

Do Gender Incongruent Careers Adversely Influence Criminal Punishment Assessment?

by

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Abstract

This study investigated whether there were any differences in punishment or negative trait assessment between criminals with a gender congruent career versus a criminal with an incongruent career. Participants completed a questionnaire based on a short description of a fictional person already convicted of stealing. Results indicated that there was a trend towards giving longer sentences to criminals with gender incongruent careers, but that criminals with gender congruent careers were seen as having more negative traits. There was also a gender difference in the assessment of negative traits, with females being seen as more negative. The results suggest that there may be a disconnect between the negative traits ascribed to a person and the assessment of criminal punishment.

Do Gender Incongruent Careers Adversely Influence Criminal Punishment Assessment?

Our criminal justice system rests on the idea that juries are impartial and able to come together to decide guilt, innocence, and the blameworthiness of defendants. But juries and judges are people, and people have independent thoughts and their decisions may often be biased. Many studies have shown that juries are influenced by factors outside the evidence (Bornstein & Rajki 1994; Erber, Szuchman, & Prager, 2001; MacCoun, 1990). There has also been research on how traits of the defendant influence the juries' decision of guilt. These factors include race (Bernard, 1979; Field, 1979), political ideology (Griffitt & Jackson, 1973), attractiveness (Mazzella & Feingold, 1994; Patry, 2008), age (Erber, Szuchman, & Prager, 2001) and gender (Stephan, 1974). These influences have come to be known as extralegal biases (MacCoun, 1990).

The extralegal bias of gender has been the subject of several studies with gender and punishment, and specifically whether gender alters the severity of punishment. One study on gender and the length of sentencing found that there was no gender difference in sentencing except for women with dependent children; these women were given lighter sentences than both men and women without dependent children (Koons-Witt, 2002). However, a different study by Pozzulo, Dempsey, Maeder, and Allen, found higher guilt ratings for male defendants when compared to female defendants in a mock jury scenario (2010). From the available literature there seems to be some debate over whether males or females are more likely to be found guilty. The majority of the research done so far supports the views found by Pozzulo, Dempsey, Maeder, and Allen, where the male defendants are more likely to be found guilty (McCoy & Gray, 2007; Quas, Bottoms, Haegerich, & Nysse-Carris, 2002).

Within the research on the gender of the defendant and its effect on juries there has not been research into the gender presentation of defendants or how gender congruent the defendant

is perceived to be. However, there are numerous studies outside of the criminal context on gender stereotypes and how people who break gender stereotypes are perceived by others. Research has shown that people consistently ascribe certain positive and negative traits to people based on gender (Prentice & Carranza, 2002). The association of traits and careers to a specific gender is found even in children who are not fully stabilized in their perception of gender, illustrating the pervasiveness of these beliefs (O'Keefe & Hyde, 1983). One of the more troubling aspects of gender stereotypes is the punishment and devaluation of a person who is perceived to be gender incongruent (Fiske et al., 1991; Rudman & Glick, 1999). There are often negative traits and behaviors associated with people who are perceived to be gender incongruent (Heilman, Wallen, Fuchs, & Tamkins, 2004). People who transgress the boundaries of gender are often harshly punished in social settings, and sometimes even sabotaged in certain pursuits (Rudman & Fairchild, 2004).

There has been no research on whether there is any connection between gender congruence and the perception of blameworthiness in criminal contexts. Most studies have stopped short and only focused on the difference between the genders, and have not looked beyond that. Gender stereotypes have been previously studied in the workplace and similar settings, but not in the criminal justice system. It is clear from the workplace studies that people who transgress the gender boundary are penalized, so it is plausible that this would carry through to the criminal setting.

The combination of these two areas of study has given rise to this study. This study is focused on whether a criminal with a gender incongruent career is more severely punished in the criminal setting than a criminal with a gender congruent career. The previous studies have led us to believe that the punishment for transgressing a gender boundary will be harsher punishment.

The hypothesis is that people with gender incongruent careers will be more severely punished than their gender congruent counterparts.

Method

Participants

Two hundred and forty one people from the Ann Arbor area participated in this study (129 women, 110 men, 1 other). The sample included 83.8% participants who identified themselves as Caucasian, 6.2% as Asian or Asian American, 2.5% as black, 1.7% as Latino or Latina, and 4.6% as multiracial. The sample's self reported sexual orientation was 226 heterosexual, 4 homosexual, 7 bisexual, and 1 fitting into another, unspecified category. The mean age of the sample was 19.8 years ($SD=1.78$). Almost all of the participants were undergraduate or graduate students at the University of Michigan.

Independent Variables

The questionnaire asked the participants to focus on one target, whose characteristics were manipulated according to a 2 x 2 (target gender and career) between-subjects factorial design. Participants were asked to read a brief description of a convicted criminal and then answer questions based on what they had read. Surveys described a person that had been convicted of stealing 10,000 dollars from their workplace. The person was either a nurse or a plumber, and either male or female; other than gender and career the text was exactly the same, for example: "John has been convicted of stealing \$10,000 dollars from the hospital where he worked as a nurse. He was caught by a co-worker and turned over to the police. There was sufficient evidence against him, and he was found to be guilty beyond a reasonable doubt by a jury of his peers." The stories and the measures used in this study can be found in the Appendices.

Dependent Variables

Participants were provided with a questionnaire that contained two parts. The first part contained three questions about punishment. One of the questions was dropped from analysis because fewer than 75% of participants answered the question; many admitted to being confused. The dropped question asked the participants to write in the exact fine they thought the criminal should pay. The other two punishment measures were on a 5-point scale; ranging from 1 (*least severe*) to 5 (*most severe*). The first question stated that there was a minimum of 1 year to a maximum of 10 years in prison recommended for similar thefts; what did the participant think was an appropriate length of time? The second question asked how large of a fine the criminal should be required to pay.

Participants were then asked to complete 17 questions about how positively or negatively they saw the criminal and the actual crime from the story. The 17 questions were divided into 3 separate groups; 7 questions were about personality traits ascribed to the criminal, 4 questions asked about the criminal motivation for committing the crime, and 6 questions were about the participants' feelings towards the criminal. All the questions were scored on a 5-point scale ranging from 1 (*least negative*) to 5 (*most negative*). There were 6 questions that were scored in reverse ranging from 1 (*most negative*) to 5 (*least negative*) to check if the participants were reading the questions carefully rather than just circling randomly.

Procedure

The study consisted of a short questionnaire that took about 10 minutes to complete. The participants were recruited in a central high traffic area on the campus and from the marching band; anyone over the age of 18 was eligible to participate. The participants were asked if they

were at least 18 years of age, and if they consented to participate were given a questionnaire. Upon completion of the questionnaire the participants were debriefed.

Results

The first focus of the questionnaire was on the severity of the punishment recommended for to the fictional criminal in the story, and included two questions. The second focus was on the ascription of negative traits to the fictional criminal and included 17 questions. When the 17 questions were analyzed together they had a Cronbach's Alpha of 0.76.

There were two questions about punishment, one about the fine the criminal should pay and the other about how long the criminal should serve in jail. The questions had options placed on a scale from 1 (*least severe*) to 5 (*most severe*). The data were analyzed using a Factorial ANOVA test. The question about fines showed no statistically significant difference between the four groups and no interaction, $F(1,236)=0.001$, n.s.. In regards to the length of sentence there was a marginally significant interaction between career and gender of the criminal, $F(1,232)=3.67$, $p=0.057$, with the female plumber and male nurse being punished more harshly than their gender congruent counterparts (Figure 1).

The second focus on the negative traits ascribed to the fictional criminal had some interesting results. When the 17 questions were combined for a total negative traits score there was no statistically significant finding, $F(1,230)=0.33$, n.s. However when taken individually there were several traits that showed an interaction between career and gender and several more that showed a gender difference.

