The Atlantic

Judge's Football Team Loses, Juvenile Sentences Go Up

No, seriously.

Gavin Averill / Reuters

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Kids who are sentenced by college-football-loving judges who are disappointed after unexpected team losses are finding themselves behind bars for longer than kids who are sentenced after wins or predicted losses.

That's the gist of a new working paper by a pair of economists at Louisiana State University. It sounds almost comical, like an *Onion* headline, at first glance: "Judge Sentences Teen to Two Years After Louisiana Tigers Fall to Wisconsin Badgers." But, insists Naci Mocan, an economics professor at LSU and a co-author (with a fellow professor, Ozkan Eren) of "Emotional Judges and Unlucky Juveniles," it's not far off.

In looking at decisions handed down by judges in Louisiana's juvenile courts between 1996 and 2012, the pair found that when LSU lost football games it was expected to win, judges—specifically those who had

earned their bachelor's degrees from the school—issued harsher sentences in the week following the loss. When the team was ranked in the top 10 before the losing game, kids wound up behind bars for about two months longer, on average. When the team was not as highly ranked, it was a little more than a month. The pair found that the harsher sentences disproportionately affected black defendants.

Judges are supposed to operate without bias and without letting their emotions influence how they make decisions. They are also human. And the idea that emotions in one realm shape decisions in another is not new. The stock market does better when the sun is shining, for instance. But the stakes, particularly for young people of color, are high.

The authors looked specifically at first-time offenders between the ages of 10 and 17 who were convicted of a single statute offense, like drug use or robbery, to "circumvent any potential confounding effects." They excluded first- and second-degree murder and aggravated rape because those cases require mandatory sentences in Louisiana, and ultimately looked at about 8,200 records involving 207 judges.

Mocan and Eren found that the behavior of the children in court wasn't a factor in sentencing. Economic background didn't seem to play a role either. Cases are randomly assigned by a computer in Louisiana juvenile court, so judge selection wasn't an issue. And a placebo test showed that non-LSU games didn't have an impact.

The research is obviously limited in scope, and the authors looked at a state where football culture runs deep. It's unclear whether judges in, say, California, would hand down longer sentences after a University of Southern California loss. Jeffrey Butts, the director of the Research and Evaluation Center at the John Jay College of Criminal Justice in New York, said the study seemed like "academic clickbait." What are judges supposed to do, he asked rhetorically, not handle cases in the week following each unexpected loss?

Butts is open to good data analysis, he said, and appreciates transparency, but he has concerns about what he sees as a movement toward using large data sets for things like predictive policing, where police use math and data analysis to pinpoint potential criminal activity. That may be acceptable as long as it's one tool in many, he said, but data shouldn't drive the entire justice system.

Where some might argue relying on data would eliminate human bias, Butts worries it would reinforce and hide bias. Consider, he said, a 16-year-old drug user who lives in a neighborhood where everyone has a car and a rec room or a basement where neighborhood kids gather to smoke or shoot up or whatever. Those kids are going from private space to private space, so the chances of being seen by a cop and arrested are low. Now consider a 16-year-old drug user who lives in a two-room apartment where no one has cars. He and his friends wind up taking a bus or walking to a local park or alleyway, where the chances of being arrested are high. That second kid might get picked up more often, which might mean increasingly tough sentences. A human might be more aware of the context in which the kids are committing the crimes, Butts said, where an algorithm might fail.

"Maybe they will be careful."

But Mocan hopes the research will strengthen what he says is a growing body of evidence that suggests emotions influence unrelated decisions. He hopes, too, that the more judges know about the impact of emotional shocks (in this case, football losses), the more aware they'll be of their own decisionmaking. "Maybe they will be careful," he said.

Mocan and his colleague started looking at the impact of football scores after studying how judges react to news coverage and local crimes. As they were contemplating how judicial decisions are affected by judges' exposure to different communities, they wondered whether football might also be a factor. "Frankly, in the beginning, we thought we wouldn't find anything and that it was probably a waste of time," Mocan said. "But, in fact, we found robust and significant relationships."

Marc Schindler, the executive director of the Justice Policy Institute and a former public defender in Baltimore, said he found the study fascinating. While he's not convinced judges will take it to heart, he said defenders might see the study as a tool. If he was defending a kid in Louisiana in the week after a big LSU upset and knew the judge had attended the school, he might say something like, "Now, Your Honor, I know we all had a rough day on Saturday, but we all know we're not going to let that impact our decision making..." Maybe it would backfire, but maybe it wouldn't.

Schindler wants to know how unique the results are, but, broadly, he thinks the paper could bring renewed attention to the fact that adult behavior or emotion, such as anger at a kid's attitude in court, can drive decisions in juvenile court where kids' actions are what should matter most. "We shouldn't lock kids up because they make us mad," he said. In an ideal world, he added, everyone dealing with children in the juvenile-justice system should be trained in adolescent development and also be aware of their own biases, racial and otherwise.

While the paper is relatively small in scale, perhaps it will spark a broader conversation and more research. "This is not a little lab experiment," Mocan said. "These are consequential decisions made by uniformly highly educated people."

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