

Would Judge Give Psychopath With Genetic Defect Lighter Sentence?

In 1991, a man named Stephen Mobley robbed a Domino's pizza in Hall County, Ga., and shot the restaurant manager dead.

Crimes like this happen all the time, but this particular case became a national story, in part because Mobley seemed so proud of his crime. After the robbery, he bragged about the killing and had the Domino's logo tattooed on his back.

But there was another reason Mobley's case became famous.

Right around the time Mobley went to trial, a study was published in a scientific journal about an extremely interesting gene called MAOA: monoamine oxidase A.

It did create a significant reduction in sentencing. From 14 years on average without the biological mechanism, to just about 13 years on average.

A Troubled Dutch Family

A geneticist named Han Brunner had been looking into MAOA — specifically what happens where there's a mutation in it — and, for his research, had decided to study a very unusual Dutch family.

According to Brunner, a number of the men in the family had a defect in their MAOA gene, and all of the males with that defect engaged in terrible behavior. They raped, assaulted, tried to kill — not the kind of people you wanted to meet on your nightly stroll to the windmill.

In the U.S., the study got a lot of media attention. The press was giddy with the idea that a defect in a gene might, in a sense, cause criminality. And after hearing about the work, Mobley decided that he should be genetically screened for MAOA deficiency. After all, Mobley reasoned, if his crime was the product of biology and not his own choices, judges would have to be more forgiving, more lenient when it came time to dole out a punishment.

But here's the question: Would a biological explanation actually reduce Mobley's sentence? Or could it increase it?

After all, the idea that aggression is written into the very cells of a person could easily push people in the opposite direction, to the conclusion that there's nothing to stop someone like Mobley from being violent in the future, and therefore that he should rot in jail for as long as humanly possible.

Basically, which way do biomedical explanations cut in criminal courtrooms?

The Power Of 'Psychopathy'

That's the question answered by a study published Thursday in the journal *Science*. To figure out which interpretation of biological explanations is more powerful in our criminal justice system, Lisa Aspinwall, Jim Tabery and Teneille Brown of the University of Utah sent 181 judges a description of a convicted criminal that was actually based on the Mobley case. Like Mobley, their convicted criminal goes to a fast-food restaurant, assaults the manager and then tattoos the fast-food logo (Burger King) on his back.

All of the judges in the study were told that this criminal was a diagnosed psychopath, but half of the judges then got additional information from a neurobiologist — a detailed explanation of the biological basis for psychopathy.

So how did the explanation affect sentencing? Simply using the term psychopath adds an average of five years to criminal sentences, according to this study, but once the biological explanation was included, the length of the sentence dropped.

"It did create a significant reduction in sentencing," says psychologist Lisa Aspinwall, "from 14 years on average without the biological mechanism, to just about 13 years on average."

In other words, Mobley was right: Our sympathy for the idea that biology might be responsible for criminal behavior is powerful. It's actually possible to see this in Mobley's own case. Mobley originally got the death penalty for his crime but appealed on the grounds that his counsel was bad because they didn't insist that he be tested for the MAOA defect.

One appeals court agreed with him and actually reduced his sentence from death to life in prison, but that was overturned by another court that said MAOA testimony shouldn't be considered, and Mobley was put to death in 2005. Essentially, for Mobley, access to a biological explanation was the difference between life and death.

A lot of power for a simple idea.