

The Impact of Prejudice Screening Procedures on Racial Bias in the Courtroom

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Abstract The current study examines the impact of the challenge for cause procedure and its effectiveness in curbing racial prejudice in trials involving Black defendants. Participants were provided with a trial summary of a defendant charged with either drug trafficking or embezzlement. The race of the defendant was either White or Black, with participants in the Black defendant condition receiving (prior to the trial presentation) either no challenge, a close-ended standard challenge, or a modified reflective pretrial questioning strategy. Overall, the results revealed an anti-Black bias in judgments. While the closed ended challenge did little to reduce this bias, the reflective format demonstrated a reduction in racial bias. Theoretical and applied implications of these findings are discussed.

Keywords Racial bias · Juror selection · Challenge for cause

The potential for racial bias in trials involving minority member defendants has been explicitly acknowledged by the courts within both Canada and the United States. Indeed, in the early 1990s, the potential for racial bias was explicitly recognized by the Canadian courts in trials of Black defendants via the challenge for cause procedure (*Regina v. Parks*, 1993), and since this time, attorneys in Canada have been permitted to question prospective jurors in trials involving not only Black defendants but defendants of any visible minority (*Regina v. Williams*, 1998). Similarly, the *voir dire*, a less restrictive procedure than its

Canadian counterpart, permits attorneys in the United States to question and eliminate potential jurors who might harbor racial bias in their decisions.

If one examines the body of archival research tracking the treatment of Blacks and other minority members at various decision points within the criminal justice system (e.g., Brownsberger, 2000; Demuth & Steffensmeier, 2004; Mustard, 2001), as well as the juror simulation research exploring the impact of defendant race on judgments (for a review see Sommers & Ellsworth, 2001), there appears to be justification to the court's concern. To date, however, empirical investigations of the remedies in place for dealing with issues of racial bias (i.e., juror selection procedures) have been scarce, with much of this work focusing on juror race and attorney use of preemptory challenges (Rose, 1999; Sommers & Norton, 2007). As such, the current research examines the impact of the Canadian challenge procedure and its effectiveness in identifying and curbing racial prejudice in trials involving Black defendants.

In addition to the question of whether or not the procedure can successfully identify individuals who would likely demonstrate bias, its impact on the decisions of those who survive the screening of partiality is also examined. Although it is possible that the challenge for cause procedure may have little impact on jurors' subsequent decisions, participation in this procedure may have independent effects on judgments (for an examination of process effects in "death qualification," see Haney, 1984). While some suggest that the procedure may enhance the jurors' ability to remain impartial, a claim asserted in *Parks* and echoed in subsequent decisions (*Regina v. Koh, Lu and Lim*, 1998), current social psychological research and theorizing indicates that it may also result in over or under corrections. It is within this context and with these questions in mind that the present study is cast.

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THE RACE-BASED CHALLENGE PROCEDURE

In contrast to the United States, prospective jurors in Canada are not typically questioned, leaving attorneys with only information pertaining to the prospective jurors' age, gender, and demeanor to exercise their preemptory challenges. When a judge has been convinced, however, that there is an "air of reality" to the claim that some of the jurors on the panel may be partial, as has occurred in trials of Black defendants since the *Parks* decision, the challenge for cause procedure can be invoked. The challenge itself involves a brief, structured questioning of the prospective juror, with the potential jury panel typically removed from the courtroom while prospective jurors are called in individually and questioned by the attorney invoking the challenge (Vidmar, 1997). In contrast to the U.S. *voir dire* procedure in which the judge renders the decision on the prospective juror's partiality (Rose & Diamond, in press), in Canada this determination is made by two of the actual jurors serving on the jury (see Vidmar, 1997; Vidmar & Schuller, 2001).¹

As well, in contrast to the *voir dire*, the format of the questioning in the challenge for cause procedure has been very restrictive, with its focus on the court's sole concern, that is, the *expression of bias* in the juror's decision. As such, prospective jurors may not be asked about their racial attitudes in general but only if their racial attitudes would affect their decision in the particular case (e.g., *Regina v. Griffis*, 1993). Typically, the standard challenge involves a single question, inviting a close-ended response from the potential juror; for instance, "Would your ability to judge the evidence in this case without bias, prejudice or partiality be affected by the fact that the person charged is Black?" (Tanovich, Paciocco, & Skurka, 1997). Because the prospective jurors' response to the question is limited to a "yes" or "no" response, triers only have prospective juror curtail self-assessment to render their decision of partiality.

