33.4	170	78.6	30.1	104	0.1199

The survey instrument also collected data on the views of Independents and those who had a political party preference other than Democrat, Republican or Independent. P-values for these groups are not included to avoid unnecessary complication of the results, with little benefit.²⁴ The data is included here only for reading pleasure.

24. An application of cost-benefit analysis. Some Independents lean Democrat while others lean Republican. The survey instrument did not go into depth about the political leanings of Independents.

B. Table 3: List of Offenses by Political Affiliation: Independents and Other/None

Table 3 List of Offenses by Political Affiliation: Independents and Other/None		Independents			Other/None		
Q	Offense	Mean	S.D.	n	Mean	S.D.	n
1	Bicycle theft	37.1	26.0	96	42.5	29.0	174
2	Robbery	75.0	23.5	95	75.9	22.9	175
3	Shoplifting	52.6	30.4	96	57.5	28.5	175
4	Carjacking (stealing a car while the owner is in the car)	84.2	19.5	96	87.2	18.0	174
5	Stealing a car that is parked	77.1	20.7	96	79.7	21.7	174
6	Slashing the car tires of someone you don't like	61.6	27.8	96	58.6	28.5	174
7	Stealing \$50 from your employer	64.0	27.6	95	69.2	27.7	174
8	Stealing \$50 from a friend	63.8	29.8	95	68.3	29.0	174
9	Stealing \$50 from a stranger	60.5	27.9	96	67.5	27.3	175
10	Stealing \$50 from a store (that undercharged you on a purchase)	50.1	30.6	96	57.4	30.7	173
11	Avoiding a fare on a bus (that is owned by the local government)	35.2	29.1	96	37.7	29.4	175
12	Avoiding a fare on a bus (that is owned by a private company)	36.9	30.2	96	40.4	29.8	173
13	Avoiding an entrance fee to a park owned by the government	33.2	28.7	93	39.3	28.8	174

14	Avoiding an entrance fee to a park owned by a private company	36.6	29.6	95	41.3	29.1	175
15	Cheating on an exam	47.3	31.8	95	53.7	32.6	174
16	Purchasing a term paper and submitting it as your own	55.7	31.4	96	61.0	31.2	175
17	Accounting fraud	77.8	22.9	96	82.2	21.3	174
18	Insurance fraud (auto accident)	74.8	24.7	96	76.4	25.5	173
19	Insurance fraud (hurricane damage)	72.6	24.8	96	71.7	27.1	174
20	Insurance fraud (medical claim)	73.1	27.2	96	73.9	26.1	175
21	Insider stock trading	69.5	26.7	95	68.2	28.9	174
22	Ticket scalping (purchasing a ticket to an event and reselling it at a higher price)	28.5	28.0	96	35.5	31.1	175
23	Social Security fraud	78.5	24.2	96	81.6	23.9	174
24	Medicare fraud	74.1	26.2	95	77.8	24.1	175
25	Claiming government benefits to which you are not entitled	66.2	28.7	96	71.8	26.9	175
26	Sneaking into a movie without paying	28.1	28.8	96	34.8	30.3	174
27	Buying a pirated CD/DVD	23.4	26.3	96	28.0	29.7	175
28	Copying software illegally	32.1	29.0	96	44.3	33.4	174
29	Cheating on your tax return	62.9	29.4	96	70.7	28.1	175
30	Paying cash to avoid paying sales tax	27.1	30.4	95	35.9	32.8	173

