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THE IMPACT OF BLACK LIVES MATTER MOVEMENT PUBLICITY ON JUROR DECISION MAKING

A Master's Thesis

Presented to

The Graduate College of

Missouri State University

In Partial Fulfillment

Of the Requirements for the Degree

Master of Science, Psychology

By

Emily R. Nerness

December 2018

THE IMPACT OF BLACK LIVES MATTER MOVEMENT PUBLICITY ON JUROR DECISION MAKING

Psychology

Missouri State University, December 2018

Master of Science

Emily R. Nerness

ABSTRACT

Others have investigated separately whether general pretrial publicity (PTP) or racial salience have an impact on juror decision making, but no one has explored a potential connection between the two. With information about the Black lives matter (BLM) movement recurring in the media, the question arises of whether news about the BLM movement can increase racial salience, thereby influencing juror decision making. The present research addressed whether 1) exposing participants to pro-BLM or negative-BLM news articles would influence verdicts and guilt ratings when compared to a control group, 2) whether this PTP effect would be different for Black versus White defendants, and 3) whether racial attitudes or attitudes toward police would mediate the relationship. To assess these questions, I conducted a two-part study in which participants read three newspaper articles that included either a pro-BLM article, a negative-BLM article, or a control article in addition to two distractor articles. Three days after completion, participants listened to an audio recording of a mock trial with a description of either a Black or a White defendant and viewed a mugshot that corresponded to the description. Participants then rendered their verdict, provided a likelihood of guilt rating, and responded to the Perceptions of Police Scale and Color Blind Racial Attitude Scale. No effects for race or PTP were found; however, a significant effect was found for defendant picture. This finding highlights the complexity of potential factors in juror decision making by indicating that defendant appearance may have played a greater role than either race or PTP.

KEYWORDS: jury, pretrial publicity, juror decision making, race, racial salience, Black lives matter movement, general pretrial publicity, perceptions of police, racism

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In the interest of academic freedom and the principle of free speech, approval of this thesis indicates the format is acceptable and meets the academic criteria for the discipline as determined by the faculty that constitute the thesis committee. The content and views expressed in this thesis are those of the student-scholar and are not endorsed by Missouri State University, its Graduate College, or its employees.

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INTRODUCTION

The term “Black lives matter” was first used in 2012 following the acquittal of George Zimmerman for the murder of Treyvon Martin, a 17-year-old Black high school student (McLaughlin, 2016). It began as a social media hashtag (Freelon, McIlwain, & Clark, 2016) but quickly gained exposure and became a cry at protests. What was initially a simple phrase turned into a sociopolitical movement following the police-involved shooting of another unarmed Black youth, Michael Brown (McLaughlin, 2016). It has only grown as a movement since, as more cases of racially-motivated injustice are perceived to have occurred such as the cases of Alton Sterling who was shot while being restrained on the ground and Philando Castile who was shot during a traffic stop (Donnella, 2016).

The Black Lives Matter Movement (henceforth BLM movement) is centered around the concept of justice for Blacks. Essential to the discussion within the movement is the view that the criminal justice system is biased against Black people. Injustice is believed to occur at either the police level, as in the cases of Michael Brown or Tamir Rice (a 12-year-old boy shot by police), later in the court system as in the acquittal of George Zimmerman for the death of Treyvon Martin, or sometimes both as in the decision of a grand jury to not indict officer Darren Wilson for the death of Michael Brown.

The BLM movement has seen extensive media coverage, and it has become more visible as new cases arise or protests are arranged. The BLM movement wields its influence via the use of media in a variety forms, such as television, newspapers, websites, blogs, and social networking platforms like Twitter and Facebook. Changing public sentiment through this media exposure is one of the methods by which the movement seeks to stop injustice. However, as is

common to any emotionally-charged movement, there have been negative reactions as well, whether it is coverage and censure of violence breaking out in protests, or criticism from politicians and public figures.

Because the BLM movement pertains to criminal justice and is so visible in the media, it is possible that the movement impacts decision-makers in legal proceedings. For example, could BLM-related media have an impact on jury decision making, either by increasing juror awareness of the issues or by changing juror perceptions of the justice system in which they are participating? BLM media could potentially affect trials of either Black or White defendants, depending on jurors' consumption and reception of the information. It is important for us to better understand the potential impact of BLM media on juror decision making, as such news stories might impact high stakes criminal proceedings, perhaps even threatening defendants' rights to an impartial jury.

LITERATURE REVIEW

Media and the Courts

The potential influence of media on trial outcomes (particularly juries) has long pitted criminal defendants' Sixth Amendment right to a trial by an impartial jury against the media's First Amendment right of free speech. This fundamental, constitutional concern regarding the balance between due process and free speech remains salient in the American court system today and promises to remain a concern among legal actors as new forms of media evolve and propagate. The Supreme Court has ruled on several landmark cases that serve as precedent to aid the courts in balancing between the rights of free-press and fair-trial—below I review some of these cases.

Not until the 1960's did the Supreme Court recognize the potential for pretrial publicity (henceforth, PTP) to harm a defendant's right to a fair trial. In Irvin v. Dowd (1961), a murder suspect (Irvin) was reported by the media to have confessed to six murders. Although Irvin was given a change of venue to a nearby county because of the publicity, two-thirds of the jurors involved in the trial admitted that they believed Irvin was guilty prior to hearing evidence. Because of the confessions of these jurors during jury selection, the Supreme Court later overturned the original guilty verdict, marking the Court's recognition that excessive PTP can undermine the legal assumption that potential jurors are not biased by previous knowledge of a case—even when the jurors claim not to be biased. In a subsequent case, the Supreme Court overturned a conviction in which the defendant had been denied a change of venue request following the television broadcast of a videotaped confession (Rideau v. Louisiana,1963). In the landmark case of Sheppard v. Maxwell (1966), journalists were present in the courtroom and the

case was publicized in several newspapers. What made this case distinct is that, along with the ruling that the defendant had been denied a fair trial due to biased media coverage which was deemed preventable, the Supreme Court also offered guidelines to assist judges in preventing legal bias such as setting rules for journalists in the courtroom.

The Supreme Court (e.g., Sheppard v. Maxwell, 1966) has suggested solutions for the problem of PTP, including careful voir dire to select unbiased jurors, judicial instructions to limit the influence of PTP, a continuance (delay of trial), or a change of venue/venire to gain jurors who have not been exposed to the same volume of PTP. However, there is no official standard for how to handle prejudicial PTP and at what point it begins to violate the defendant's Sixth Amendment right to a trial by an impartial jury. Furthermore, a trial court's obligation to uncover bias during jury selection in highly publicized cases is relatively limited (Mu'Min v. Virginia, 1991). In Mu'Min, the defendant was on trial for a murder that had been committed in prison. The defense intended to ask specific questions during voir dire about the content of publicity that potential jurors might have encountered, but the judge did not allow it and the defendant was ultimately found guilty and sentenced to death. The Supreme Court upheld that while a defendant had the right to ask whether jurors had been exposed to PTP and if they could remain impartial, the defendant does not have a constitutional right to ask questions about specific content of the publicity.

Clearly, the history of caselaw addressing PTP suggests that the courts perceive it as a potential threat to criminal defendants' Sixth Amendment rights. Additionally, more recent cases underscore the Supreme Court's continued concern that PTP is negatively impacting legal proceedings (e.g., Skilling v. United States, 2010). What does research tell us about the impacts of PTP on jury decision making?

Research on PTP Effects and underlying Mechanisms

Researchers have been examining the impact of prejudicial PTP on juror decision making since the mid 1960s. Much of the early research on the subject was conducted to provide evidence of a need for a continuance or a change of venue, and many studies were simply surveys of jury-eligible people within a community where a court-case was ongoing and the PTP in question was being read in the daily news or seen on television. More valuable were experimental studies of PTP that examined the impacts of different types of information presented in PTP, including evidence of a defendant's confession, connecting the defendant to a weapon from the crime scene, the defendant's prior criminal record, and other defendant characteristics (Deluca, 1979; Hvistendahl, 1979; Otto, Penrod, & Dexter, 1994; Sue, Smith, & Gilbert, 1974; Tans & Chaffee, 1966). Meta-analytic techniques have revealed robust evidence that negative PTP about a defendant can increase guilty verdicts; furthermore, the same research suggests that increasing the realism of research paradigms (e.g. real-life stimuli, community samples) can magnify the impacts of PTP on jurors' judgments (Steblay, Besirevic, Fulero, & Jiminez-Lorenz, 1999).