Recent research and theorizing on prejudice and discrimination suggests that such self-assessments may often be incorrect, thereby raising serious questions about the efficacy of the challenge procedure. For instance, Johnson, Whitestone, Jackson, and Gatto (1995) found that although

¹ Two individuals from the panel are randomly selected to begin the process. These two confer on the impartiality of the questioned jurors. The first juror deemed impartial by these two (and who has survived attorney preemptory challenges) becomes the first member of the actual jury. One of the two original triers is then excused, and the second trier, along with Juror #1, assesses the impartiality of prospective jurors until Juror #2 is selected, after which the other original trier is excused. This process then continues with Jurors 1 and 2 assessing impartiality for the selection of Juror 3, Jurors 2 and 3 assessing impartiality for the selection of Juror 4, and so on until 12 jurors are impaneled.

White participants were more influenced by incriminating inadmissible evidence when a defendant was Black (as opposed to White), they reported feeling less affected by the inadmissible evidence than participants in a White defendant inadmissible condition. Similarly, theorizing related to aversive racism suggests that people may be unaware of existing biases and often maintain that they are personally fair and egalitarian (Dovidio & Gaertner, 1986; Gaertner & Dovidio, 1986; Son Hing, Li, & Zanna, 2002). In particular, research has demonstrated that while many people do not believe that they themselves are biased against Blacks, there is strong empirical evidence to suggest otherwise (Dovidio, Kawakami, & Gaertner, 2002; Dovidio, Kawakami, Johnson, Johnson, & Howard, 1997).

Furthermore, recent research demonstrates that even if people are able to identify the possibility that they may be biased against Blacks, they may not fully understand how and to what extent biases can affect their decisions. In particular, affective forecasting studies (Mallett, Wilson, & Gilbert, 2007; Nisbett & Wilson, 1977; Wilson, 2002; Wilson & Gilbert, 2003) demonstrate that in general people are often ignorant as to how they will respond to actual situations and are often woefully wrong in their beliefs about the impact of certain cues on their responses. More on point, in a study examining the effects of pretrial publicity, mock jurors' self-assessment of pretrial information on verdicts revealed that the jurors' self-assessment of the potential influence of the information on their verdicts was independent of the subsequent verdicts they rendered (Kerr, Kramer, Carroll, & Alfini, 1991). And finally, even if people can admit to their possible biases, they may still not correct for their partiality if they lack the motivation or cognitive capacity to counteract these attitudes (Kawakami, Dovidio, Moll, Hermsen, & Russin, 2000; Kawakami, Dovidio, & Van Kamp, 2005, 2007; Wegener & Petty, 1997; Wilson & Brekke, 1994).

THE RACE-BASED CHALLENGE VERSUS MORE REFLECTIVE *VOIR DIRE* PROCEDURES

In contrast to the work described above, some recent work on the *voir dire* process has indicated that it can have some of its desired effect. Using a mock jury simulation, Sommers (2006) assessed the impact of the American counterpart to the challenge for cause procedure, the *voir dire*, on jury deliberations and decisions in a trial involving a Black defendant. Results demonstrated that, in comparison to participants who received a race neutral pretrial selection questionnaire, those who completed a race relevant *voir dire*, which was designed to induce participants to think about their overall racial attitudes and how these attitudes might affect their reactions to the trial, were less

likely to find the defendant guilty. Although it is unclear whether these findings constitute attenuation of bias or overcorrection since a White defendant condition was not included in the study, the findings do suggest that the very process of questioning “may influence prospective jurors by reminding them of the importance of rendering judgments free from prejudice” (p. 606). While Canadian jurors are not asked to reflect upon the impact that racial attitudes may have on judgments, similar purported benefits of the procedure were explicitly noted by the courts in the *Parks* decision: “prospective jurors are sensitized from the outset...to the need to confront potential bias and ensure that it does not impact on their verdict” (see also Tanovich et al., 1997).

