



The Efficacy of the Boone Rule in Reducing Wrongful Conviction of Black Men in New York City



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Introduction

The American Criminal Justice System is plagued with injustices, and for most people of color it places them at a particular disadvantage due to the prevalence of multiple discrimination. New York, a cosmopolitan hub that boasts of incomparable diversity, sees high rates of incarceration of Black, Hispanic and Asian men, with Black men making the largest population of imprisoned people.

The Boone Rule emerged in 2018 after the appeal of the case of *People v. Boone*. (Otis Boone was sentenced to 25 years in prison for 2 robberies based off a witness account) citing wrongful identification due to cross-racial identification. Cross-racial identification is the psychological phenomenon that explains the tendency to easily recognize faces that belong to one's own race, and misidentify those of other races. Where the state introduces witness-based identification evidence, and the witness is of a different race, the jury should be instructed to allow jurors to assess the evidence based on cross-racial identification. The goal of this rule is to reduce cases of wrongful conviction caused by misidentification that particularly affect Black people.

To Curb Bad Verdicts, Court Adds Lesson on Racial Bias for Juries

A state court is requiring that juries be told in some cases about the possible unreliability of witnesses identifying a suspect of a different race.

The New York Times
A Black Man Spent 7 Years in Prison. Then a Court Changed the Rules on Racial Bias.



Otis Boone, who was recently acquitted of robbery after a second trial, on his way home in Brooklyn. Jeena Moon for The New York Times

Limitations

The NYC Courts database has a 74% rate of report from people that go through the Court system, including but not limited to incarcerated people, lawyers, judges, paralegals and advocates, so there may be some crucial data that is being overlooked.

Most of the data and sources I used are self-reported or opinion-based which makes them subject to bias whilst immediately advantaging people with the resources and literacy to report or write literary pieces.

The Boone Rule is new hence there is limited data on its long-term influence on incarceration rates and racial and ethnic demographics in the New York Criminal Justice System.

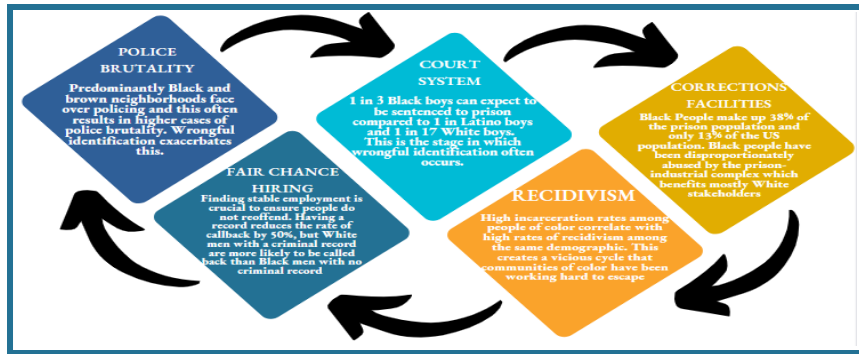
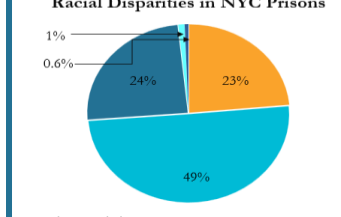
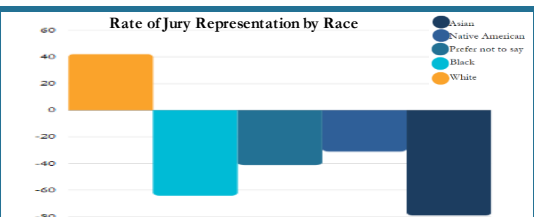
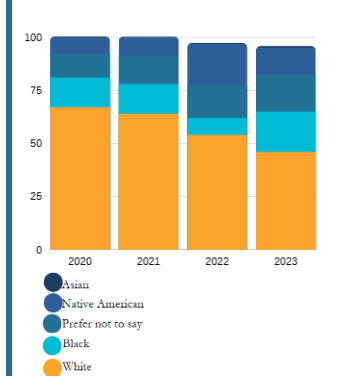
Results

Ultimately, this research concluded that even with thorough implementation of the Boone Rule, it would not make a statistical difference to the NY incarceration demographics due to multiple discrimination. It is currently impossible to eliminate all the biases at play in the legal system. The Boone Rule's efficacy would increase by working in tandem with other systemic changes that deal with the slew of existing prejudice in NYC's criminal justice system. On its own, it would however, change the type and quality of witness-based evidence that is permissible in court, with eyewitness evidence being appreciated in the context of cross racial bias. Policies like the Boone Rule are a step towards acknowledging that multiple discrimination, and cross racial identification could significantly affect incarceration rates of certain groups, namely Black men in Manhattan. Ultimately, if we do not just systematically tackle all the elements that keep Black people perpetually in the Criminal Justice System, policies like the Boone Rule will contribute very little in altering the status quo.

Key Findings

Juries and their biases need to be considered since they are the ones who will be analyzing evidence based on the Boone Rule. Juries in New York are often not the epitome of "Jury of one's peers" especially in cases involving people of color. A CUNY Law school sample study confirmed that Black and Hispanic people were extremely underrepresented in juries, when measured against their proportional representation in the population of Manhattan. On the other hand, White people were extremely overrepresented. Black and Asian racial groups have the lowest representation in the New York criminal court system's pool of judges. This contributes to intersectional discrimination by exacerbating racial bias, reducing the likelihood of the Boone rule being applied, and continuing with the status quo's high rates of imprisonment.

Judicial Demographics of the NYC Criminal Court



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Methods

This project mainly draws from legal literature, opinion pieces, demographics and data, and news reports.

I spent some time reading and analyzing the initial case *People v. Boone* to examine the procedure the legal professionals took when presenting and assessing evidence. I then went through the same process with the *People v. Boone* appeal to analyze the judicial procedure and arguments it took to establish the rule that could have drastically alter the outcomes of the initial case.

In the process of researching this I considered:

- 1. **Legal literature**, primarily recorded material from trials and hearings that I considered as my primary sources.
- 2. **Opinion pieces** from experts in the field of law and human rights to gauge the general reception of the rule by people who will most likely work with it
- 3. **Data** from the NYC Courts database to support the sources above with statistics and demographics.