There was only one question that had significant results from the motivation section of the questionnaire. The motivation questions were the participants' interpretation of the motives behind the criminal act. These questions included how desperate they thought the criminal was,

if the criminal did it for their own gain, if the criminal stole for their family, and if the criminal was a victim of the circumstances around them. When the participants were asked how desperate they thought the criminal was, there was both a gender, $F(1,234)=6.14, p=0.014$, and career, $F(1, 234)=3.19, p=0.075$, difference but no interaction. Participants rated the female criminals as having been more desperate (Figure 2). The career difference showed there was a trend towards viewing the nurses as being more desperate than the plumbers. When all the motivation scores were combined into one measure, there were no significant results, $F(1,233)=0.24, n.s.$

Three of the personality questions were found to have statistically significant results. The personality questions were descriptive terms that the participants were asked to determine if the criminal possessed. These traits included how aggressive, greedy, selfish, social, dishonest, inconsiderate, greedy or disturbed the participant thought the criminal was. The most significant result found in the study was the perception of the criminals' dishonesty. There was an interaction for career and gender, but it was opposite of that found in the sentencing variable, $F(1, 237)=10.58, p=0.001$. The female nurse and the male plumber were found to be the most dishonest (Figure 3). The effect of the interaction was strongest for the females, with the female nurse being viewed as the most dishonest and the female plumber as the most honest. There was a measure in the questionnaire that asked the participants to rate how mentally disturbed the criminal from the story was. It was found to not have an interaction, but there was both a gender difference, $F(1,235)=8.24, p=0.004$ and a career difference, $F(1,235)=5.44, p=0.021$. It was found that the female criminals were seen as more mentally disturbed and that the nurses were also viewed as more mentally disturbed (Figure 4). From the graph it is clear that the male plumber was seen as the only one not mentally disturbed. The last personality measure that had

a significant result was aggressiveness, or how aggressive the participants perceived the criminal to be. The aggressiveness measure showed a trend towards a career difference, $F(1,236)=3.18$, $p=0.076$. It found that nurses who committed theft were viewed as more aggressive than plumbers of the same crime (Figure 5). When the 7 personality traits were combined into one measure there was no significant result, $F(1,231)=0.83$, n.s.

All six of the questions on the participants' feelings about the fictional criminals had significant results. These questions asked the participants to make judgments about the defendants' interpersonal actions. These questions included if the participant thought the criminal was a normal person, and if the criminal would steal again. Two of the other questions asked whether the participant could be friends with the criminal were they to meet, and whether the participant would feel safe living next to the criminal. The last two questions concerned the act of stealing, and whether it was wrong and harmful. When the six questions were combined to create one measure it was found to have a significant gender difference, $F(1,235)=7.54$, $p=0.007$. The female criminals were viewed in a much more negative way by the participants than the male criminals (Figure 6).

When looking at the individual measures of the participants' feelings the results for how wrong the act of stealing the money was judged to be were very similar to the dishonest variable with the interaction showing more negativity towards the defendant with the gender congruent career, $F(1,236)=5.02$, $p=0.026$, (Figure 7). Showing a similar trend and marginally statistically significant was the perception of how harmful the crime was, $F(1,236)=3.77$, $p=0.053$. The tendency for the perception of harmfulness was again towards the gender congruent career (Figure 8). The male nurse was seen as the least harmful of the criminals. When the participants were asked how normal they would consider the criminal, there was a trend towards both a

gender, $F(1,236)=3.55$, $p=0.061$, and a career, $F(1,236)=3.55$, $p=0.061$, difference between the criminals. The female criminals and the nurses were seen in a more negative way and were not considered normal (Figure 9).

The other three measures of the participants' feelings towards the criminals showed a gendered difference or a gendered trend. The participants were asked to rate how likely it was that the criminal would steal again in the future, or the recidivism; this was found to be significantly gendered, $F(1,235)=6.25$, $p=0.013$. The females were thought to be more likely than their male counterparts to steal again in the future (Figure 10). When the participants were asked how safe they would feel living next to the criminal from the story, the male criminals were thought to be safer than the women, $F(1,236)=6.59$, $p=0.011$, (Figure 11). The likelihood of the participant being friends with the criminal was also found to be gendered, $F(1,236)=2.82$, $p=0.094$, with the female criminals less likely to be considered a friend (Figure 12).

Discussion

The study shows that there is a trend to punish criminals with gender incongruent careers more harshly than people in gender congruent careers. However, at the same time there are certain negative traits more likely to be associated with a criminal in a gender congruent career. Also, there are several negative personality traits, motivations, and perceptions that are more associated with females rather than males after they have been convicted of a crime. These somewhat conflicting results suggest that there are several different processes going on, and several conflicting stereotypes.

It is interesting that people with gender congruent careers were seen as possessing more negative personality traits and motivations than their gender incongruent counterparts. Some of this may come from the idea that criminality is more unexpected for people who have not broken

a social taboo in their career. When there were no existing indicators of deviance, it was more of a surprise to participants and therefore more negative. If the criminals had already broken the social taboo of working in a career usually associated with the other gender, it was not as surprising to the study participants when the criminal committed another action that was deviant.

There may be similar reasons why the female criminals were seen as more deviant than the males; again it is more unexpected for a female to be a criminal. Men are much more likely to commit crimes than women, and people would expect a criminal to be a male. This would mean the participants of the study were surprised by the female criminal, and because of the surprise rated the female as more negative than the males. This is especially salient because of the gendered results of the participants' feelings towards the criminals. Not only were there 3 measures where the results were gendered with the females as more negative, but as a whole all 6 questions together found that overall participants' feelings were more negative towards the female criminals.

The most perplexing finding is that even though more negative associations were made with people in gender congruent careers, in the sentencing there was a trend towards harsher punishment for people with gender incongruent careers. There are many commonly held stereotypes about criminals and the belief that they are deviant in other aspects of their lives. When this is coupled with the deviance of a gender non-normative career people see it as a reflection of their belief of deviance in all aspects of the criminal's life.

However, there may be an effect in play that has been seen in several other jury punishment studies. There may be an in-group bias going on in the sentencing difference between the gender congruent and gender incongruent careers. However, the negative perceptions, personality traits, and motivations that show a different trend than the sentencing are related to another aspect of

the in-group bias called the “black sheep effect” (Marques, Yzerbyt, & Leyens 1988). Often in mock jury studies the juries will be more lenient and see more similarity between themselves and the defendant if the defendant is part of their in-group (Kerr, Hymes, Anderson, & Weathers, 1995). At the same time the juries may punish more severely the defendant they see as out-group (Pettigew, 1979). This in-group bias may be an explanation for the harsher sentencing of the gender incongruent criminals. As a whole they do not fit the gender normative patterns of behavior and are thusly part of the out-group. When it came time for the participants to sentence the criminal there was an effect of punishing the out-group criminals more severely and being more lenient to the in-group criminals or the criminals with the gender congruent careers.

However, sometimes, the in-group bias can also cause the “black sheep effect” which is where the juror and the criminal are from the same in-group but the juror distances themselves from the criminal (Marques, Yzerbyt, & Leyens 1988). The distancing is a way to separating the criminal from the rest of the in-group so the criminals actions do not reflect upon the whole group. The distancing is seen in the harsher assessment of the in-group members, the criminals with the gender congruent careers. This may explain the assignment of negative traits and feelings towards the gender congruent career criminals. The criminals that are gender congruent may be seen as in-group members, but because they have committed acts that are not accepted, the participants are distancing themselves from the criminals. This may be why the proscription of feelings was the one area where all six questions were significant and that when combined they were also significant. This was the one area of questions that was more about the participant than the criminals. The participants were trying to make it clear that the criminal was not a reflection of the whole group and that the theft was not permissible.

Limitations

This study acts as a preliminary study for a wider range of studies. It provides ground work that further experimentation could expand upon, and there are a variety of ways in which the initial limitations could be improved.

The first area to investigate would be to conduct this same experiment in a different setting and with a different participant pool. The University of Michigan has a public reputation of being rather liberal in ideology, and offers a relatively young participant pool, both of which may be potential limitations. While the age is appropriate because at 18 years of age people become eligible for jury duty, many of them will not serve on jury duty until they are older, which means that they will not have the same influence on the criminal justice system as older participants would have. Also there may be a generational difference in the view of the amount of deviance in a gender incongruent career. Even though some of these questionnaire responses were influenced by the hypothetical criminal's gender and career, many of the other questions had non-significant results. This may not be the case with an older or more conservative audience. There may also be a difference between a study conducted with an audience that is attending college and a group of similar aged participants with less education. Education may mitigate some of the effects of gender stereotypes and career expectations.

This study did not try and probe the motivation of the participants to punish. An experiment that attempts to analyze the motivation of why the participants punish would be helpful. The study only focused on the overall picture of punishment and negative thoughts, but there were no questions on the motivation of the participants. The motivation may provide a clearer picture as to why there is this difference in the negative traits, and may show a better

reason as to why there is a trend towards the gender incongruent career criminals being punished more severely.