Notably, an important difference between the *voir dire* procedure employed in the United States (and modeled in Sommers’ work) and the procedure used in Canada is that the former, although quite variable in its practice, can potentially result in a more *reflective* analysis of the impact of racial bias on the part of the prospective juror. Indeed, Vidmar and Hans’ (2007) recent examination of the *voir dire* suggests that limited forms of *voir dire* are not very effective at detecting which jurors may be biased. Moreover, rather than simply asking participants if their ability to judge the case fairly would be impacted by race, as in the Canadian procedure, the less restrictive questioning format of the *voir dire* opens up the possibility to the prospective juror that they actually could be biased and may result in a deeper analysis of the extent of this bias. Although a more reflective strategy of challenge may not necessarily result in more valid assessments of one’s own biases (Nisbett & Wilson, 1977; Wilson, 2002), it instructs participants to consider how bias can influence their judgments and so orients them more toward the process of correction rather than a simple denial of prejudice. This more reflective process may prove to be more effective in making people aware of their biases and motivating them to be vigilant of their possible biases, as was indicated by the work of Sommers (2006). A primary goal of the present study was therefore to compare a more reflective process of questioning potential jurors about their biases to the more restricted challenge for cause procedure.

CONTEXTUAL CONSIDERATIONS

While the race of the defendant has been found to influence jurors’ decisions, recent research also suggests that the type of crime committed may augment these effects (Gordon & Anderson, 1995; Gordon, Bindrim, McNicholas, & Walden, 1988; Jones & Kaplan, 2003; Maxwell, Robinson, & Post, 2003). Specifically, defendants charged with crimes that are stereotypically associated with the defendants’ race

(e.g., Whites with crimes such as embezzlement, Blacks with crimes such as assault) are more likely to be viewed as dispositionally prone to committing such crime, more likely to be judged guilty, and treated more harshly than defendants charged with nonstereotypical crimes (Gordon, 1993; Gordon & Anderson, 1995; Gordon et al., 1988; Jones & Kaplan, 2003). A further goal of the present study was to examine how the challenge for cause might impact these crime congruency effects. It is possible that when the crime is race congruent, racial bias may be most pronounced, and so the challenge for cause will have the greatest potential to reduce racial bias. However, by drawing attention to race in the nonrace congruent crime, the challenge for cause procedure may activate people’s racial stereotypes, which in turn, if not corrected, may exert a negative influence on judgments. To examine these possibilities, the current research assessed the impact of the two pretrial questioning formats under conditions of both race-crime congruency (e.g., Black defendant charged with drug trafficking) and race-crime incongruency (e.g., Black defendant charged with embezzlement).

OVERVIEW OF PRESENT RESEARCH

The goal of the present study was twofold: (1) to assess the effectiveness of the current challenge procedure used in Canada and a more reflective procedure in terms of identifying those who would likely demonstrate racial bias in their decisions, and (2) to examine the impact of these two procedures on mock jurors’ subsequent decision processes. To this end, participants were provided with a trial summary of a Black defendant who was charged with committing either a race congruent (drug trafficking) or a race incongruent (embezzlement) crime. Two different forms of pretrial questioning—a close-ended challenge that mimicked the standard currently used in the Canadian courts and a more reflective strategy that required participants to first reflect upon *how* their ability to judge the evidence might be affected by the fact that the accused was Black—were contrasted to a Black defendant no challenge condition. As well, to gauge the impact of race based bias across the drug trafficking and embezzlement cases, and to gauge the direction of any potential effects in the challenge conditions, a White defendant condition was also included. We expected that while a traditional challenge procedure would be unlikely to impact biases in juror decisions, we expected that a more reflective form of questioning could potentially reduce these biases. Our main prediction therefore is not solely based on no differences between the no challenge and challenge conditions, but includes ameliorative effects related to a reflective strategy condition compared to the no challenge condition.