Researchers have applied several frameworks for understanding why prejudicial PTP has an impact on jurors, stemming from both cognitive and social psychology. For example, PTP might impact jurors via source memory errors, cognitive accessibility of PTP information, pre-decisional distortion, or perhaps even through a process dubbed "conformity prejudice." I discuss these theories below.

Source memories are people's memories of where information was learned, and they allow us to evaluate the information based on our perception of the source. Sometimes, though, people experience source memory errors in which they either fail to remember how they came to

know something, or incorrectly remember the source (Johnson, Hashtroudi, & Lindsay, 1993). Jurors are supposed to weigh the evidence presented in court and ignore outside information, but when a juror cannot remember if the information was courtroom evidence or external information (e.g., PTP), it may be difficult to avoid bias. In a relevant study testing this proposition, Ruva, Mccavoy, and Bryant (2007) gave participants PTP to read, followed by a trial transcript that contained ambiguous evidence. Jurors later demonstrated errors in their ability to recall the source of each piece of information, although they maintained confidence in their memories. Participants who read PTP were more likely to give a guilty verdict and higher guilt ratings than were those in the no PTP control group—notably, the effect of PTP on guilt ratings was mediated by critical source monitoring errors.

Cognitive accessibility may also be linked to PTP's effect on jurors' decisions (Kovera, 2002). The theory suggests that ideas can become more cognitively accessible by way of recent exposure or relative personal importance, making such ideas/issues more likely to influence decision making. Kovera tested whether cognitive accessibility was linked to juror decision making, but ultimately was unable to connect the two. However, the subject used in the study (rape) appeared to be a highly accessible construct at the outset, which may have influenced the results and begs further research.

Pre-decisional distortion is a juror's tendency to be biased toward evidence supporting their currently-favored verdict as the trial progresses; jurors will either reinterpret or discard information if it does not support their current understanding (Carlson & Russo, 2001). Jurors may do this out of a desire the narrative of the case to remain consistent. Inconsistency creates a sense of conflict, so jurors will consider new information as part of the overall story rather than based on its own merit. First impressions, then, are critical, as they may guide understanding

throughout the remainder of the trial. If the first impression of a case (or defendant) is derived from PTP, then the entire trial may be compromised because jurors interpret material in a way that supports their initial leaning.

Another mechanism is conformity prejudice. Conformity prejudice occurs when a juror is influenced by strong community opinion about a trial, perhaps making them unable to maintain impartiality (Vidmar, 2002). Whether the pressure is indirect or explicit, it can be difficult for jurors to ignore community sentiment, particularly when the juror must face community members during or after the trial. Media is one way in which community opinion or outrage can be communicated, and thus PTP may serve as the delivery device by which jurors understand community sentiment regarding the case. To test this proposition, Zimmerman, Rodriguez, Bergold, and Penrod (2016) conducted a study using an article describing community outrage/victim-impact as a PTP manipulation. They found that those jurors exposed to community outrage/victim-impact articles prior to a mock trial video produced higher guilt ratings than those not exposed to the community outrage articles; notably, the manipulation did not contain any defendant-specific information, i.e. the types of PTP "facts" that typically influence jurors in PTP research.

General PTP

While conducting research on the impact of eyewitness evidence on jury decision making, Greene and Loftus (1984) noticed that the mock jurors who participated during later dates were less likely to render a guilty verdict than were those who participated at the beginning of data collection. They discovered that a real-life, highly publicized court case had influenced many of the later participants. In this case, an eyewitness had falsely identified a man who was

subsequently acquitted when the true perpetrator confessed. Greene and Loftus (1984) followed up with another round of data collection three months later when the publicized case was less prominent in the minds of their participants. They also conducted a second experiment that used a case similar to the one used in the original experiment, comparing verdicts between those who had read an article about a false conviction and those who had not. While the details of the two publicized cases showed little relation to those of the experiments, the real cases still appeared to have some influence on the experimental ones in both studies. Greene and Loftus (1984) termed this phenomenon "general PTP" and used this term to describe any highly-publicized media that is not specific to the trial in question but which might still sway a jury's decision-making.

In subsequent years, researchers began to unpack the effects of general PTP on juror decision making, although such research was sparse compared to investigations of case-specific PTP. Greene and Wade (1988) continued to explore the influence of general PTP by asking whether different types of general PTP could generate different results, and whether the participants were influenced by having read about a misidentification or more generally by reading about a miscarriage of justice. In their first experiment they found that mock jurors were less likely to render a guilty verdict when shown an article about an eyewitness misidentification, but no more likely than the control group to render a guilty verdict when faced with an article about a heinous crime spree. In their second experiment, they observed that participants were more influenced by cases similar to their own as well as whether the guilty-verdict in the article was reported to have been later confirmed by confession of the defendant or disconfirmed by confession of the true perpetrator. Combined, these results indicate that type of media does have an impact, but jurors are more easily swayed toward leniency than they are towards offering a guilty verdict.

Mullin, Imrich, and Linz (1996) tested the effects of general PTP on jurors in an acquaintance rape mock trial. Participants read an article about acquaintance rape in which men are portrayed as being predatory and a week later participated in a mock trial. While their hypothesis had been that the general PTP exposure would increase pro-prosecution leanings, the results were the opposite – but only for men. General PTP did not affect women, but men in the PTP condition were significantly more pro-defense. A follow-up experiment exposed participants to either the predatory portrayal article or an article which emphasized male-female miscommunication. The results for the predatory portrayal were replicated with men leaning more pro-defendant while women remained neutral, but the effects were not seen among men in the non-predatory condition. These experiments suggest that juror demographics can interact with the influence of general PTP on decision making.

In contrast to previous studies, Kovera (2002) designed research that focused more on identifying and explaining the mechanisms through which general PTP influences juror decision-making. Kovera found that pre-existing attitudes moderate the impact of general media on juror decision making, including juror requirements for sufficient evidence to convict. The primary means by which media influences judgement appeared to be, at least in this research, the standard of evidence that jurors hold; that is, people changed their standards as a function of media exposure. Kovera found no indication that either cognitive accessibility or spreading activation (measured by shortened reaction time for the social constructs deemed related to case details) were connected to judgements of subject importance, indicating that other mechanisms must be mediating the relationship between general PTP exposure and guilt judgments.

In another examination of the moderating effects of individual attitudes and characteristics on PTP effects, Woody and Viney (2007) conducted a study using sexual assault

media that was pro-prosecution, pro-defense, neutral, or absent to investigate if general PTP had a differential effect on men versus women in judgments of a sexual assault trial. While there was only a small significant main effect for the PTP conditions, there was a significant interaction between PTP condition and gender. When sexual assault media was absent, women were significantly more likely to convict, but when sexual assault media was present, gender differences disappeared. These results comport with other studies revealing gender differences in juror decision making on sexual assault cases, although the results also suggest that media exposure might disrupt such differences (e.g. McNamara, Vattano, & Viney, 1993).

To date, there is not a large body of research examining general PTP. Except for the first two studies conducted by Greene and Loftus (1984) and Greene and Wade (1988), most of the studies on general PTP have focused on rape or sexual assault cases; this focus on cases involving sexual violence has brought to light the potential moderating influence of gender on the effects of general PTP, but other demographics such as race have not yet been taken into consideration when studying general PTP.

Race, Jury Decision Making, and PTP

Although there is a large amount of basic research examining racism and prejudice, there is relatively little research (especially experimental) examining the interaction between race and jury decision making. Sommers and Ellsworth (2000) conducted two studies comparing the different responses of Black versus White mock jurors in judging Black versus White defendants. In the first study, they found a significant interaction between juror race and defendant race when judging racially charged crimes, with White jurors showing little to no difference in their judgements but Black jurors being more likely to render a guilty verdict with

White defendants. In the second experiment, Sommers and Ellsworth attempted to further explain what was happening by testing for the impact of what they termed "racial salience." They tested the impact of racial salience by manipulating whether or not the race of the defendant was made important or salient to the case by having a condition which indicated that the crime was racially-motivated or racially-charged and one that only listed the races of the defendant and victim as part of demographic descriptions. In the racially salient condition, results from the previous study were replicated. However, in the racially non-salient condition, the pattern changed; Black jurors continued their previous pattern, and White jurors were now more likely to give a guilty verdict to Black defendants than to White defendants.

Sommers and Ellsworth (2000) interpreted their findings to be a reflection of aversive racism whereby egalitarian-minded White people have unconscious negative biases against people of color (Dovidio & Gaertner, 1991). Aversive racists, when aware of racial norms or when considering the potential impact of race on a situation, will try to suppress their prejudices; however, when unaware, these prejudices will be expressed. Thus, in their second study, by reducing awareness of the potential impact of race in the non-salient condition, Sommers and Ellsworth induced White participants to express aversive racism. In contrast, Black participants appeared to be more uniformly pro-Black and willing to express their biases, perhaps because race and (anti-Black) racism are typically more salient to Black participants regardless of the situation.