31	Failing to report \$10,000 in rental income if the tax liability is \$5,000	57.5	28.3	96	62.8	29.0	174
32	Failing to report \$10,000 in rental income if the tax liability is \$2,000	56.4	29.5	96	63.4	27.7	175
33	Helping a client cheat on taxes	68.5	28.3	96	71.9	27.9	175
34	Running a red light	53.6	33.6	96	50.4	33.6	175
35	Driving without a license	50.3	30.2	96	48.2	33.2	173
36	Driving without a seatbelt	45.2	35.4	96	44.5	34.1	175
37	Using a hand-held cell phone while driving	49.8	32.0	96	50.9	32.4	174
38	Speeding – driving 10 mph over the limit in a residential area where children are present	53.1	31.5	96	57.4	33.1	174
39	Speeding – driving 10 mph over the limit on an interstate highway	27.1	29.5	96	33.7	31.1	174
40	Driving while intoxicated	83.3	23.5	96	83.9	24.3	174
41	Illegal parking	31.6	29.0	96	36.3	31.1	174
42	Jaywalking (crossing the street in the middle of the block)	23.1	27.4	96	28.7	30.4	174
43	Offering to pay a bribe	54.3	30.0	96	58.9	30.4	174
44	Paying a bribe when pressured to do so	48.8	33.2	96	52.9	32.1	174
45	Soliciting a bribe	57.8	30.4	96	62.7	29.9	175
46	Accepting an unsolicited bribe	55.0	31.4	96	60.8	30.4	172

47	Violating child labor laws	77.0	25.1	96	79.9	26.7	174
48	Paying less than the minimum wage	69.1	28.8	96	72.9	28.7	173
49	Hiring illegal immigrants	41.0	31.1	96	44.9	34.0	173
50	Not hiring someone because of gender	72.3	28.3	95	74.7	28.8	173
51	Not hiring someone because of ethnicity	76.7	27.1	96	77.3	28.1	175
52	Not hiring someone because of sexual preference	73.6	29.1	96	75.4	28.3	175
53	Not hiring someone because of age	57.4	32.4	96	64.4	31.2	174
54	Not hiring someone because they are fat	65.7	31.3	96	70.6	30.9	175
55	Not hiring someone because they are ugly	69.5	31.5	95	70.6	31.2	175
56	Smoking marijuana	29.9	31.4	96	36.2	34.7	175
57	Taking hard drugs	63.6	31.0	95	66.8	32.9	174
58	Selling marijuana	49.4	35.2	95	54.2	35.9	175
59	Selling hard drugs	72.2	29.1	96	74.5	30.8	174
60	Child molestation	95.1	15.4	96	91.5	20.4	174
61	Prostitution	62.0	33.4	95	67.8	33.5	174
62	Soliciting a prostitute	61.7	33.4	96	67.7	32.9	172
63	Rape	97.5	9.6	96	95.6	14.0	174
64	Raping a prostitute	96.1	12.6	96	93.9	16.7	174
65	Statutory rape (consensual sex between a 24-year-old man and a 17-year-old girl)	68.2	34.0	96	75.1	30.3	171

66	Statutory rape (consensual sex between a 24-year-old woman and a 17-year-old boy)	66.1	34.5	96	71.9	31.9	174
67	Murdering a nice person who has a family and who is a productive member of the community	97.5	10.4	96	94.7	15.6	174
68	Murdering a prostitute	97.1	10.4	96	95.2	14.1	175
69	Murdering a drug dealer	90.1	20.0	96	91.1	20.7	175
70	Murdering a homeless person	96.9	10.6	96	94.2	16.1	175
71	Murdering a member of Congress	96.1	12.1	96	93.1	20.1	174
72	Murdering a local politician	95.1	14.8	95	92.7	20.9	175
73	Murdering a lawyer who specializes in suing people	95.3	14.9	96	93.8	17.4	175
74	Murdering a lawyer who specializes in defending people who are being sued	96.4	11.2	96	94.3	17.1	174
75	Murdering someone who asked you to kill them because they have a terminal disease and are in a lot of pain	66.2	33.8	96	75.9	33.6	173

Table 4 lists the offenses where Democrats viewed the offense as significantly more serious, significance being defined at $p < 0.10$. Democrats views of offenses were significantly more serious in only six of seventy-five cases (8%), and in three of those cases,

the difference in mean scores was significant only at the ten percent level. Interestingly, five of the six offenses involved traffic violations or illegal parking. Failure to hire based on body weight is not illegal in most jurisdictions.