METHOD

Participants

Participants (159 women, 70 men; $M_{\text{age}} = 20.42$, $SD_{\text{age}} = 3.97$) were recruited from undergraduate classes at a large Canadian university and received partial course credit for their participation. The vast majority were single (93%) and viewed themselves as middle (50%) or upper middle class (33%). The majority identified as White (52%), 17% as South Asian, 15% as Asian, 6% as Middle Eastern, 4% as Hispanic, and 4% as “other” (3 failed to complete the item).²

Stimulus Case

Participants were presented with a trial summary of a criminal case involving either a charge of drug trafficking or a charge of embezzlement. The drug trafficking case, which was chosen as a stereotypic Black crime, was loosely based on *Regina v. Barnes* (1999), a case involving an undercover police operation in which an undercover officer claimed witnessing the defendant selling crack cocaine to an individual whom the officer had provided with marked bills. At trial, conflicting accounts of the events were presented (e.g., the officer’s line of vision, defendant’s possession of drugs, and the origin of the marked bill were in dispute). Embezzlement, which was chosen as a nonstereotypic Black crime, involved a case in which the defendant was charged with making an unauthorized loan on behalf of the trust company at which he was employed. Conflicting accounts of the transaction revolved around the payment and authorization of the loan (e.g., portion of loan received by loan holder, defendant’s impatience with the approval procedures, recent inheritance accounting for recent purchases).

Within the two trial scenarios, the race of the defendant was varied, with the defendant described as either Jamal Jackson, a 29-year-old Black male, or as Michael Carlson, a 29-year-old White male. For the Black defendant, two additional conditions that invoked a challenge for cause procedure prior to the case presentation were included. In the *close ended format* condition, participants, after being informed of the charge against the defendant, were asked,

using a yes/no response format, whether their “*ability to judge the evidence in this case without bias, prejudice, or sympathy would be affected by the fact that the person charged is Black?*” This procedure was modeled after the procedure typically used in Canadian courts (e.g., *Regina v. Koh, Lu and Lim*, 1998). In the *reflective format* condition, participants after being informed of the charge were asked, in an open ended format, “*How might your ability to judge the evidence in the case be affected by the fact that the defendant is Black?*” Following this, they were asked, as in the close-ended condition, whether their ability to judge the evidence would be affected by the race of the defendant. As was the case for the participants not undergoing the pretrial questioning procedures (White defendant, Black defendant-no challenge), participants were then asked to affirm whether they would “judge the case solely on the evidence and the instructions from the judge” (yes, no).³

Dependent Measures

Responses to Challenge Procedures

After providing responses in the close-ended challenge procedure and the more reflective form of pretrial questioning, participants rated how confident they were about their ability to remain impartial, using a 7-point scale (*not at all confident* to *completely confident*).

Verdict and Guilt Judgments

Participants rendered a verdict (guilty, not guilty) and then rated their confidence in this decision (“*not at all confident*” to “*completely confident*”). Using a 7-point scale, they also rated the likelihood of the defendant’s guilt (“*not at all*” to “*completely*”).

Case Judgments

Using 7-point scales, participants’ perceptions of the case were evaluated via a series of ten items tapping witness credibility, believability of the conflicting accounts (tailored to the particular case), strength of the Crown’s and strength of the Defense’s case. Subsequent principal components factor analyses, conducted separately for each case, revealed similar two factor solutions. Composite measures were thus created by summing and averaging those items with factor loading of $\pm .45$ that were common

² Preliminary analyses comparing the responses of the White and non-White participants (collapsed across the race) revealed no effects. Given the findings of the metaanalysis conducted by Mitchell, Haw, Pfeifer, and Meissner (2005), however, which identified a more pronounced effect of in-group bias for Black participants, the 36 participants who self-identified as Black were omitted from the analyses. Moreover, given the small number and unequal distribution of these participants across the conditions, conclusions regarding the impact of the independent variables on Black mock jurors could unfortunately not be assessed.