A handful of studies have examined the interaction between defendant race and PTP. In a content analysis of PTP found on televised news in Los Angeles, Dixon and Linz (2002) found that about 19% of the cases mentioned in the news contained potentially prejudicial information as defined by the American Bar Association. Of this 19%, Blacks and Latinos were twice as

likely as Whites to receive prejudicial publicity, while Latino-on-White crime was almost three times as likely to be the subject of prejudicial PTP.

Fein, Morgan, Norton, and Sommers (1997) exposed mock jurors, 79% of which were White, to pro-prosecution PTP to investigate the interaction between race and PTP. Two features were manipulated to create a 2 (defendant was specified Black or not) x 2 (suspicion was cast on the legitimacy of the articles or not) + 1 (control condition) design. Three of the four conditions that received PTP were significantly more likely than the control group to convict the defendant; the fourth condition, which included the defendant's race and raised suspicions regarding the legitimacy of the articles, had a conviction rate similar to that of the control group. The authors suggested aversive racism might account for their findings, as aversive racists typically believe themselves to be unbiased and do not believe themselves to be racist—yet still unconsciously hold negative beliefs and feelings about other races (Dovidio & Gaertner, 1991). In this study, then, those who knew the race of the participant were unaware that it might bias them until the potential bias was pointed out to them.

In another study, Clow, Lant, and Cutler (2013) examined the impact of specific PTP on participant verdicts for White, Black, or Aboriginal defendants in a mock sexual assault trial in Canada. Their results indicated that participants were least likely to convict the Black defendant of the three ethnicities. In a significant interaction with participant gender, women were more likely to judge the Aboriginal defendant guilty than they were either of the other races. Clow et al. (2013) suggested that their findings comport with the Fein et al. (1997) results, in that female participants were trying to adjust for a known societal bias against Blacks, but without the awareness that these same prejudices can exist against other minorities (see Dovidio, Gaertner, Kawakami, & Hodson, 2002).

These studies have provided a glimpse into the interaction between race and case-specific PTP. They have shown that both defendant and juror race can impact juror decision making and can interact with the effects of case-specific PTP, although the effects that have been found are inconsistent. If racial salience is an underlying mechanism that determines the circumstances in which White jurors express bias against Black (or non-White) defendants, then it seems likely that general PTP, like case specific PTP, should have an impact of some sort on White jurors' decisions about Black defendants. However, research on general PTP and race has not yet been conducted, and there is a surprisingly shallow understanding amongst researchers about the construct of "race salience" and the boundary conditions for its potential impact on jurors (Sommers & Ellsworth, 2009).

Race and Perceptions of Police

Each shooting that has spurred the growth of the BLM movement has had both a racial element as well as police involvement, and there has been dissatisfaction with the legal outcomes of many of these cases. Conversely, with every protest and expression of outrage there has been a response of support for the police, with some using the phrase "blue lives matter" as an answer. Regardless of which side a person falls on, media pertaining to the BLM movement may impact attitudes toward police both negatively or positively; therefore, it is also important to gauge perceptions of police in order to understand the potential impact of BLM media on jurors' decision making.

Perceptions toward police appear to be influenced by race, with Blacks being more likely to hold a more negative perception of police than Whites (Dowler & Sparks, 2008; Lewis, 2016). More specifically, Blacks are more likely to believe that police use excessive force on a daily

basis, that minorities are more likely to be victimized by police, that police are more likely to use deadly force against a Black male than a White male, and that there is a need for police to be culturally competent (Lewis, 2016). For a review of research on attitudes toward police, see Brown and Benedict (2002).

Attitudes about police can influence pretrial bias and first votes, which may through deliberation serve to sway the verdict that a jury renders—specifically, there is a positive correlation between trust in police and favoring the prosecution (Farrell, Pennington, & Cronin, 2013). Additionally, while Blacks are overall less likely to trust the police, there is still a correlation between trust in police and pro-prosecution attitudes amongst Black people. In fact, the relationship between trust in the police favoring the prosecution is somewhat more accentuated for Blacks than it is for Whites.

Overall, it appears that accounting for attitudes toward the police is necessary in an examination of the impact of BLM media on court proceedings. Does the BLM movement impact attitudes toward police? Does it reduce trust among supporters of the movement and increase trust among non-supporters? Might such biases only be activated under certain circumstances, like in the case of a Black defendant?

Present Research

The existing body of experimental studies examining race and jury decision making are surprisingly limited in scope, especially those pertaining to the conditions in which White jurors will exhibit bias against Black defendants. In a recent review article, Sommers and Ellsworth (2009) indicated a lack of breadth in research on racial salience amongst jurors, suggesting that the majority of existing research has examined racial bias among White mock-jurors in trials

about racially-charged crimes, which is just one potential way in which race can become "salient" in legal proceedings. Furthermore, a number of researchers have claimed to manipulate racial salience by simply making the jurors aware of the defendant's race, a method that Sommers and Ellsworth suggest does not capture the core idea of racial salience. Sommers and Ellsworth argue that a proper examination of the broader concept of "race salience" would require numerous operationalizations across multiple methodologies, and one such operationalization they mentioned was race-relevant PTP—as yet, manipulating racial salience through any form of PTP has yet to be attempted.

There are also extensive gaps in the literature on general PTP; in particular, there has been little research that examines the impacts of general PTP on topics outside of sexual violence. No publications have covered experimental research to examine how the topic of race in general PTP impacts jurors, nor has anybody conducted experimental research on the interrelations between such PTP and attitudes toward police. Media about the BLM movement appears to qualify as general PTP under Greene and Loftus's (1984) definition which uses the term to refer to any highly-publicized media not specific to the trial in question but which could influence a juror's decision.

Given the lack of research pertaining to the impact of racial salience and general PTP on juries, I wed the two topics and examined how general PTP about the BLM movement impacts jury decision making. In this study, I manipulated the type of PTP (pro-BLM, anti-BLM, and neutral non-BLM articles) that participants were exposed to as well as the defendant's race (Black or White). I also measured racial attitudes and perceptions of police to better understand how such attitudes interact with or mediate the impacts of PTP on guilt judgments.

Hypotheses

Hypothesis 1: Race and PTP will interact on verdicts. In the pro-BLM condition, participants will render more guilty verdicts for White than Black defendants. In the anti-BLM condition, participants will render more guilty verdicts for Black than White defendants. In the non-BLM condition, participants will also favor White defendants because race has not been made salient.

Hypothesis 2: Race and PTP will interact on guilt ratings. In the pro-BLM condition, participants will assign a higher likelihood of guilt for White than Black defendants. In the anti-BLM condition, participants will assign a higher likelihood of guilt for Black than White defendants. In the non-BLM condition, participants will also assign a higher likelihood of guilt for Black than White defendants because race has not been made salient.

Hypothesis 3: Race and PTP will interact on attitudes. In the pro-BLM condition, participants will exhibit fewer colorblind racist attitudes and less support for the police. In the anti-BLM condition, participants will exhibit more colorblind racist attitudes and more support for the police. In the non-BLM condition, participants will also exhibit more colorblind racist attitudes and more support for the police.

Hypothesis 4: Scores on the attitudes' scales will mediate the relationship between BLM media exposure and verdicts/guilt ratings.

METHOD

Participants and Design

The final sample consisted of White jury-eligible undergraduate students at Missouri State University recruited through Sona, the campus participant pool. Each participant was randomly assigned to a condition in a 2 (Defendant Race: Black vs. White) x 3 (PTP Condition: positive BLM article exposure vs. negative BLM article exposure vs. no BLM article exposure) design. The final sample included 195 participants, 74% female, with a mean age of 19 (see Data Screening section and Table 1 below for more demographics). This experiment was approved by the Protection of Human Subjects Institutional Review Board on October 29th, 2017, per university policy (see appendix A).