C. Table 4: List of Offenses Democrats Viewed More Severely than Republicans

		Democrats			Republicans			
Q	Offense	Mean	S.D.	n	Mean	S.D.	n	P value
36	Driving without a seatbelt	52.3	34.3	170	41.0	33.3	103	0.0078
37	Using a hand-held cell phone while driving	52.1	32.0	169	44.8	31.7	105	0.0662
38	Speeding – driving 10 mph over the limit in a residential area where children are present	63.8	31.6	170	55.7	30.6	104	0.0369
39	Speeding – driving 10 mph over the limit on an interstate highway	37.2	32.4	170	27.5	29.6	106	0.0113
41	Illegal parking	36.9	29.1	170	30.5	28.5	106	0.0732
54	Failure to hire based on body weight	74.4	28.6	168	66.4	33.4	105	0.0435

Table 5 lists the offenses where Republicans viewed the offense as significantly more serious, significance being defined at $p < 0.10$. Only two offenses out of seventy-five included in the survey (2.7%) are listed in this table, and one of them—prostitution—is legal in some jurisdictions.

D. Table 5: List of Offenses Republicans Viewed More Severely than Democrats

Table 5 List of Offenses Republicans viewed more severely than Democrats								
		Democrats			Republicans			
Q	Offense	Mean	S.D.	n	Mean	S.D.	n	P value
49	Hiring illegal immigrants	41.0	33.3	167	52.3	34.9	104	0.0090
61	Prostitution	63.6	33.3	169	72.8	30.9	106	0.0206

Thus, unless a defendant is being accused of one of these eight offenses, it does not make any difference whether a potential juror is a Democrat or Republican. In other words, Democrat and Republican views differed significantly for only 10.7 percent of the offenses.²⁵

CONCLUSION

This study makes several contributions to voir dire literature. The evidence shows that the views of rank-and-file Democrats and Republicans do not differ much for most crimes. If the views of the party leaders differ, it shows their views are not those of the rank-and-file. It also provides evidence that prosecutors and defense counsel would be wasting their time trying to determine whether a potential juror is a Democrat or Republican, except for the eight cases found in this study.

25. $(6 + 2)/75 = 0.106666 = 10.7\%$.

Those who are interested in learning whether gender,²⁶ race and ethnicity,²⁷ age,²⁸ immigration status,²⁹ position on the political spectrum (left, right, centrist),³⁰ marital status,³¹ religion (Catholic, Christian, agnostic, atheist),³² or religiosity (frequency of church attendance)³³ are significant demographic variables are invited to read the results of the studies that were made of these other variables.

APPENDIX

A. *The Survey Instrument*

NOTE to Scholars: You are hereby granted permission to use this survey instrument in your own research. You may add items. You may delete items. You may edit items to better reflect the local culture. In exchange for granting permission, we ask that you cite the original source and send us a copy of your published research so that we will be able to cite it in our own future research.

1. Questionnaire: Attitudes Toward Various Crimes

Please place a number from 1 to 100 in the appropriate space to indicate how serious you think the listed crimes are. Do not place your name or other identifying information on this survey. Your responses are completely anonymous. Participation is voluntary.

SCALE: 1–20 Not serious; 21–40 Somewhat serious; 41–60 Serious; 61–80 Very serious; 81–100 Extremely serious.

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26. See McGee et al., *supra* note 2.