³ In terms of participants’ responses to the “affirmation,” all but three in the challenge condition and one in the more reflective format affirmed that they would judge the case solely on the evidence and the instructions from the judge. All participants in the other conditions (White defendant, Black defendant-no challenge) affirmed they would judge the case based solely on the evidence and instructions provided.

across both cases for a factor. One of these composites, labeled *Crown strength*, was comprised of participants' ratings of the Crown's case, along with three items tapping the Crown's position (α s = .67 and .75, for drug trafficking and embezzlement; higher scores indicative of greater strength). The other composite, labeled *Defense strength*, was created by summing and averaging participants' rating of the Defense's case along with three items that tapped the defense's position (α s = .72 and .82, for drug trafficking and embezzlement; higher scores indicative of greater strength).

Manipulation Check

Without reference to the preceding materials, participants indicated the race of the defendant (Black, White).

RESULTS

Manipulation Checks

Two participants who incorrectly identified the race of the defendant and four participants who failed to provide a response in the reflective strategy condition (i.e., failed to reflect upon how race might impact upon their decision) were dropped from the subsequent analyses. Their inclusion, however, produced a similar pattern of results.

Responses to Pretrial Challenge Procedures

In total, 18% of participants in the drug trafficking (collapsed across close-ended and reflective) and 15% (collapsed across close-ended and reflective) in the embezzlement case indicated that their ability to judge the case without prejudice would be affected by the fact that the defendant was Black. Participants who responded to the pretrial questioning in the affirmative (collapsed across case) were significantly less confident in their ability to remain impartial ($M = 5.41$, $SD = .94$), compared to those who responded in the negative ($M = 6.19$, $SD = .86$), $t(112) = -3.38$, $p = .001$. Examination of responses across the other dependent measures (e.g., verdict, guilt, crown and defence strength), however, revealed no differences between these two groups ($\chi^2(N = 114) = .21$, for verdict; all t s (112) < 1, for the continuous measures). As well, examination of the data, if participants who responded in the affirmative are dropped from the analyses, revealed the same pattern of results as those described below (which included these participants). In short, explicit responses to the close-ended and reflective strategy pretrial questioning did not appear to discriminate mock jurors in terms of their decisions. It is important to note, however,

that the sample size was small and so these analyses may have had insufficient power.

Main Analyses

To examine the impact of the challenge for cause on participants' responses to the Black defendant, a series of 2 (type of crime) \times 4 (defendant condition) \times 2 (gender) ANOVAs were conducted on the dependent measures.⁴ Within these analyses, the defendant condition effect was partitioned into three orthogonal contrasts comparing the Black defendant in the no challenge condition to the other three conditions (White defendant, Black close-ended challenge, Black reflective strategy).

Verdicts

To determine whether verdicts varied as a function of crime type, defendant condition, and gender, these variables were dummy coded and analyzed via logistic regression.⁵ Following a hierarchical procedure, the initial inclusion of crime type and gender revealed significant effects for both these variables, Wald χ^2 s(1, $N = 224$) = 8.5, $p = .004$, and 6.15, $p = .013$, with women (62%) as compared to men (45%) rendering more guilty verdicts and those in the embezzlement (66%) as compared to the drug trafficking (47%) case rendering more guilty verdicts. Next, the addition of the three dummy variables comprising the defendant condition manipulation added significantly to the model, $\chi^2(3, N = 224) = 8.37$, $p = .04$ (see Fig. 1). Despite this overall effect, only the contrast comparing verdicts in the Black condition to the White condition was marginally significant, $\chi^2(1, N = 224) = 2.73$, $p = .098$. Contrasting the Black condition to the close-ended challenge condition indicated verdicts were similar across these conditions, $\chi^2(1, N = 224) = .76$, ns , and although verdicts in the Black reflective strategy condition appear less harsh than those rendered in the Black no challenge condition this difference was not significant, $\chi^2(1, N = 224) = 1.84$, ns . The inclusion of the two- and three-way interactions involving these variables failed to add significantly to the model.