It would also be helpful to conduct this study with a focus on guilt rather than punishment. In this study the guilt of the criminal was never in question. In a study where the participants must decide on the guilt of a defendant they would be acting as a mock juror rather than a judge. This may show more clearly some of the interactions of gender and career on the participants' decisions.

Another limitation of the study was the careers chosen for the fictional criminals. While the goal was to choose two careers that had similar levels of education, pay, and prestige, there were some flaws. The first was the social implications of having a nurse commit a crime. The understanding that a nurse is someone in a caring role, who is supposed to help and heal others, is in direct conflict with someone committing a crime. This would seem to have an affect on how negatively people responded to a nurse that is accused of a crime. There was also a disparity in the prestige of a plumber compared to a nurse, perhaps because many people do not realize the skill needed to be a plumber. A questionnaire with different careers that are perceived to be more equivalent may help reduce some of the problems with this study. A problem with resolving this disparity is that many of the careers associated with female are considered caring roles, which would have similar issues to nursing.

One other area of interest to further study may be the use of an implicit test set up. If people are given time for only a snap judgment as compared to however much time they think they need, it would not allow time for the participants to correct for political acceptability. From observing the participants during the experiment, there were many people that changed their answers as they read other questions, or tried to figure out the hypothesis of the study. If this

options were taken away and the participants were only allowed a couple of seconds per questions, with no way to return to a question, there would be a way to see results without social censoring.

This study has taken the first step towards a new area of research in the extralegal factors that influence juries. There are many more questions than answers from this study, and those questions cannot be answered by this study alone. Instead it is time to start looking closer at the extralegal factors that show a bias and start looking closer at why they are there, and if any of them may be related to other phenomenon. Jury selection has already been affected by studies on the extralegal biases, with a better understanding of what is happening, the court systems could better use these factors to make the court fairer.

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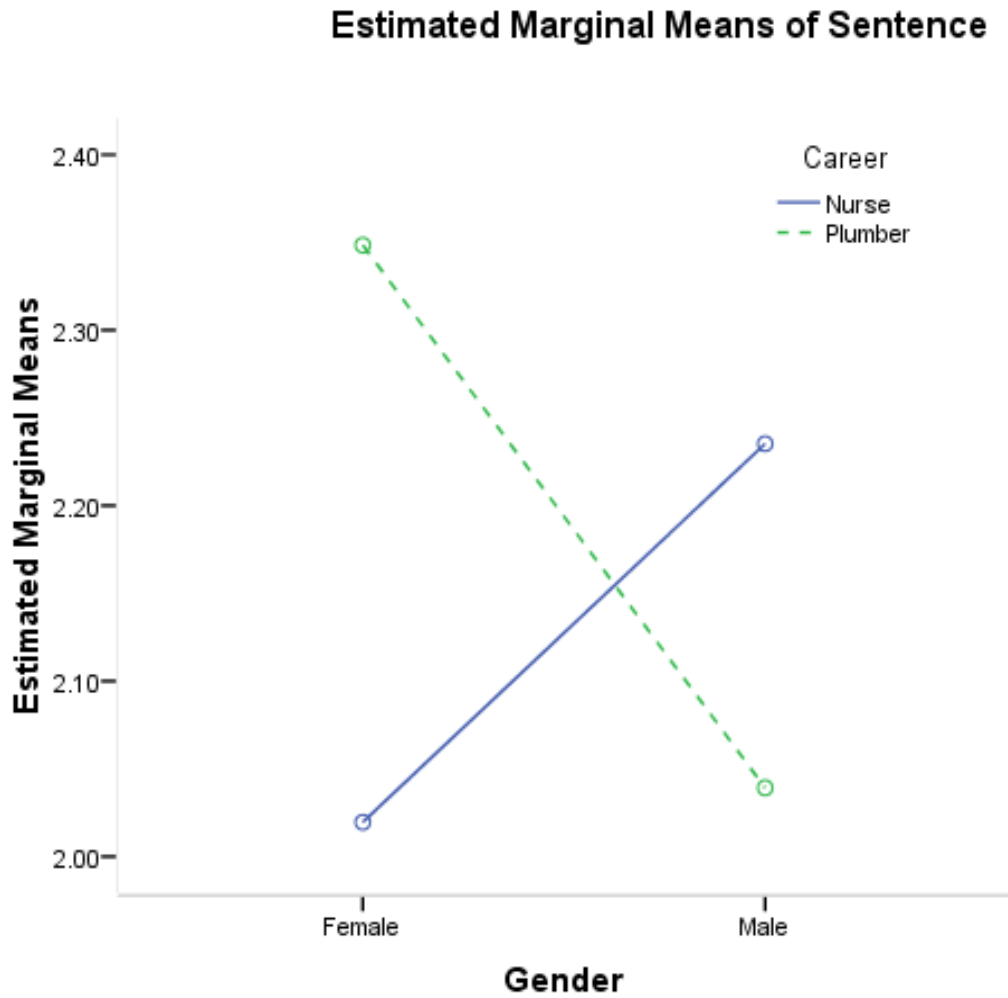


Figure 1. This graph shows the interaction of gender and career for the length of sentence for the criminal. The larger the number on the Y-axis the longer the sentence proscribed to the criminal. The female plumber was given the longest sentence.

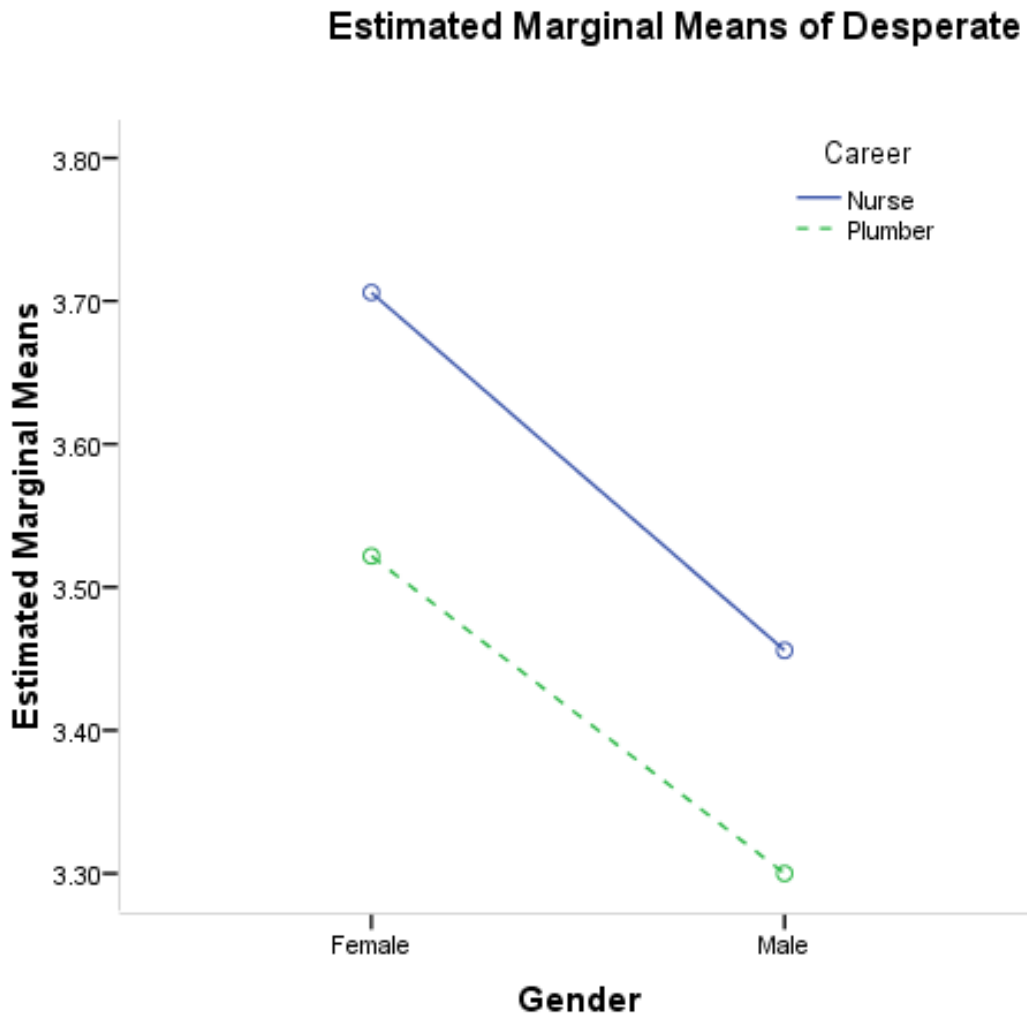


Figure 2. This graph shows how desperate the participants perceived the criminal to be, with the larger number meaning more desperate. There is a gender difference in perceived desperation; female criminals were perceived as more desperate than the male criminals, with the female nurse being viewed as the most desperate.