Materials

Media Exposure Materials. Using Qualtrics, I gave participants three articles to read prior to the experimental manipulation. All participants read two of three possible neutral distraction articles: one about law changes that restrict home renovations, one about the successful separation of a pair of conjoined twins, and one about a virtual personal assistant (technology). In the negative BLM condition, participants read an article that is critical of the BLM movement by discussing protester violence, arguing that BLM supporters are hypocritical, and pointing out that this environment is creating fear among police that hinders them in the execution of their duties. In the positive BLM condition, participants read an article that supports the BLM movement by giving the narrative of a recent example of the shooting of an innocent Black man, in addition to explaining research that supports the assertion that the police unfairly

Table 1

Demographics

	N	%
Gender		
Female	142	73%
Male	53	27%
Race (pre-exclusion)		
Did not Respond	33	13%
American Indian or Alaska Native	2	1%
Asian	1	<1%
Black or African American	7	3%
Native Hawaiian or Pacific Islander	1	<1%
Other	1	<1%
Two or more races	12	5%
White	199	78%
Ethnicity		
Hispanic	4	2%
Non-Hispanic	191	98%
Income		
Less than $20,000	181	93%
$20,000 or more	14	7%
Political Leaning		
Liberal or Extremely Liberal	31	16%
Slightly Liberal	24	12%
Moderate	66	34%
Slightly Conservative	34	17%
Conservative or Extremely Conservative	39	20%
Religion		
Agnostic	17	9%
Atheist	11	6%
Christian	152	78%
Other	13	7%
Pagan	1	1%

Note: Age, which was not included in this table, had a mean of 19 and a range of 18-45.

target Blacks. In the no BLM article condition, participants read all three distractor articles. Each article was followed by a manipulation check to ensure that participants actually read and comprehended the articles. This manipulation check consisted of having participants answer a brief comprehension questionnaire consisting of three items after each article, giving a total of nine questions that participants had to respond to. Those who failed more than one of the questions on the questionnaire were excluded (See Appendices B, C, D, E, and F for articles).

Mock Trial Audio Recording. I used an audio recording of a mock trial that is a modified version of a real trial, adapted for use in a previous unpublished study. This mock trial uses the voices of six individuals with whom the participants would not have interacted. The audio transcript was paired with subtitles in a video format and then embedded into a second Qualtrics questionnaire.

In the case, the defendant Donald Ray Braswell is charged with armed robbery and assault with a deadly weapon inflicting serious injury. The mock trial lasts approximately twenty-eight minutes and contains eyewitness testimony for the prosecution, testimony from a friend of the defendant offering an alibi, and testimony from the arresting officer who discusses the lineup procedure used for the eyewitness identification. There are also closing arguments from the defense and prosecution, along with realistic instructions to the jury delivered by the judge.

I used two different versions of the mock trial to partially deliver the defendant race manipulation. In one version, the eyewitness describes the defendant as Black and mentions that one of the lineup members was White. In the other version, the eyewitness describes the defendant as White and mentions that one of the lineup members was Black. Beyond these differences, the two recordings are identical. (See appendix G for a transcript of the mock trial).

Defendant Race Manipulation. Through random assignment half of the participants were exposed to the version of the mock trial audio recording that describes the defendant as White and half were given a mock trial audio recording that describes the defendant as Black. To increase awareness of race in the case to better reflect a real trial, participants were also given a picture of the defendant which was displayed directly above the embedded video for the duration of the trial. Booking photos of six different men were selected to represent the defendant, three of whom are White and three of whom are Black. I used stimulus sampling by randomly assigning each participant one of the three photos corresponding to the race of the defendant. (See appendix I for photos of the defendants.)

Verdict Form. After participants listened to the mock trial audio recording, they filled out a verdict form. This form required the participant to judge the defendant as either guilty or not guilty. Additionally, participants rated their perception of the defendant's likelihood of guilt and their confidence in their verdict. Lastly, participants rated their perceptions of the testimonies and the attorneys using bipolar adjective scales. (See appendix H for verdict form).

Attitude Scales. Following the completion of the verdict form, in order to gauge attitudes about race and the police, I administered the Color-Blind racial attitude scale (CoBRAS) (Neville, Lilly, Lee, Duran, & Browne, 2000) and the Perceptions of Police scale (POPS) (Nadal, & Davidoff, 2015). The CoBRAS has a Guttman split-half reliability of .72 and a test-retest reliability of .68 and is rated on a scale of 0-100, with twenty statements. An example statement is "Race plays an important role in who gets sent to prison." The POPS has good internal consistency with an overall Cronbach's alpha of .92. Respondents rate agreement with statements such as "The police are trustworthy," and it has twelve questions with total scores ranging from 0-48 (See appendices J and K for attitude scales).

Demographics. At the end of the first part of the study, participants filled out a demographics questionnaire. This form asked participants about gender, ethnicity, age, marital status, child status, income level, political leaning, and hometown. Additionally, after the second part I asked questions to determine jury eligibility, including whether the participant is a U.S. citizen with valid license, and whether they have ever been convicted of a felony, as well as if they have served on a jury or not. (See appendix L for demographic questionnaire).

Procedure

I recruited participants using Missouri State University's research participant platform Sona. Upon signing up for a two-part study entitled "Reading Comprehension and the Media," participants were provided a link to the Qualtrics questionnaire with the first consent form (see Appendix M), the media exposure articles, and the comprehension questionnaire—participants were not aware that they would play the role of jurors in the second session. Three days after receiving the media exposure materials and completing the comprehension questionnaire, Qualtrics was automated to send a link to the second half of the study on Qualtrics, which included the mock trial audio recording, verdict questionnaire, and attitude scales. Participants completed their second consent form (see Appendix N) that revealed they would be participating in a mock trial and viewed a photo of the defendant and the video/audio of the mock trial. A timer was embedded in the mock trial page that prevented participants from clicking "next" until after the duration of the trial had passed; this was intended to help prevent participants from simply clicking through. The next page contained the verdict form described above.

Following the completion of the trial material, participants were asked to fill out the CoBRAS and POPS. I then asked them if they had any suspicions about the purpose of the study,

with a textbox for them to provide an answer. Lastly, on a separate page, I asked participants what the race of the defendant was. I later compared their responses with the condition that they were part of and used it as a manipulation check to ensure that the participant had actually observed the race of the defendant. Following the completion of the survey, participants were given the option of continuing to another, unconnected questionnaire where they could enter to win one of two $100 gift cards. All participants who completed the study were also awarded three participation credits.

RESULTS

Analytic Strategy

I analyzed the data using R version 3.5.1 in RStudio (R Core Team, 2018) utilizing the packages *lme4* (Bates, Maechler, Bolker, & Walker, 2015), *lmerTest* (Kuznetsova, Brockhoff, & Bojesen, 2017), *dplyr* (Wickham, François, Henry, & Müller, 2018), *Hmisc* (Harrell, 2018), *ez* (Lawrence, 2016), and *DHARMa* (Hartig, 2018). Dependent variables were dichotomous verdict (Guilty, Not Guilty) and ratings of likelihood of guilt (0-100). I used multilevel models to analyze the dichotomous outcome verdict, and a series of linear mixed models to analyze guilt ratings. I used multilevel models (binary logistic regression and linear) because stimulus (i.e., which photo participants viewed) needed to be controlled for statistically. I included stimulus as an independent variable with a random intercept in the models, allowing me to investigate the impact of race while allowing the different individual pictures to vary in their baseline scores. I analyzed the dependent variables separately using defendant race (Black, White), PTP exposure (Positive, Negative, Control) as independent variables, testing for main and interactive effects. Models were compared for best fit using Akaike Information Criterion (AIC; Akaike, 1974) with a minimum two-point lower AIC indicating the better model.

I conducted 2 (Race: Black, White) X 3 (PTP: Positive, Negative, Control) between subjects factorial ANOVAs on each of the two attitude scales to test whether attitudes were influenced at all by the manipulations. I had originally intended to conduct a mediation analysis to test whether POPS or CoBRAS scores mediated the relationship between the conditions and guilt ratings, but PTP condition was not a significant predictor of attitudes or guilt ratings, rendering a mediation analysis unnecessary. I also used chi-square tests and one-way ANOVAs

to test whether several extraneous variables needed to be statistically controlled (see preliminary analysis).

Data Screening

Of the 314 participants who completed both parts of the study, 195 were analyzed (see Figure 1 below for the participant exclusion process).