⁴ Given the unequal number of male and female participants, preliminary analyses assessing the impact of gender were conducted. These analyses uncovered some gender effects, and thus, gender has been retained in the analyses reported.

⁵ Embezzlement coded 1, drug trafficking coded 0; women coded 1, men coded 0; the three dummy variables for the Black condition coded 0-0-0, the three dummy variables for the White condition coded 1-0-0, the three dummy variables for the Black close-ended condition coded 0-1-0, and the three dummy variables for the Black reflective condition 0-0-1.

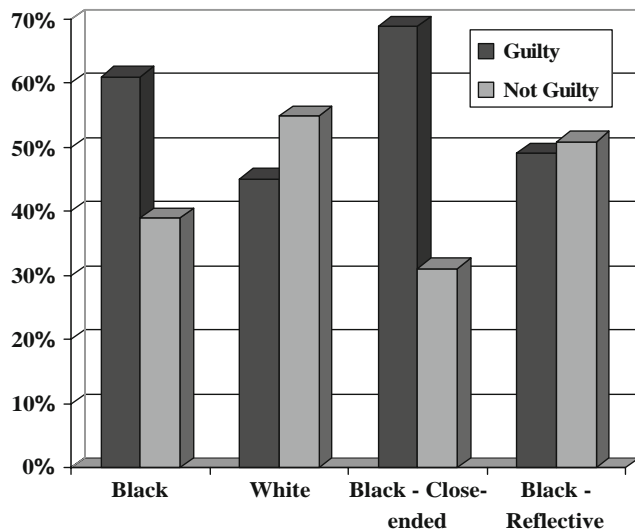


Fig 1 Verdicts rendered by race challenge condition

To obtain a more sensitive measure of guilt, verdicts (−1 for not guilty, +1 for guilty) were multiplied by participants' rating of verdict confidence, thus producing a 14-point scalar measure of verdict-confidence (−7 reflecting complete confidence in guilt, +7 reflecting complete confidence in not guilty). As with the dichotomous measure of guilt, a 2 (type of crime) × 4 (defendant condition) by 2 (gender) ANOVA conducted on this measure resulted in main effects for crime type, $F(1, 208) = 7.66, p = .006$, gender, $F(1, 208) = 5.91, p = .02$, and defendant condition, $F(3, 208) = 3.54, p = .02$. Women ($M = 1.38$) and participants in the embezzlement condition ($M = 1.93$) were more confident in guilt than men ($M_s = -.14$) and participants in the drug trafficking case ($M_s = -.11$), respectively. Furthermore, the specific contrasts related to the defendant condition effect indicated that participants in the Black no challenge condition ($M = 1.58$) were more confident in guilt than were participants in the White defendant condition ($M = -.33$), contrast estimate = $-2.20, p = .04$, and also more confident in guilt than were participants in the Black defendant reflective strategy condition ($M = .04$), contrast estimate = $-2.12, p = .045$. In contrast, those in the no challenge condition did not differ from those in the Black close-ended challenge condition, contrast estimate = $.49, ns$, who, like those in the Black no challenge condition, appeared more confident in guilt ($M = 2.07$).

Assessment of Guilt

Results of the ANOVA conducted on the continuous rating of guilt revealed only a significant main effect for defendant condition, $F(3, 208) = 4.10, p = .007$. The specific contrasts revealed that the Black defendant in the no

challenge condition was rated more guilty ($M = 5.37$) than the White defendant ($M = 4.67$), contrast estimate = $.90, p = .003$, as well as more guilty than the Black defendant in the reflective strategy condition ($M = 4.56$), contrast estimate = $.83, p = .006$. In contrast, ratings of guilt in the Black defendant no challenge condition did not differ from the close-ended challenge condition ($M = 5.04$), contrast estimate = $.31, ns$.