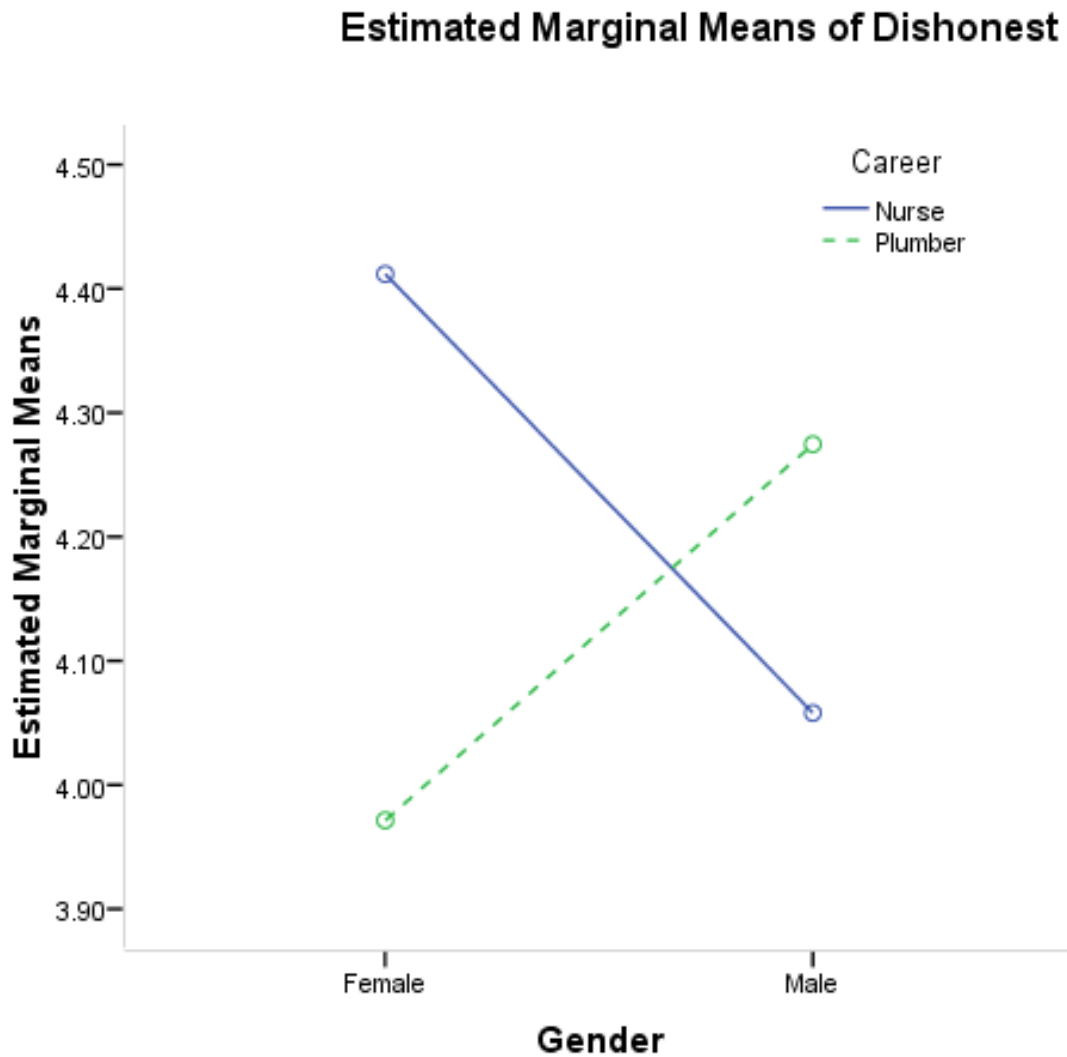


Figure 3. This graph shows how dishonest the participants perceived the criminal to be. The larger the number on the Y-axis the more dishonest the criminal was perceived to be. There is an interaction between gender and career. The female nurse was seen as the most dishonest.

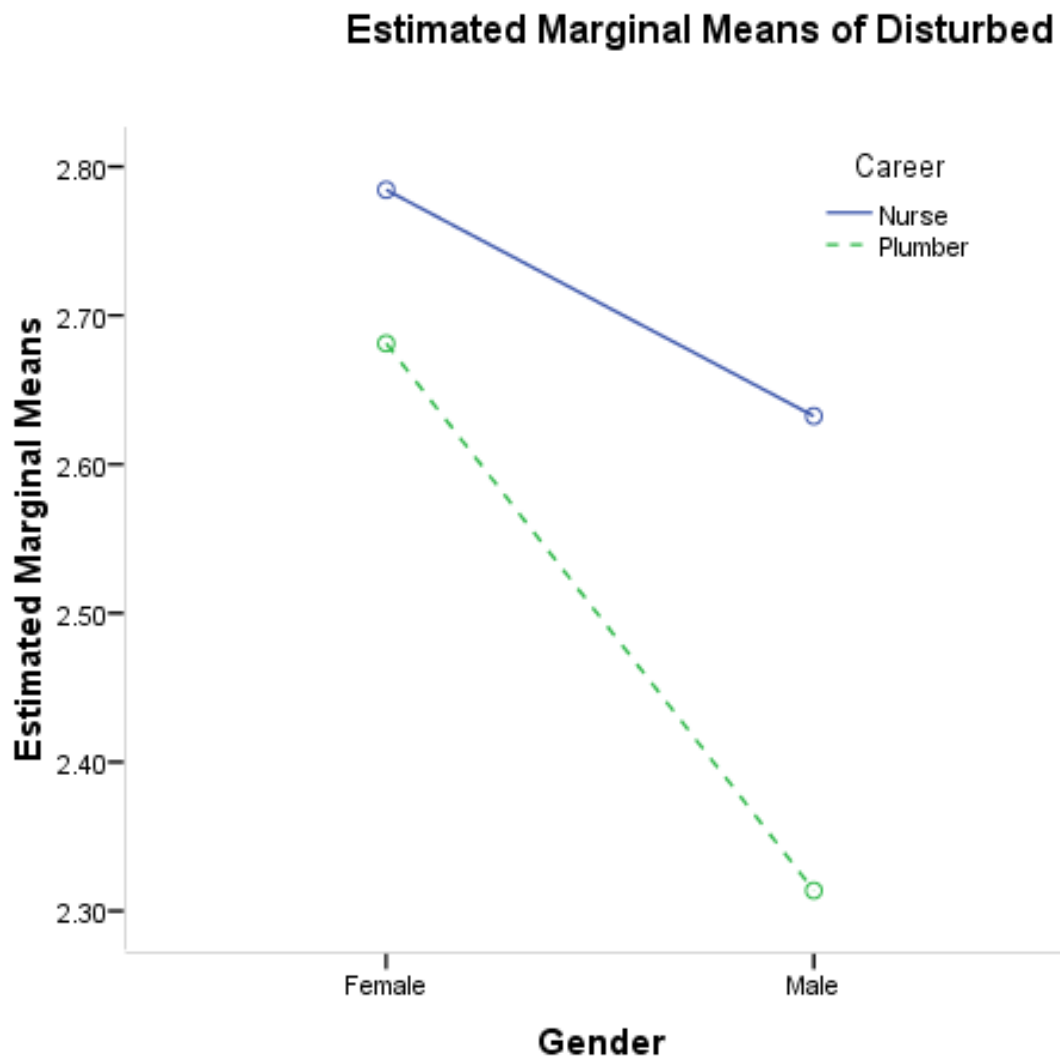


Figure 4. This graph shows how mentally disturbed the criminal was thought to be. There is no interaction but there is both a gender and a career difference. The Nurses and the females were seen as the most disturbed. The male plumber was seen as the least mentally disturbed.