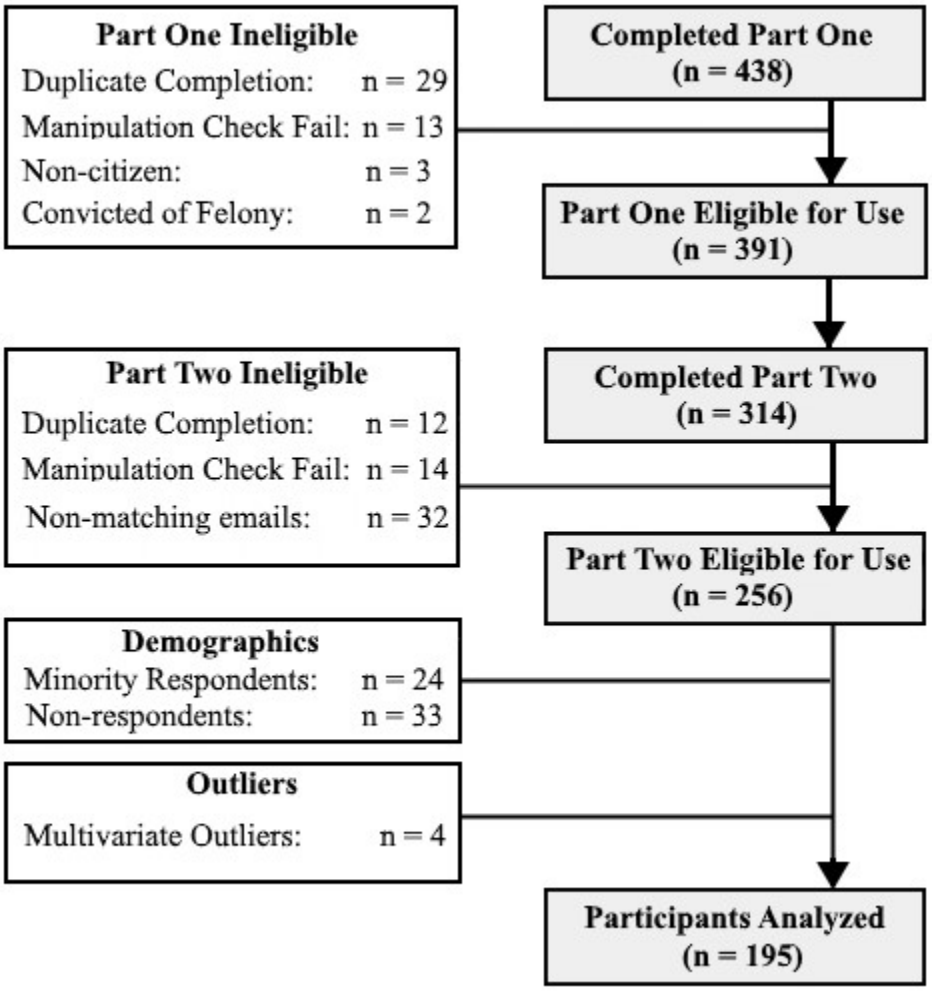

Figure 1. Participant Exclusion Process

Some were removed for failing manipulation checks (part one manipulation checks involved correctly answering two of three questions about the target article, while the part two manipulation check was simply answering the question: "what was the race of the defendant?"), some were removed for multiple attempts with multiple condition assignments. Five were removed for not being jury-eligible (U.S. Citizen and non-felon). Finally, given the importance of race in this study and the racial demographics of the participant pool being predominantly White, I decided *a priori* to focus analyses on White participants. Removing minority and nonreporting participants, 199 participants remained. I include the pre-removal racial demographics in Table 1 above with the other demographics.

I tested the data for multivariate outliers using all quantitative variables that were used for analysis (guilt ratings, POPS scores) and time difference between parts one and two. I identified four multivariate outliers which I evaluated using mahalinobis distance values. Outliers were then removed, yielding a final sample of 195. I further checked the data for additivity, normality, linearity, and homogeneity. No assumptions were violated.

Preliminary Analysis

I first conducted analyses to determine if several extraneous variables affected verdicts or guilt ratings based on previous research (e.g. Greene & Loftus, 1984; Porter & Ten Brinke, 2009). These included participant time between PTP exposure and viewing of the trial, defendant appearance, month of participation, gender, article presentation order, and hometown. Each of these variables were either included as a question in the study (gender and hometown), found in the study meta-data (time between PTP exposure and viewing of the trial, semester of

significant effects, *ps* > .66. participation), or manipulated in the study (defendant appearance, article presentation order). While the screening of most of these variables was a matter of sound research methodology, hometown was included because of the unique likelihood of having students from St. Louis, MO, where Michael Brown was killed by a police officer—an important point in the history of the movement.

I conducted one-way ANOVAs predicting guilt for each of participant gender, order of article presentation, or participant hometown and found no significant effects, ps > .28. I also conducted a chi square test comparing verdicts and each of these variables and found no other None of these variables were included or controlled for in subsequent analyses.

I tested for time between the PTP exposure of part one and the mock trial in part two. The mean time difference was 5.4 days, while the shortest (due to study design) was three days and the longest was 28 days. A majority (168) completed the second part no later than a week after viewing the PTP. A one-way ANOVA using time difference to predict guilt ratings was nonsignificant, $F(1, 193) = 0.02$, p=.87, R^2 <.001. A binary logistic regression predicting verdict was also nonsignificant, χ^2 (1) = 3.10, p = .08, Nagelkerke R^2 = .02.

Defendant appearance was significant for predicting both verdict and guilt ratings. The six pictures used to represent the defendant (three Black, three White) were significantly different from each other in predicting verdicts using a chi-square analysis, χ^2 (1) = 15.06, p = .01. To identify which picture(s) held the most influence, I looked at the standardized residuals and found that only defendant one (Black) contributed substantially with a standardized residual of -3.58 indicating a stronger tendency toward not-guilty verdicts than predicted. The second highest standardized residual was 1.58 for defendant five (White) which falls short of two, a commonly used cut-off. The other two Black defendants (two and three) had standardized

residuals of 1.02 and 0.14 respectively, while the White defendants four and six had standardized residuals of 1.26 and -0.40 respectively, See Table 2 below for the breakdown of guilt ratings and conviction rates by picture. They were also significantly different in predicting ratings of guilt using a one-way ANOVA, $F(5, 189) = 2.98$, $p = .01$, $R^2 = .07$. I performed independent *t*-tests with a Bonferroni correction to take a closer look at the differences between defendant pictures and found only one picture was significantly different from others. Picture one (Black) had significantly lower likelihood of guilt ratings from picture four (White), $p = .04$, $d = 0.77$, and picture six (White), $p = .01$, $d = 0.86$. No other pairwise comparisons were significantly different in guilt ratings.

Table 2

Likelihood of Guilt and Conviction Rates by Defendant Picture

	N	Likelihood of Guilt	Conviction Rate
Picture 1 (Black defendant)	33	33.7 (26.8)	9%
Picture 2 (Black defendant)	29	53.8 (33.3)	46%
Picture 3 (Black defendant)	32	50.2 (29.7)	45%
Picture 4 (White defendant)	35	55.5 (29.8)	38%
Picture 5 (White defendant)	33	55.2 (28.2)	48%
Picture 6 (White defendant)	33	58.4 (30.7)	33%

Note: Numbers in parentheses represent standard deviations. Likelihood of guilt ranged 0-100.

One specific Black defendant (defendant one) was much less likely to be given a guilty verdict and received lower guilt ratings than any of the other defendants. Additionally, one White defendant (defendant six) was less likely to be given a guilty verdict but had the highest average

likelihood of guilt rating of any of the defendants. It is difficult to interpret these patterns, but it is possible that defendant one's facial expression (potentially fearful) compelled leniency. See appendix I for the photos used. To control for this variable, it was included in analyses with a random intercept.

I also checked for differences by month to determine whether history affected participants' responses. Month of participation was a significant predictor for verdict, χ^2 (1) = 11.74, p = .02, but not for guilt rating, $F(4, 190) = 2.34$, p = .06, R^2 = .05. While it is likely this effect was random, there was a chance it was related to the release of a movie that contained themes related to the BLM movement in early October. Therefore, I opted to control for it statistically by including it in the verdict analyses with a random intercept.

Analysis

See Table 3 for full descriptives across experimental cells for both verdict and likelihood of guilt. Overall, the conviction rate for Blacks was 30%, whereas the conviction rate for Whites was 43%. The average conviction rate for the control group overall was 36%, compared to 40% for the negative, and 33% for the positive. See Figure 2 for a visual representation of the likelihood of guilt data.

Hypothesis 1. To test the predicted interaction of PTP and Race on verdict and given the need to control for two variables while trying to achieve a balance between model fit and parsimony, I created several multilevel models using binomial distribution and a logit-link function including picture and month of participation with random intercepts and the independent (defendant race and PTP condition) as fixed effects. I compared these models using

Table 3

Likelihood of Guilt and Conviction Rates as a Function of PTP Exposure and Defendant Race

	Black Defendant	White Defendant
PTP Control Group	*n* = 28	*n* = 34
Likelihood of guilt	49.4 (34.0)	56.6 (28.9)
Conviction rates	35%	37%
Negative-BLM PTP Group	*n* = 24	*n* = 34
Likelihood of guilt	44.3 (28.0)	59.4 (29.4)
Conviction rates	21%	55%
Pro-BLM PTP Group	*n* = 36	*n* = 30
Likelihood of guilt	43.8 (31.3)	52.6 (30.0)
Conviction rates	33%	33%

Note: Numbers in parentheses represent standard deviations. Likelihood of guilt ranged 0-100.