Crown Strength

Results of the ANOVA conducted on the composite measure of the strength of the Crown's case revealed a main effect for gender, $F(1, 209) = 4.40, p = .04$, with women ($M = 4.95$) evaluating the crown case more favorably than did men ($M = 4.65$). A main effect was also found for defendant condition, $F(1, 209) = 4.46, p = .005$. Examination of the specific contrasts revealed that participants in the Black no challenge condition ($M = 4.98$) rated the crown's case more favorably than did participants in the White defendant condition ($M = 4.59$), contrast estimate = $.53, p = .02$, and more favorably than participants in the reflective strategy condition ($M = 4.61$), although this latter difference was not statistically significant, contrast estimate = $.32, p = .14$. Notably, ratings of the crown's case in the Black no challenge condition did not differ from the close-ended challenge condition, contrast estimate = $-.20, ns$.

Defense Strength

The ANOVA conducted on the measure of defense case strength revealed only a main effect for crime type, $F(1, 209) = 12.86, p = .001$, with participants rating the defense stronger in the embezzlement ($M = 6.07$) than the drug trafficking ($M = 5.53$) case.

DISCUSSION

Consistent with prior research, the present findings suggest that bias continues to exist in mock jurors' judgments related to Black defendants. Across the defendant measures, and regardless of case type, the Black defendant in the no challenge condition, in comparison to the White defendant condition, was judged more harshly. Moreover, with respect to the pretrial challenge procedures under investigation, the findings suggest that the current procedure that the Canadian courts rely upon to deal with the problem of racial bias may be an inadequate mechanism for dealing with the issue. A number of assumptions underlie the efficacy of the challenge for cause procedure to assess and control biases. These include assumptions (1) that

people are accurate in their self-assessments of impartiality, (2) that they understand how and to what extent biases can affect their decisions, and (3) that people understand their own motivations and ability to counteract these biases. Because self-knowledge, especially knowledge related to racial biases, is often limited (Dovidio et al., 1997, 2002; Gaertner & Dovidio, 1986), the accuracy of participants' responses as to whether they will be influenced by race is dubious and the current results are consistent with such a conclusion. Given that no differences were found between those who responded to the challenge in the affirmative (either close-ended or reflective) and those who responded in the negative, no support for the diagnostic value of the challenge procedure was found, but the small sample size and resultant power inherent in these analyses must be recognized.

While limited in their ability to identify biased jurors, the differential influence of the two pretrial questioning procedures on judgements suggests some ways in which the procedure may be modified such that it may exert a more favorable influence on judgments. Although asking participants *how* race might impact their assessment may not impact the accuracy of their belief in their own impartiality, it may make them aware of the general influences it can have and the extent to which it can influence decisions, thereby influencing the second and/or third assumption. Consistent with the findings of Sommers (2006), our findings indicate that the latter more thoughtful format may have enabled the potential jurors to reflect on the powerful influence of race and this deliberative mindset may have simply made them more cautious in their responses.

Given the promising nature of the findings related to the more reflective strategy in comparison to the close-ended format, it is imperative that future research begin to address the mechanism by which the former process exerts its impact. For instance, might it operate by increasing the jurors' attention to, and/or scrutiny of the evidence? Or might it alter the weight given to the various pieces of evidence? For instance, Sargent and Bradfield (2004) found that, under conditions of low motivation, White mock jurors processed legally relevant information more systematically (i.e., attended more to the strength of the evidence) for a Black (as opposed to White) defendant, a finding they attributed to the jurors attempt to curb their potential biases.

In addition to exploring what impact the reflective pre-trial questioning might have on jurors' evidence evaluation and motivation, many other questions remain regarding the use of the procedure. For instance, given that the decision about the prospective juror's partiality is rendered by lay triers (actual jurors), it is imperative that this aspect of the process be assessed in future research. That is, how is the

decision of partiality made and what factors influence the decision? Responses to the current close-ended challenge, which tends to elicit a yes/no response, leaves little else for the triers other than the prospective jurors' self-assessment, but responses to a more reflective challenge are likely to yield richer and more varied information. How these responses will be evaluated by the triers for determinations of partiality is unclear.