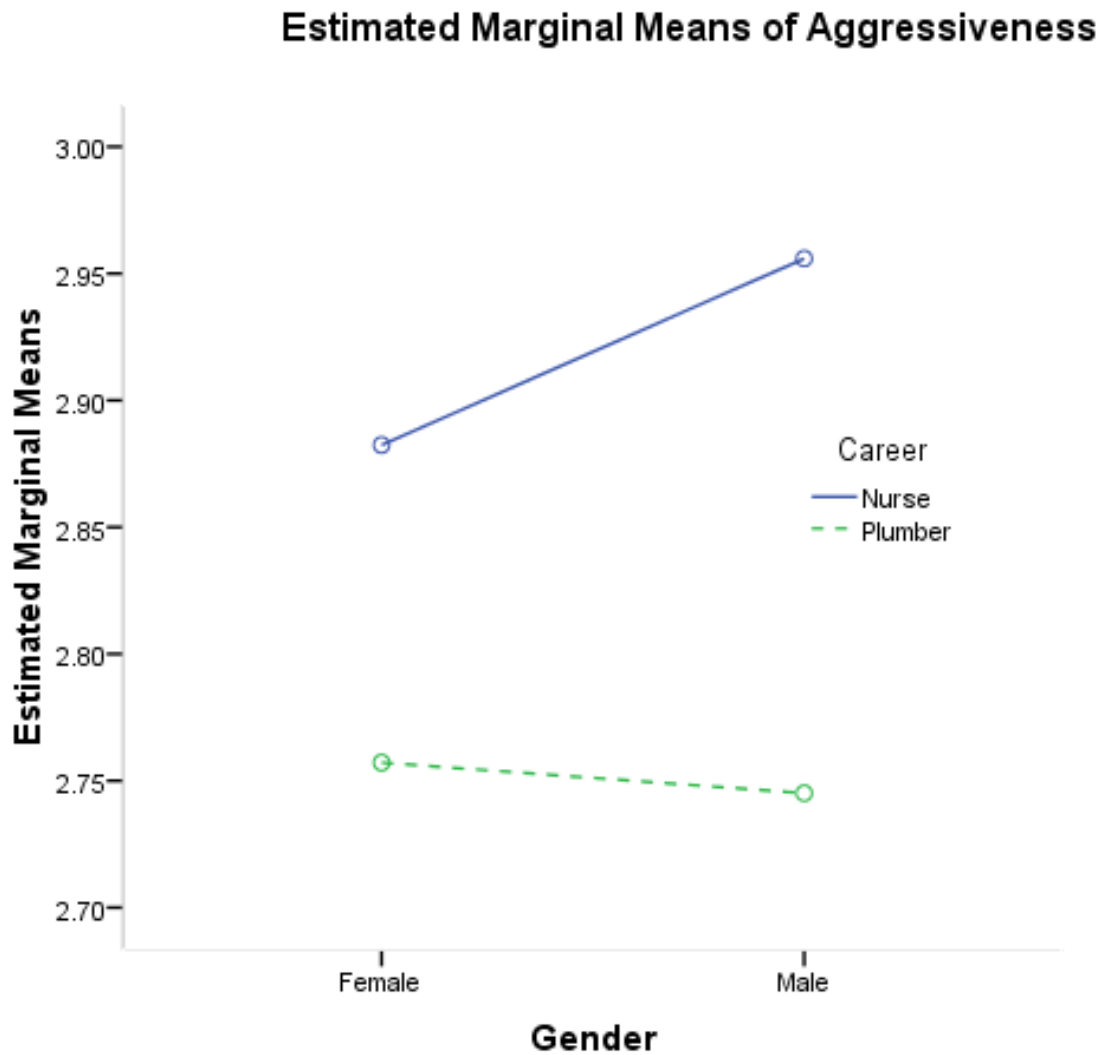


Figure 5. This graph is the measure of the aggressiveness of the criminal. There is a career difference, but no interaction. The nurses were perceived to be more aggressive than the plumbers.

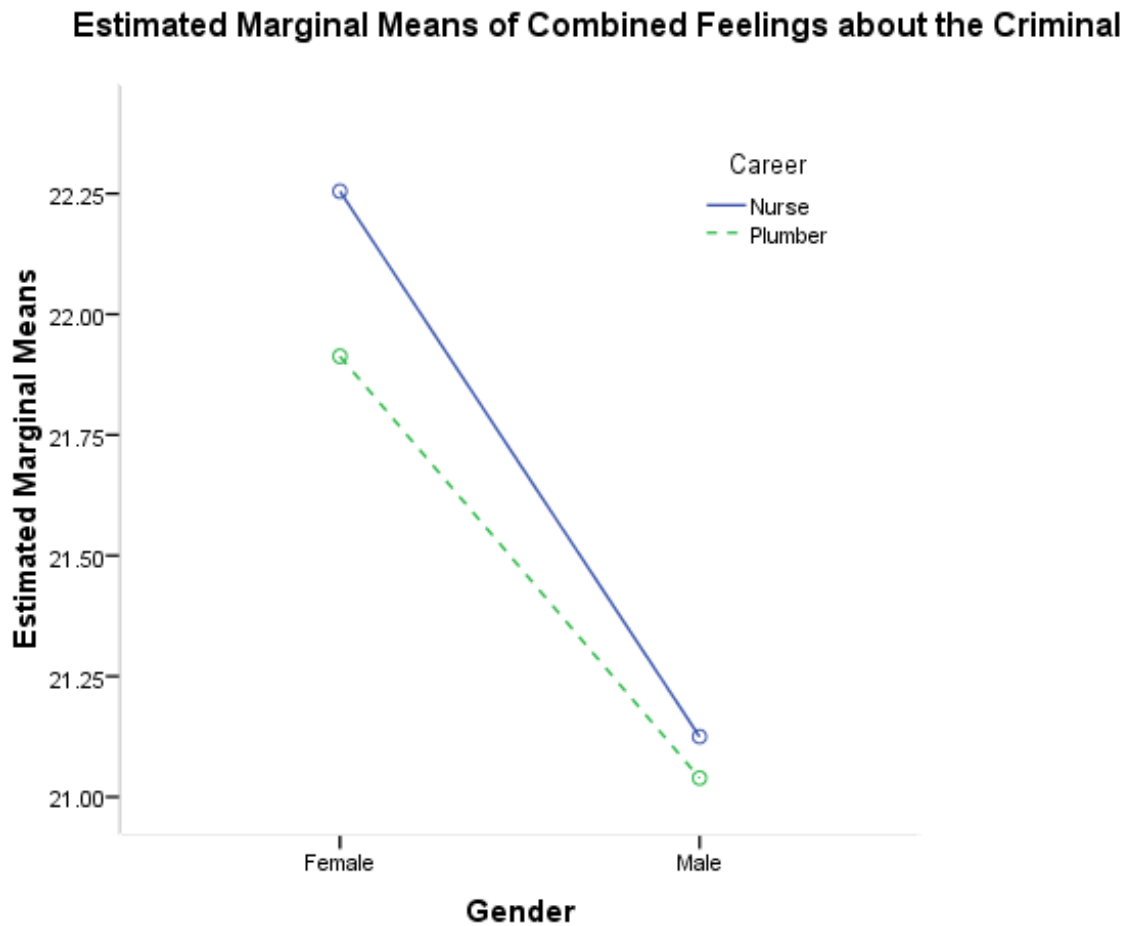


Figure 6. The six measures of participants' feelings about the criminals were combined into one measure. There is a clear gender difference, with the participants associating more negative feelings with the female criminals.