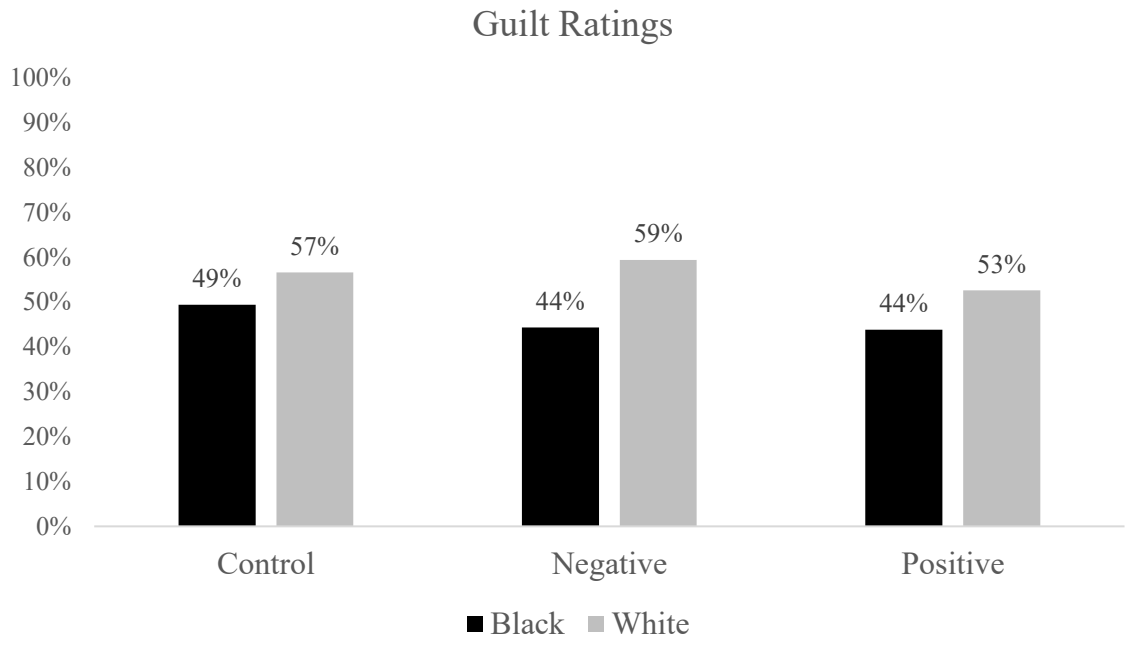

Figure 2. Mean Likelihood of Guilt Rating Split by PTP Condition and Race Condition

AIC and log likelihood ratio tests contrasting them to their previous iteration forward from null. See model comparison in Table 4.

Table 4

Model Comparison

Model	df	AIC	log likelihood	χ^2	$\Delta\chi^2$	p
Intercept only	1	257.74	-127.87	255.74		
Random Intercept for Defendant Picture	2	255.62	-125.81	251.62	4.12	.042*
Random Intercept for Month	3	257.49	-125.74	251.49	0.14	.711
Race, PTP, and Interaction	7	258.58	-122.29	244.58	6.91	.141

Note: Each model lists only the variables added in that model but include variables contained in all previous steps. * = $p < .05$

Based on AIC and a change in chi-square values, the model with the best fit contained only the random intercept for defendant picture. The first model contained only the intercept and was used for comparison purposes. The second model considered only the random effect of defendant picture. The third model included both defendant picture and participation month with random intercepts. The fourth and final model contained both the previously used random effects as well as defendant race and PTP condition, considering both main and interactive effects.

The model containing only the random effects for defendant picture was significantly different from the null model, χ^2 (1) = 4.12, p = .04 and had the lowest AIC. The model containing defendant picture and month as well as the model containing defendant picture, month, defendant race, and PTP condition were both nonsignificant. Therefore, the defendant

picture only model appeared to be the model of best fit. No other effects, random or fixed were significant in any model. See Tables 5 and 6 below for results.

Table 5

Random Effects Predicting Verdict

Random Effects	χ^2	*df*	*p*
Model 2: Defendant Picture	4.12	1	.042
Model 3: Month	0.13	1	.711

Note: Values are for individual predictor; Model 3 also includes the random intercept for Defendant Picture

Table 6

Fixed Effects Predicting Verdict

Fixed Effects (model 4)	*b*	*S.E.*	*Wald*	*p*
Negative Condition	-0.604	0.632	-0.956	.339
Positive Condition	0.105	0.560	0.188	.851
White Defendant	0.215	0.677	0.317	.751
Negative Condition: White Defendant	1.362	0.810	1.682	.093
Positive Condition: White Defendant	-0.250	0.775	-0.322	.747

Note: Model lists only the variables added in that model but includes the random effects from previous models as well. Also: Positive and Negative PTP conditions contrast against control while White defendant is in comparison to Black defendant.

Hypothesis 2. To gain a more fine-grained perspective on whether race and PTP had an impact on jurors' perceptions of the defendant's guilt and to test Hypothesis 2, I created several linear mixed models to test the impacts of defendant race and PTP condition, controlling for defendant picture with a random intercept on ratings of guilt (0-100%). The first model contained only the intercept and acted as a null comparison model. The second model contained the random effect of defendant picture only. The third and final model contained the random effect as well as the fixed effects of defendant race, PTP condition, and interactions. I compared these models using AIC and log likelihood ratio tests contrasting them to their previous iteration forward from null. See model comparison in Table 7.

Table 7

Model Comparison

Model	df	AIC	log likelihood	χ^2	$\Delta\chi^2$	p
Intercept only	2	1889.2	-942.60	1885.20	--	--
Random Intercept for Defendant Picture	3	1887.9	-940.95	1881.90	3.32	.069
Race, PTP, and Interaction	8	1893.2	-938.60	1877.20	4.70	.453

Note: Each model lists only the variables added in that model but include variables contained in all previous steps. * = $p < .05$

The model containing the random intercept for defendant picture was a slight improvement over the intercept only model when comparing AIC, but was not significantly better when compared with a likelihood ratio test, χ^2 (1) = 3.32, p = .07. The model containing

the independent variables was also no better than the null model, and the individual effects were not significant. See Table 8 below for the results of the final LMM.

Table 8

Fixed Effects Predicting Likelihood of Guilt

Fixed Effects (Model 3)	*B*	*S.E.*	*t*	*p*
Negative Condition	-3.761	8.136	-0.462	.644
Positive Condition	-3.917	7.647	-0.512	.609
White Defendant	8.143	9.103	0.895	.422
Negative Condition: White Defendant	6.605	10.956	0.603	.547
Positive Condition: White Defendant	-0.121	10.765	-0.011	.991

Note: Values are for individual predictor; Model 3 also includes Defendant Picture. Also: PTP condition comparisons are comparing to the control group, while race comparisons are reported as White comparing to Black.

Hypotheses 3 and 4. To test Hypothesis 3 and assess whether defendant race or PTP condition affected POPS and CoBRAS scores, I conducted two 2x3 between-subjects factorial ANOVAs using PTP condition and defendant race to predict each of the two attitude scales. I found no effect in the POPS model for race $F(1, 189) = 0.01$, $p = .91$, $R^2 < .001$, PTP condition, $F(2, 189) = 0.50$, $p = .60$, $R^2 = .005$, or their interaction, $F(2, 189) = 0.18$, $p = .82$, $R^2 = .002$. I also found no effect in the CoBRAS model for race $F(1, 189) = 1.44$, $p = .23$, $R^2 = .007$, PTP condition, $F(2, 189) = 0.56$, $p = .57$, $R^2 = .006$, or their interaction, $F(2, 189) = 0.22$, $p = .80$, $R^2 = .002$. I had originally intended to conduct a mediation analysis to test Hypothesis 4 and

investigate whether POPS or CoBRAS scores mediated the relationship between PTP exposure and guilt measures, but there were no significant effects of the manipulated variables on guilt measures.