27. See McGee et al., *supra* note 3.

28. See McGee et al., *supra* note 4.

29. See McGee et al., *supra* note 5.

30. See McGee et al., *supra* note 6.

31. See McGee et al., *supra* note 7.

32. See McGee et al., *supra* note 8.

33. See McGee et al., *supra* note 9.

	Description of Offense	
1	Bicycle theft	
2	Robbery	
3	Shoplifting	
4	Carjacking (stealing a car while the owner is in the car)	
5	Stealing a car that is parked	
6	Slashing the car tires of someone you don't like	
7	Stealing \$50 from your employer	
8	Stealing \$50 from a friend	
9	Stealing \$50 from a stranger	
10	Stealing \$50 from a store (that undercharged you on a purchase)	
11	Avoiding a fare on a bus (that is owned by the local government)	
12	Avoiding a fare on a bus (that is owned by a private company)	
13	Avoiding an entrance fee to a park owned by the government	
14	Avoiding an entrance fee to a park owned by a private company	
15	Cheating on an exam	
16	Purchasing a term paper and submitting it as your own	
17	Accounting fraud	
18	Insurance fraud (auto accident)	
19	Insurance fraud (hurricane damage)	
20	Insurance fraud (medical claim)	
21	Insider stock trading	
22	Ticket scalping (purchasing a ticket to an event and reselling it at a higher price)	
23	Social Security fraud	
24	Medicare fraud	
25	Claiming government benefits to which you are not entitled	
26	Sneaking into a movie without paying	
27	Buying a pirated CD/DVD	

28	Copying software illegally	
29	Cheating on your tax return	
30	Paying cash to avoid paying sales tax	
31	Failing to report \$10,000 in rental income if the tax liability is \$5,000	
32	Failing to report \$10,000 in rental income if the tax liability is \$2,000	
33	Helping a client cheat on taxes	
34	Running a red light	
35	Driving without a license	
36	Driving without a seatbelt	
37	Using a hand-held cell phone while driving	
38	Speeding – driving 10 mph over the limit in a residential area where children are present	
39	Speeding – driving 10 mph over the limit on an interstate highway	
40	Driving while intoxicated	
41	Illegal parking	
42	Jaywalking (crossing the street in the middle of the block)	
43	Offering to pay a bribe	
44	Paying a bribe when pressured to do so	
45	Soliciting a bribe	
46	Accepting an unsolicited bribe	
47	Violating child labor laws	
48	Paying less than the minimum wage	
49	Hiring illegal immigrants	
50	Not hiring someone because of gender	
51	Not hiring someone because of ethnicity	
52	Not hiring someone because of sexual preference	
53	Not hiring someone because of age	
54	Not hiring someone because of their body weight	
55	Not hiring someone because they are ugly	
56	Smoking marijuana	
57	Taking hard drugs	
58	Selling marijuana	

59	Selling hard drugs	
60	Child molestation	
61	Prostitution	
62	Soliciting a prostitute	
63	Rape	
64	Raping a prostitute	
65	Statutory rape (consensual sex between a 24-year-old man and a 17-year-old girl)	
66	Statutory rape (consensual sex between a 24-year-old woman and a 17-year-old boy)	
67	Murdering a nice person who has a family and who is a productive member of the community	
68	Murdering a prostitute	
69	Murdering a drug dealer	
70	Murdering a homeless person	
71	Murdering a member of Congress	
72	Murdering a local politician	
73	Murdering a lawyer who specializes in suing people	
74	Murdering a lawyer who specializes in defending people who are being sued	
75	Murdering someone who asked you to kill them because they have a terminal disease and are in a lot of pain	

2. Background Information

Place an X in the appropriate space.

- My employment status is ___self-employed ___full-time employee ___part-time employee ___unemployed
- I am a(n) ___undergraduate student ___graduate student
- My major is ___accounting ___other business ___law ___other
- I am ___female ___male
- I am ___Non-Hispanic white ___Hispanic ___African-American ___Asian ___Other
- My age is ___< 21 ___21-30 ___31-40 ___41-50 ___> 50
- I am ___married ___divorced ___single (never married) ___other

- Do you attend religious services at least once a month? ___yes ___no
- I am ___Catholic ___Other Christian ___Jewish ___Muslim ___Agnostic/Atheist ___Other
- Were you born in the USA? ___yes ___no
- My political affiliation is ___Democrat ___Republican ___Independent ___Other/None
- On the left-right political spectrum, I am (circle the appropriate number)

Left

Right

1 2 3 4 5 6 7 8 9 10