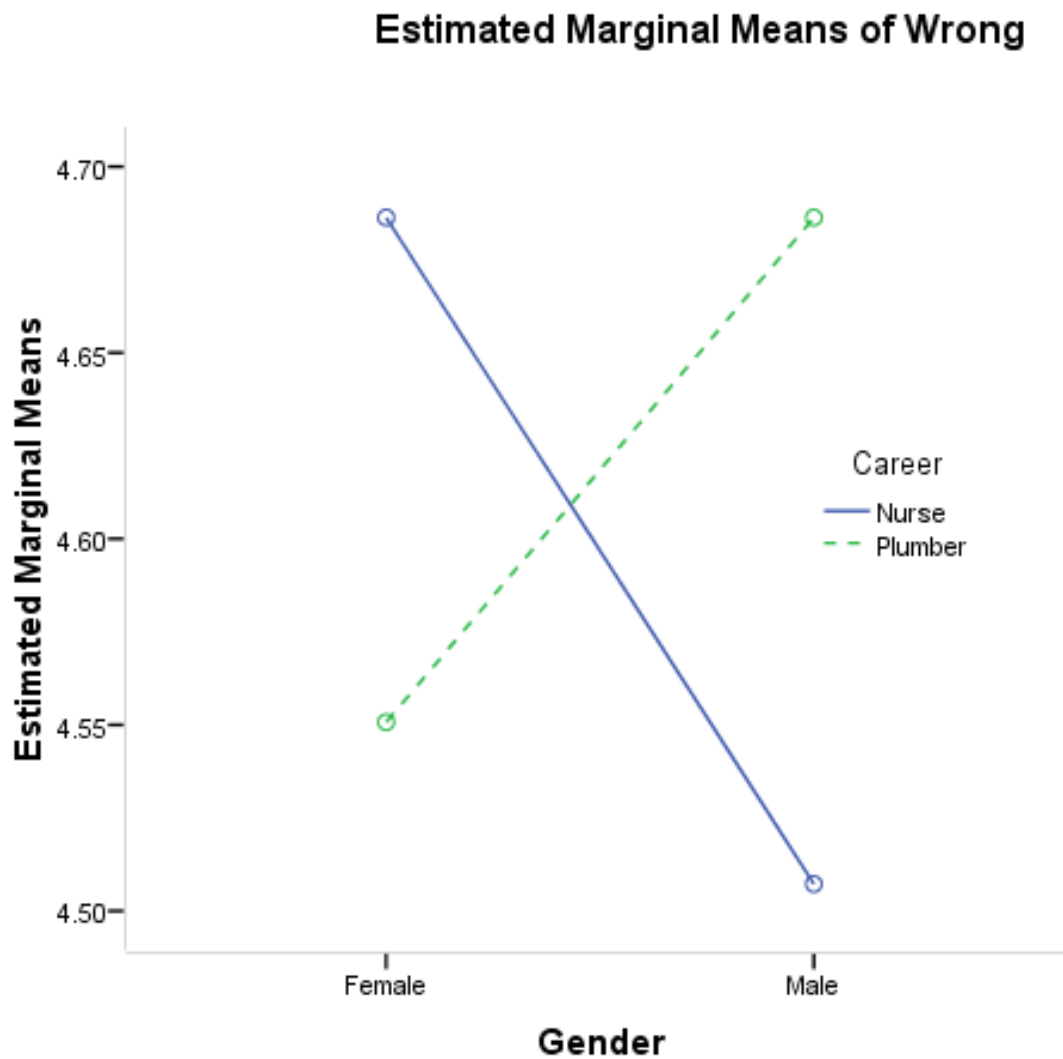


Figure 7. This graph shows how wrong the participants thought the theft was. There is an interaction between the gender and career of the criminal. The criminals with a gender congruent career were perceived as having committed a more wrong act than the criminals with the gender incongruent career.

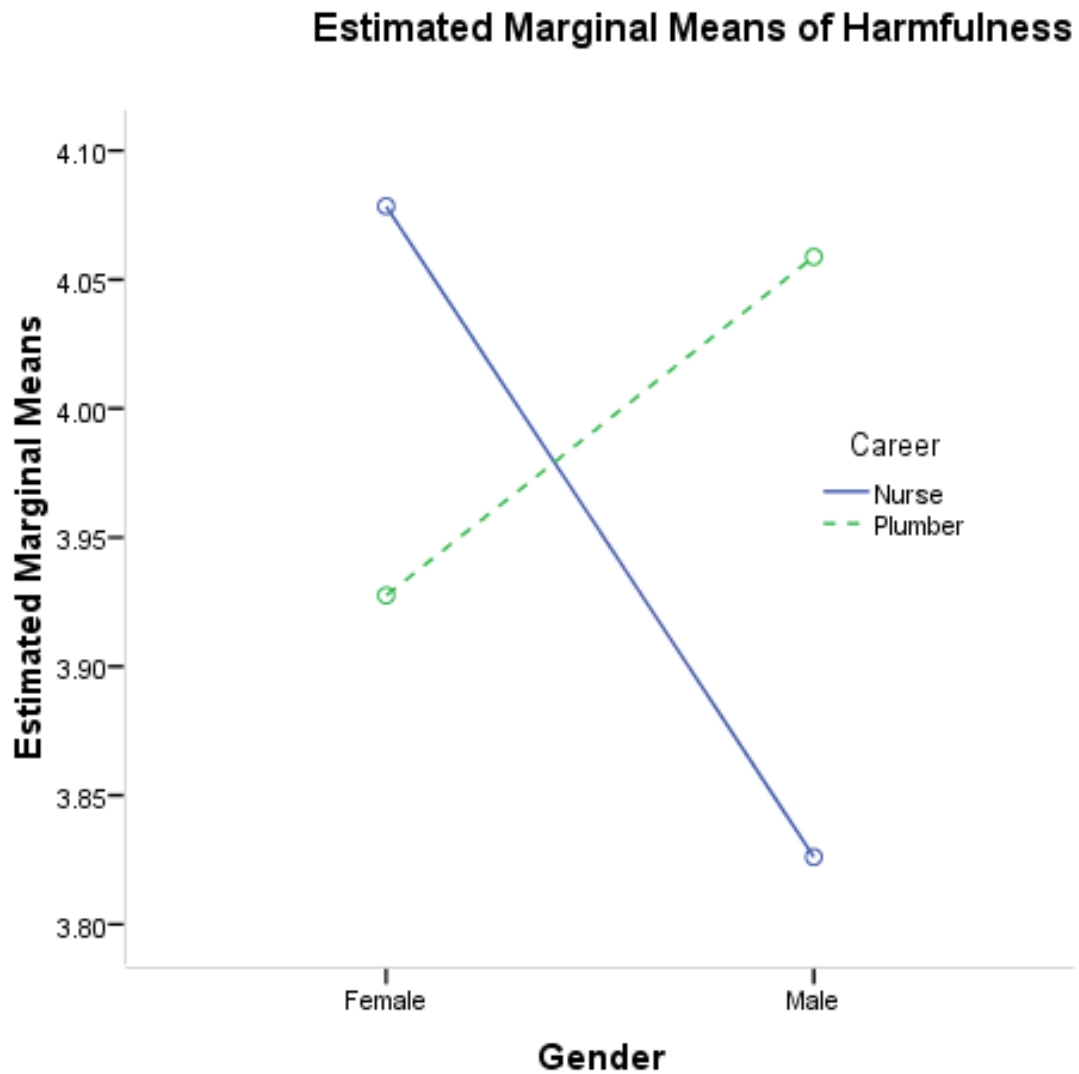


Figure 8. The participants were asked how harmful they perceived the theft of 10,000 dollars. There is an interaction between the criminals' career and gender. The female nurse and male plumber were perceived as having committed a more harmful act.