I also examined whether attitudes and guilt measure correlated (See Table 9 below). As expected, verdict and likelihood of guilt ratings had a strong positive correlation. Both verdict and guilt ratings were positively correlated with perceptions of police; specifically, those with more positive attitudes toward the police were more likely to render a guilty verdict. Verdict was negatively correlated with scores on the CoBRAS; specifically, those with lower scores (indicating more racist beliefs) were more likely to vote guilty. Lastly, POPS and CoBRAS were negatively correlated with each other, which indicates that in general those with more positive opinions of the police were more likely to endorse colorblind racist attitudes.

Table 9

Correlations between Verdict, Likelihood of Guilt, POPS, and CoBRAS Scores

	Verdict*	Guilt Ratings	POPS	CoBRAS
Verdict*	—			
Guilt Ratings	.778***	—		
POPS	.154*	.173*	—	
CoBRAS	-.164*	-.139	-.513***	—

Note: Verdict is coded as not guilty = 0, guilty = 1 and correlations with verdict reflect Spearman's rho, whereas all other correlations reflect Pearson's r.

*p<.05, **p<01, ***p<.001 (two tailed)

DISCUSSION

The purpose of this study was to investigate whether positive or negative general PTP about the BLM movement would influence verdicts and guilt ratings and whether racial attitudes or attitudes towards police would mediate the relationship. I included two manipulations: PTP condition (pro-BLM, anti-BLM, and control), and defendant race (Black and White) in the study design. Analyses of the data showed no significant effects of the main independent variables on guilt measures, although one verdict model containing a random effect for defendant picture was significant. I discuss the results and implications below.

PTP Exposure and Defendant Race

The data did not support my hypotheses. PTP did not affect verdicts or guilt ratings, nor did PTP did interact with defendant race in the way hypothesized (e.g. that positive PTP would decrease guilty verdicts for Black defendants in comparison to White defendants). Race also had no effect on guilt ratings or conviction rates. Furthermore, there was no evidence that scores on the attitudes' scales were impacted by BLM media exposure.

Defendant Picture

One defendant photo (the first Black defendant) was judged to be less guilty than two of the White defendants. While "stimulus" was not a variable of interest and may have interfered with my attempt at manipulating the construct of "race," this result may contribute to previous literature that has suggested defendant appearance can play a role in juror decision making. There are several theoretical possibilities for why this effect arose in my study.

Perceived Facial Masculinity. Physical attributes other than attractiveness can have a biasing impact on perceptions. Estrada-Reynolds, Reynolds, McCrea, & Freng (2017) found that when a male defendant had more masculine features, participants rated him more likely to commit a violent crime. Additionally, participants also rated more masculine defendants as more likely to reoffend with another violent crime. It is possible that participants viewed defendant one as having fewer masculine features than the rest, particularly defendants four and six, and therefore were less likely to believe he would commit a violent crime.

Credibility Assessments. Another possible explanation is the dangerous decisions theoretical framework (Porter & Ten Brinke, 2009). According to this framework, facial reading and emotional expression can cause an individual to quickly make a so-called "dangerous decision" about another's credibility. This quick assessment is particularly likely for the personality domain of trustworthiness, which can potentially have a critical impact on a juror's judgement regarding a defendant's guilt. Korva, Porter, O'Connor, Shaw, and Ten Brinke (2013) found evidence for this in an experiment that showed mock jurors were significantly more likely to acquit a defendant whose photograph looked "trustworthy" than one whose photo did not. Defendant one may have appeared more trustworthy than the other defendants to participants, leading them to be less likely to convict him.

Defendant Emotional Responsiveness. Lastly, Antonio (2006) found that emotional responsiveness of the defendant during a trial impacted sentencing decisions. More specifically, if the defendant appeared sincerely sorry, jurors were more likely to select a life sentence over the death penalty, whereas seeming emotionally uninvolved during the proceedings was linked to a greater likelihood of being given the death sentence. While participants did not see the defendant's face reacting during the trial, the picture that they viewed still conveys an emotion

which participants may view as the defendant's emotional response to the trial. In the current research, people might have perceived defendant one to appear remorseful or fearful, in turn resulting in more lenient responses.

All of these research findings and theories suggest that defendant appearance can play a role in juror decision making and can do so in multiple ways. People do not require anything more than a photograph to make judgements about an individual's personality characteristics (Dion, Berscheid, & Walster, 1972). They can make snap decisions about others based on brief exposure to a photo, but they also tend to stick to these judgements when given more time to look at the image and do so with increasing confidence (Willis & Todorov, 2006). Participants saw the photograph of the defendant potentially for the duration of the mock trial, giving them ample time to make assumptions about the defendant and become confident in these assumptions. Whether any one or combination of these theories is responsible for the results found in this study are unknown. It is still possible that these results are simply the expression of a reaction to a single idiosyncratic photograph rather than a statement of any larger pattern or meaning.

Null Effect of Race

Race Salience. Given that some previous research has shown White participants having a bias against Black defendants (e.g. Fein et al., 1997), why was there no significant effect for race? There are several possible reasons for this null effect, and this is by no means the first time a researcher has failed to uncover White juror bias. Sommers and Ellsworth (2000) showed in two experiments that when race was salient – that is, participants are not only aware of the defendant's race, but race is also potentially relevant to the proceedings in one way or another

(e.g. the trial concerned a racially-charged hate crime), that White participants corrected for their biases and did not judge White and Black defendants differently. Only when race was nonsalient did White jurors demonstrate a pro-White bias. In another study, Clow et al. (2013) investigated the interaction of PTP and defendant race and found that participants were least likely to convict the Black defendant of the three ethnicities examined. They interpreted the findings to mean that participants were adjusting for known societal biases against Blacks, which is theoretically similar to the "bias adjustment" account Sommers and Ellsworth (2000) produced.

While in previous research racial salience has somewhat mitigated White bias, this effect has only been tested within a narrow set of methodologies that largely focus on racially-charged hate crimes (Sommers & Ellsworth, 2009). In the present research, I sought to manipulate racial salience by exposing participants to general PTP about the BLM movement. I wanted to determine whether the way in which race was made salient (positive or negative) would differentially affect White jurors' judgments, and I did not expect to replicate the "typical" pattern uncovered in previous manipulations of salience. The intention was that one condition called into question the operation of the justice system in regard to Blacks, thereby making race an important factor (pro BLM), while the other condition would either fail to stimulate racial salience by not connecting race to injustice (control), or any racial salience would be overcome by the activation of in-group bias induced by the article (anti BLM). However, I found no difference between PTP groups. Had the control condition been different from the PTP conditions, one could have argued that the racial salience pattern had been replicated and that the negative-BLM article merely served to activate racial salience and did not negatively impact participants' attitudes; however, there was no difference between control and either PTP condition, suggesting that racial salience was not supported in this study. One explanation for

this result is participants' pre-existing awareness of their own potential biases. If participants were already aware of injustice towards Blacks within the judicial system and the potential for inadvertent racial bias then my attempt to induce racial salience would not have an impact if they were already aware of their own potential biases in a trial setting.

Aversive Racism. Aberson and Ettlin (2004) performed a meta-analytic review of research on racism and compared experiments in which participants favor the Black target with experiments where participants favor the White target. They found, in accordance with the aversive-racism paradigm, that when the experimental situation or evaluative criteria from which they were to base their decision was ambiguous, participants tended to favor the White target, whereas when the situation or evaluative criteria is less ambiguous and clearly favors an egalitarian response, participants will favor the Black target.

Aberson and Ettlin suggested several theories regarding the above pattern. One of these theories was simply prejudice inhibition; participants are aware of their own potential prejudices and are actively seeking to overcome any potential biases that they may exhibit due to one motivation or another. Additionally, Aberson and Ettlin suggest self-categorization theory, in particular self-categorization as a social group member. Participant behavior can be influenced by social group which can in turn be artificially influenced by researchers by manipulating the context. White participants might favor the White target automatically if White identity is the relevant attribute; however, participants can also choose to be in a non-prejudiced group as opposed to a prejudiced group. According to this theory, had the results for PTP followed the predicted pattern, participants in the negative-BLM group would self-categorize as White and would view Blacks as the out-group as opposed to participants in the positive-BLM group who would self-categorize as non-prejudiced, viewing prejudiced Whites as the outgroup. However,

this theoretical pattern was not supported by the data; the condition in which Blacks were least likely to be convicted was the negative-BLM condition suggesting that either this theory does not apply well to the current data, or that the negative-BLM article was better at inducing participants to adopt a non-prejudiced perspective, possibly as a reactance response the negative-toward-Blacks bias found in the article.

Social Desirability. Another potential explanation is social desirability bias. In social desirability bias, research participants respond less according to the reality of their own attitudes and beliefs and more according to what answers they believe will be viewed favorably by others. In this case, enough participants might have been concerned that they might be viewed as a racist if they convicted the Black defendant that they outweighed any bias other students not acting under social desirability bias might have displayed.