Recently, Rose and Diamond (in press), using an experimental paradigm, investigated judicial rulings on challenges for cause in a series of studies in which they presented legal professionals (judges, attorneys), as well as mock jurors, with vignettes of *voir dire* exchanges between judges and prospective jurors with 'problematic biographies.' Within the vignette the prospective jurors' expressed confidence in their ability to be fair was subtly manipulated (e.g., I would be fair vs. I am pretty sure I would be fair). Participants provided assessments of the prospective jurors' likely bias, as well as estimations of whether the average judge would excuse the juror for bias. Results indicated that, while judges' decisions of partiality, as well as attorneys and mock jurors estimations of judges' decisions, were influenced by the jurors' self-reported confidence, the jurors' expressed confidence level did not influence the attorneys' and jurors' assessments of partiality. These group differences in perceptions of neutrality highlight the importance of conducting research that explores both prospective jurors' responses to the questions, as well research that explores how this information will be utilized and assessed by the triers in their determination of partiality.

An additional observation of note in the present research is the absence of a crime congruency effect. One possible explanation for this may stem from the materials employed. Overall, results suggested that participants found the embezzlement case less ambiguous (significantly more guilty verdicts were rendered in this condition) than the drug trafficking case and given that extralegal factors, such as race, are more likely to influence verdicts in ambiguous situations the absence of the interaction may be due to the fact that the embezzlement case was not seen as ambiguous. Alternatively, although these results are somewhat at odds with previous juror simulation studies (Gordon & Anderson, 1995; Gordon et al., 1988), the lack of race-crime congruency effects are perhaps not surprising and may not be inconsistent with real trial biases. While Whites may be given the benefit of a doubt when they commit a crime that is not stereotypically associated with their group, Blacks may not be given this same advantage. Consistent with this interpretation, Jones and Kaplan (2003) found that White mock jurors preferred to use a confirmatory information strategy (i.e., seeking information consistent with that of guilt) when the defendant was

Black, regardless of the stereotypicality of the crime (auto theft or embezzlement). It is important to note, however, that although we found no crime congruency effects in the Black no challenge procedure and the White control condition, with Blacks consistently being judged more harshly, the main goal of the present research was to compare the two pretrial questioning strategies to reduce bias. Although preliminary, the present findings suggest that crime congruency might not interact with the effects of these strategies.

As with other studies investigating defendant race and juror decision making (e.g., Johnson et al., 1995; Jones & Kaplan, 2003), and jury simulation research more generally (Weiten & Diamond, 1979), it is important to consider the limitations of the current methodology and sample employed (i.e., undergraduates). Although a review of jury simulation research (Bornstein, 1999) found few studies that demonstrated differences between different mock juror samples and trial formats, undergraduates are likely less prone to bias as level of education is negatively correlated with racism. Thus, it is important that future research replicate these findings with a more heterogeneous and representative sample. More importantly, however, in contrast to the current research, which elicited responses and judgments privately, prospective jurors' responses to the challenge in actuality are elicited in open court. As previous research demonstrates a more public format may compromise the truthfulness of an individuals' response (Krysan, 1998; Lambert, Cronen, Chasteen, & Lickel, 1996). On the other hand, the public nature of the procedure may enhance the jurors' commitment to respond without bias and thus future research that explores this aspect of the procedure is clearly warranted.

Notwithstanding these limitations, the present study provides provocative findings related not only to the impact of race in the courtroom but also to the efficacy of the challenge for cause procedure. Our results demonstrate an anti-Black bias against defendants that is not resolved by the current challenge for cause procedure used in Canadian courts. While disheartening, the findings also suggest a more effective alternative to the present approach. Given the dearth of empirical research on race and jury selection, future research investigating the process effects inherent in jury selection procedures is clearly warranted. Though preliminary, the finding of the current study suggests important avenues for ameliorating racial discrimination and we hope that this research encourages others to assess the tenability of more reflective screening approaches in the courtroom.

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