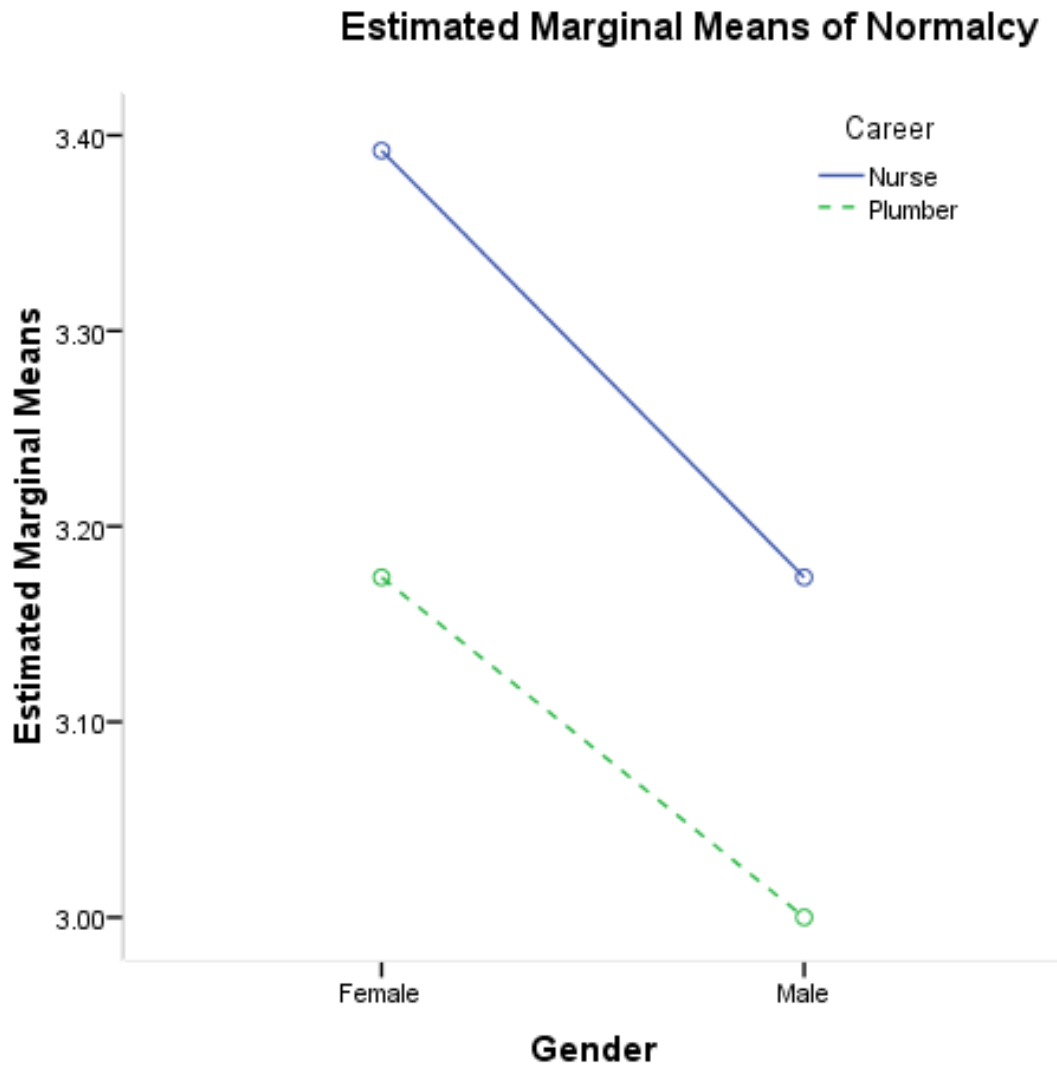


Figure 9. This graph shows how normal the participants perceived the criminals to be. There was no interaction, but there is a gender and a career difference. The males and the plumbers were seen as the most normal, and the females and the nurses as the least normal.

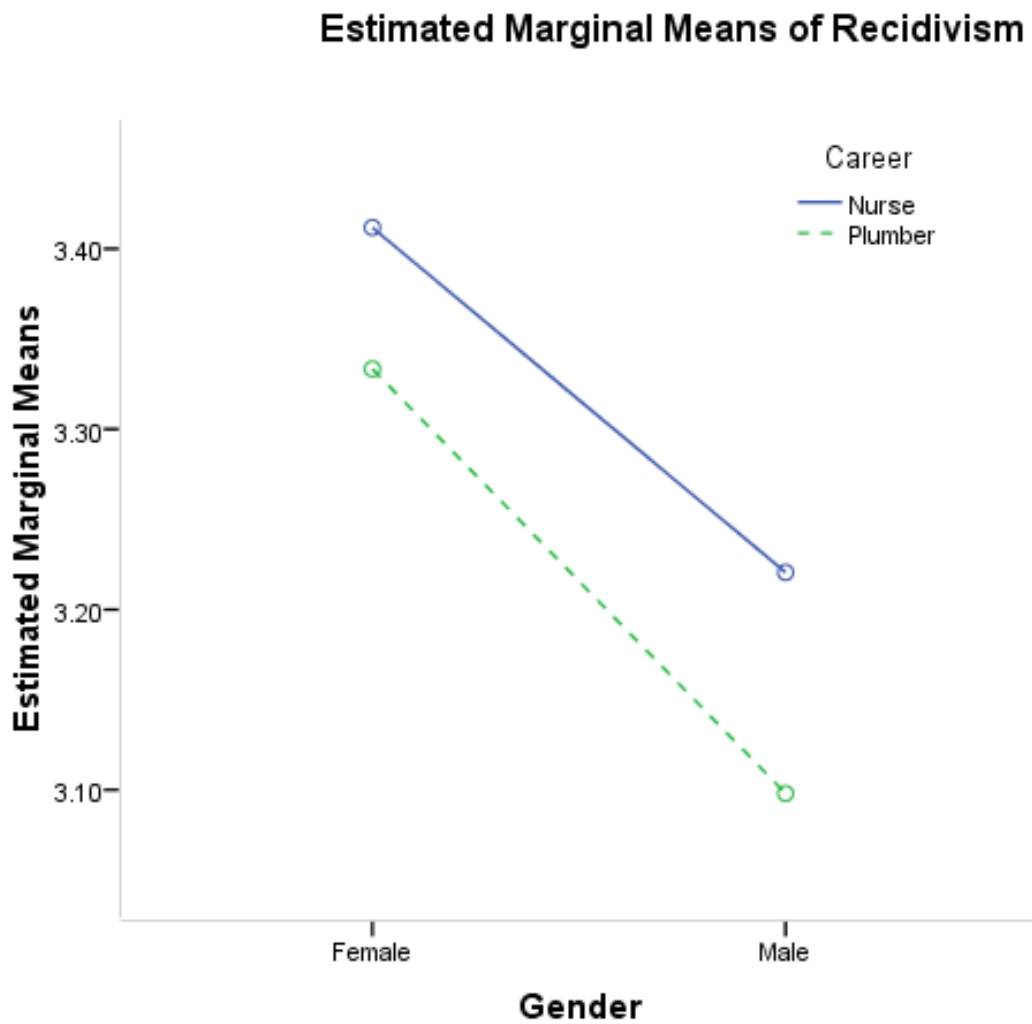


Figure 10. This graph shows the likelihood that the criminal will steal again, or their rate of recidivism as determined by the participants. There is a gender difference, and the females are perceived as most likely to steal again in the future.

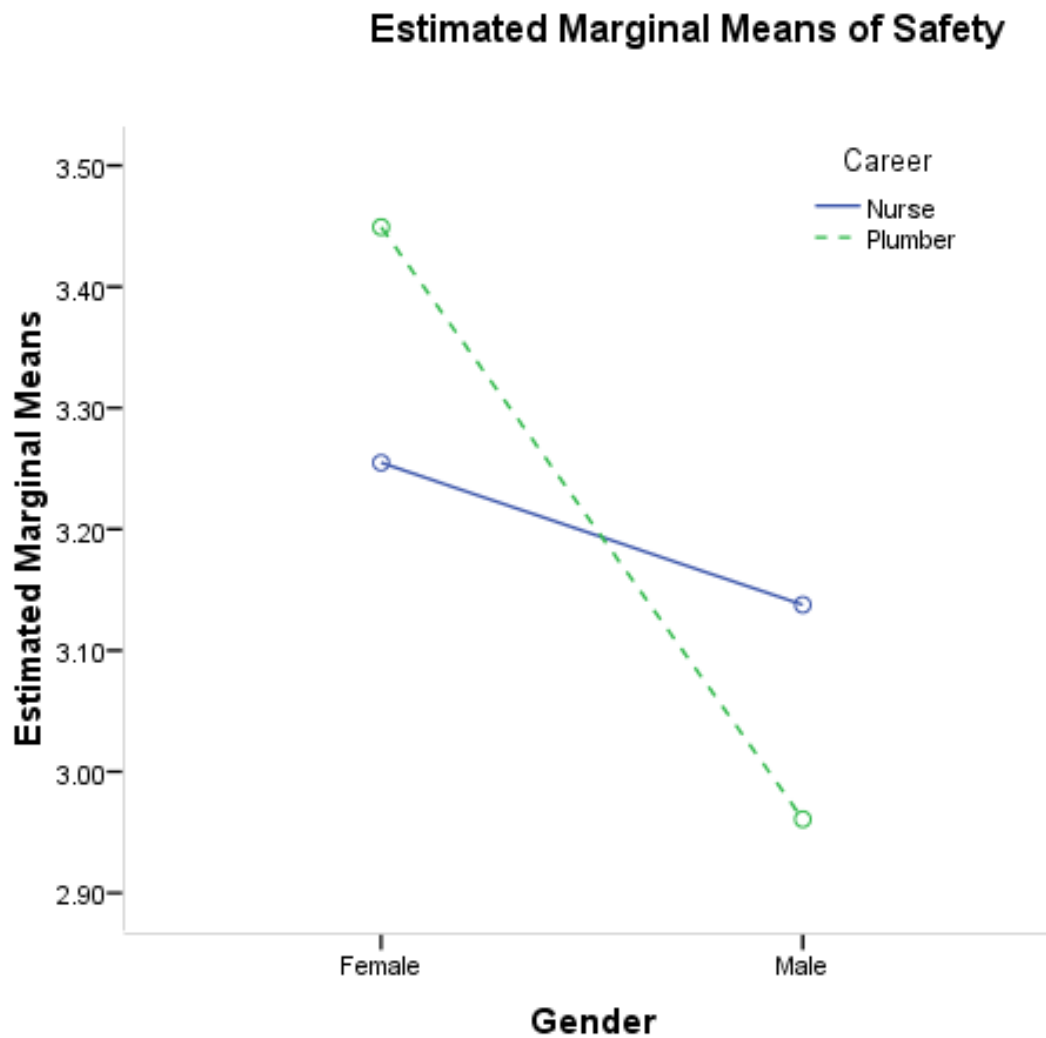


Figure 11. This graph shows how safe the participants would feel if they lived next to the criminal. There is a gender difference, but no interaction. The male criminals were perceived as being safer to live next to than the female criminals.

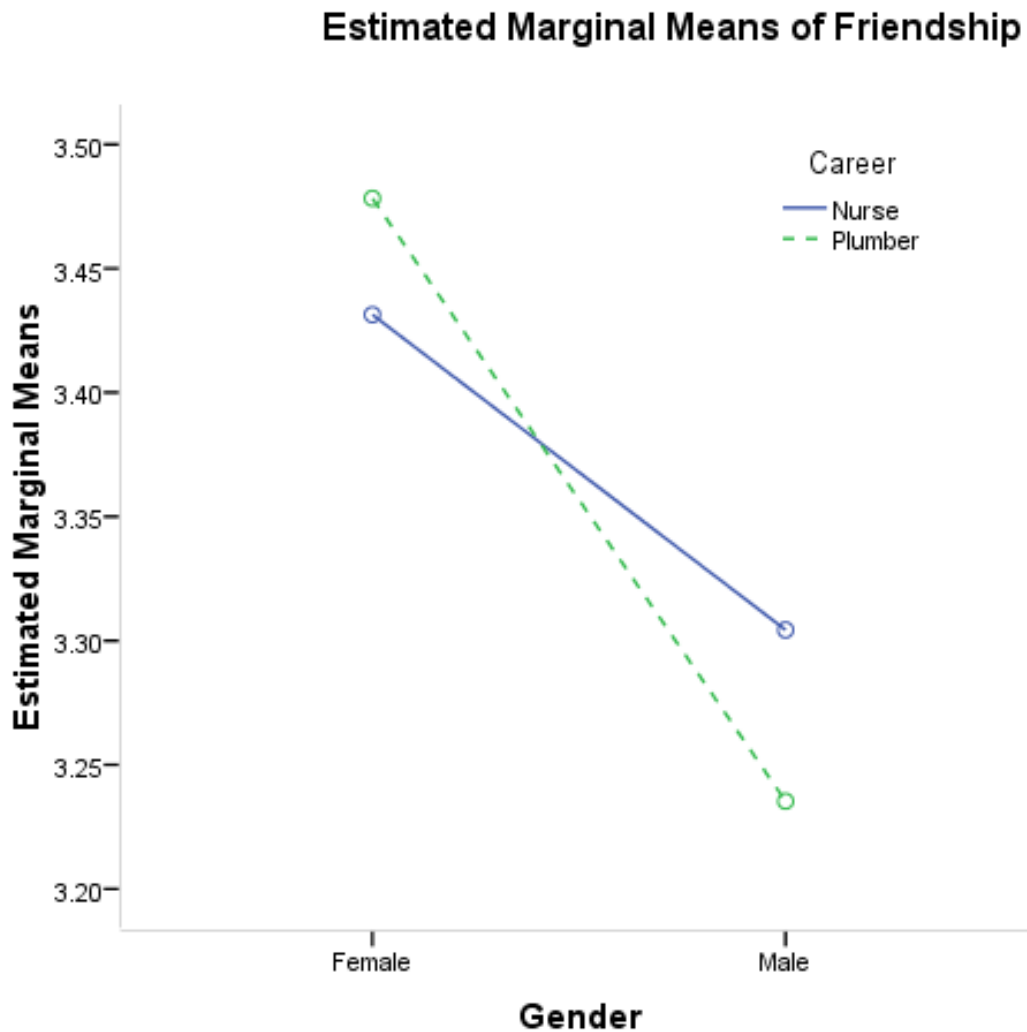


Figure 12. This graph shows how likely the participants were to be friends with the criminal if they were to meet. There was no interaction, but there was a gender difference. The participants felt they would be less likely to be friends with the female criminals.

Appendix A

Experimental Measure

Please read the information below carefully and then answer the questions that follow.

John has been convicted of stealing \$10,000 dollars from the hospital where he worked as a nurse. He was caught by a co-worker and turned over to the police. There was sufficient evidence against him, and he was found to be guilty beyond a reasonable doubt by a jury of his peers.



Please read the information below carefully and then answer the questions that follow.

Jill has been convicted of stealing \$10,000 dollars from the hospital where she worked as a nurse. She was caught by a co-worker and turned over to the police. There was sufficient evidence against her, and she was found to be guilty beyond a reasonable doubt by a jury of her peers.



Please read the information below carefully and then answer the questions that follow.

Jim has been convicted of stealing \$10,000 dollars from the plumbing company where he worked as a plumber. He was caught by a co-worker and turned over to the police. There was sufficient evidence against him, and he was found to be guilty beyond a reasonable doubt by a jury of his peers.



Please read the information below carefully and then answer the questions that follow.

Jenny has been convicted of stealing \$10,000 dollars from the plumbing company where she worked as a plumber. She was caught by a co-worker and turned over to the police. There was sufficient evidence against her, and she was found to be guilty beyond a reasonable doubt by a jury of her peers.



Appendix B

Questionnaire

The minimum sentence for stealing \$10,000 is 1 year in prison and the maximum is 10 years. What do you think this criminal's penalty should be? Circle one answer.

1-2 years 3-4 years 5-6 years 7-8 years 9-10years

How high should the fine be that the criminal has to pay? (Please just check one box)

Less than what was stolen

Only what was stolen

What was stolen plus their own court fees

What was stolen and both sides' court fees

What was stolen, all the court fees, and more for other damages

If you choose the exact price of the fine what would it be? \$_____

For this next section please think about the criminal you just read about and please rate how strongly you agree with the following statements. Please circle your answer.

This person is aggressive:

Strongly Disagree Disagree Neutral Agree Strongly Agree

This person is selfish:

Strongly Disagree Disagree Neutral Agree Strongly Agree

This person is sociable:

Strongly Disagree Disagree Neutral Agree Strongly Agree

This person is dishonest:

Strongly Disagree Disagree Neutral Agree Strongly Agree

This person is inconsiderate:

Strongly Disagree Disagree Neutral Agree Strongly Agree

This person is greedy:

Strongly Disagree Disagree Neutral Agree Strongly Agree

This person did something wrong:

Strongly Disagree Disagree Neutral Agree Strongly Agree

This person was desperate:

Strongly Disagree Disagree Neutral Agree Strongly Agree

This person is mentally disturbed:

Strongly Disagree Disagree Neutral Agree Strongly Agree

For this section think of the criminal and answer for how strongly you agree with the following statement. Please circle your answer.

The criminal stole for their own gain.

Strongly Disagree Disagree Neutral Agree Strongly Agree

This criminal stole to support their family.

Strongly Disagree Disagree Neutral Agree Strongly Agree

This criminal would steal again in the future.

Strongly Disagree Disagree Neutral Agree Strongly Agree

This person is a victim of circumstance:

Strongly Disagree Disagree Neutral Agree Strongly Agree

This person is normal:

Strongly Disagree Disagree Neutral Agree Strongly Agree

Please answer about your own feelings for the following questions. Please circle your answer.

I would feel safe living next to the person in the story.

Strongly Disagree Disagree Neutral Agree Strongly Agree

I would be friends with this person.

Strongly Disagree Disagree Neutral Agree Strongly Agree

I feel that the theft of \$10,000 was a harmful act.

Strongly Disagree Disagree Neutral Agree Strongly Agree

Please answer the questions below to the best of your ability. If there is a blank please write in it, if there are boxes please check the one best answer.

What is your age? _____

What gender do you identify as?

Female

Male

Other: _____

What racial background are you?

White

Black

Asian

Latino/a

Multiracial

Other: _____

What is your sexual orientation?

Heterosexual

Homosexual

Bisexual/Pansexual

Other: _____