Stimulus Effect. One explanation for the lack of a race effect is the idiosyncratic effects of a specific photograph. There was a difference between the individual pictures used to represent the defendants, with the photograph of one particular Black defendant being less likely to be given a guilty verdict than two of the White defendants. While multilevel models are generally good at handling correlated independent variables, it is still possible that the effect of defendant picture drowned out any effects I might have found for race, especially given that defendant picture is structured within the defendant race manipulation.

Lack of Racial Bias. Finally, the least complicated explanation for a lack of White juror bias in this study is simply that the participants do not have racial biases. The entire study was built around manipulating racial biases either in favor of Blacks or against them by using PTP exposure to engage racial salience and activate either positive or negative attitudes. However, the racial salience/aversive racism account collapses in the absence of latent racial biases. Even

within the control condition participants did not convict Blacks more than Whites, nor did they judge them more likely to be guilty. Had the participants been hiding latent racial biases, this result seems unlikely. Perhaps the null results for defendant race simply reflect a lack of bias amongst the students participating in the study.

Null Effect of PTP Exposure

PTP condition had no significant effect on guilt measures, but there is every possibility that participants were already being exposed to information about the BLM movement in their daily lives. It is also possible that PTP condition had no effect because of study procedure. While the lower limit was set for time between PTP exposure and mock trial (three days), the upper limit was not restricted, leaving participants seeing the PTP sometimes a few weeks before they finished the study which may have nullified any possible influence the PTP might have had. Additionally, previous literature demonstrating PTP effects have typically used case-specific PTP. Even in studies of general PTP, the media focused on the same type of crime that the mock jurors were judging during the trial. A threshold of relatedness may exist that requires the PTP to be at least somewhat similar to the case being judged. If this is true, then the current study may not have met this lower limit of relatedness, thereby failing to have an effect.

Attitudes

While perceptions of police and colorblind racism were not different between race or PTP groups, they were both correlated with verdict, and perceptions of police was also correlated with guilt ratings. Basically, increased colorblind racism predicted increased support for the police, and both were associated with more convictions. Since one of the testimonies in the mock

trial was given by the arresting police officer, it is possible that this attitude may have caused participants to react more positively to the officer's story and be more skeptical of the defense's attempts to discredit his procedures. The positive correlation between perceptions of police and guilty verdicts might simply be because, as previous research has indicated, trust in police is positively correlated with support of the prosecution (Farrell et al., 2013). The connection between colorblind racism and verdict are a little less clear because there was no significant difference in colorblind racism scores between those in the White defendant condition and those in the Black defendant condition. A third variable may exist that explains both.

Limitations and Future Research

There were a number of limitations related to this being an online study, including difficulty in controlling the amount of time between PTP exposure and mock trial as well as ensuring that the participant actually engaged with the material enough to reflect an accurate idea of what their behavior would be in a real trial. Outliers were removed, though, which included the four individuals who had the longest time between exposure and trial, and I tested to ensure that time between was not a significant predictor of verdict or likelihood of guilt. Additionally, the study was limited by the predominantly White participant pool which, while relatively reflective of the area in which the study was conducted, would not be reflective of all jury pools. However, I was primarily interested in White juror bias—a close examination of minority participants' respondents to BLM PTP is a potential avenue for future research, but beyond the scope of the current research.

One factor that I was forced to control for was defendant appearance. While I used multiple defendants to control for the potential that participants might respond differently based

on the appearance of the individual rather than because of his race, this type of sampling is not a fix all—in the current research, stimulus sampling ended up being a source of confusion. While defendant appearance may have caused difficulty in interpretation, the use of multiple pictures was still preferable to using a single stimuli to represent the construct "Black" or "White". Had this not been controlled for in the design, it is possible that incorrect conclusions would have been drawn based on a single anomalous picture.

Future researchers may wish to take several steps to improve research quality. For one, it would be advisable to control for time between PTP exposure and mock trial, a problem that could be addressed by conducting the second session in-person instead of online. Additionally, future researchers may want to diversify their participant demographics to include minority participants and members of the community rather than relying on a student population. That said, in a review of jury research Bornstein (1999) found little difference between students and community members when acting as mock jurors. To investigate the possibility of external BLM exposure, a question at the end of the study might be included asking about it and the participants general awareness of the movement beforehand. Finally, to solve the picture dilemma it would be advised for future researchers to find new pictures to represent the fictional defendant and pilot the stimuli beforehand to ensure similar ratings across relevant trait judgment domains.

Conclusion

The present research underscores the complexity of potential factors in juror decision making by showing a significant effect only for defendant picture, suggesting that defendant appearance may have played a greater role than race or PTP. While my hypotheses were not supported, this study still yielded some interesting information that might inform future research

on jury decision making. As for PTP, while inconclusive, the lack of of a PTP effect raises the question of whether there is there a threshold of relevancy for PTP to have an impact on jurors. It is my hope that this research will prompt other researchers to further explore the boundary conditions of PTP effects and their interaction with race.

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APPENDICES

Appendix A. Institutional Review Board Approval

Date: 10-6-2018

IRB #: IRB-FY2018-342
Title: The Impact of Black Lives Matter Movement Publicity on Juror Decision Making
Creation Date: 10-29-2017
End Date: 12-17-2018
Status: Approved
Principal Investigator: David Zimmerman
Review Board: MSU
Sponsor:

Study History

Submission Type Initial	Review Type Expedited	Decision Approved
Submission Type Modification	Review Type Expedited	Decision Approved

Key Study Contacts

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Appendix B. Waterfront Distractor Article

Imagine owning prime waterfront property, but you can't do any repairs or remodeling. Homeowners are bracing for a decision that could drastically restrict development on the Northern California coast. Waterfront homes in Marin could soon be a steal, as long as you don't mind taking them as-is. The plan could make even the smallest renovation — a huge headache for homeowners.

But the California Coastal Commission tells KPIX that its plan is reasonable considering the danger posed by rising sea levels. Marin County has been working on its coastal plan for eight years but amendments the California Coastal Commission wants to make may mean those eight years are down the drain and threaten some coastal homes.

Morey Nelsen picked the Seadrift community of Stinson Beach for its waterfront value, but that value could figuratively erode next month if the California Coastal Commission approves certain changes to the county's coastal plan. "It's going to drive my property values way down and then my ability to do any kind of maintenance — even put on a new roof," Nelsen said.

It comes down to two major changes, out of thousands. The California Coastal Commission is redefining certain flood zones according to the worst possible scenario that could happen 100 years from now, creating a much bleaker outlook for the future than the county's plan. Secondly, because of that outlook, it would make most construction and maintenance on structures west of Highway 1 virtually impossible.

Jeff Looman, sea level rise representative for Stinson Beach said, "What we feel is the staff of the CCC wants to take those and turn them into a case study all up and down the coast —

in a way the forces managed retreat. And that's not something Marin County needs to be doing right now."

The communities of Point Reyes, Muir Beach, Tomales, Inverness, Marshall, Stinson and Bolinas would all be affected and all have united with the county against the commission's recommendations. In the meantime, homeowners are rushing to get their work done before the commission meeting November 2nd in Half Moon Bay when this will be decided.

Appendix C. Conjoined Twins Distractor Article

Erin and Abby Delaney were born conjoined at the top of their heads on July 24, 2016. On June 6, just shy of the twins' first birthday, surgeons at the Children's Hospital of Philadelphia conducted a successful 11-hour surgery to separate them. Since then, Erin and Abby have been recovering and continuing treatment.

They've learned how to sit independently from one another, roll and crawl, and they spent their first birthday at the hospital, the Children's Hospital of Philadelphia reported. And they're about to hit another milestone – they will be coming home soon. Heather and Riley Delaney, the twins' parents, will get to take their girls home to Mooresville as early as November. Erin has been discharged from the hospital and Abby remains there while she continues to recover.

Heather and Riley first learned the girls were conjoined in early 2016, about 11 weeks into Heather's pregnancy. The twins' condition was craniopagus, the least common type of conjoined twins. After that, the twins' parents traveled to the Philadelphia hospital every two weeks for prenatal appointments. Erin and Abby were born 10 weeks prematurely. Delivered by cesarean section in the hospital's Special Delivery Unit, each twin weighed 2 pounds and 1 ounce, according to the hospital. The twins were separated at 10 months old.

Heather moved into the hospital's special maternity unit when she was 27 weeks pregnant to be closely observed, and transferred to the Philadelphia Ronald McDonald House sometime after that. Riley moved into his in-laws' garage to save money, according to the report, and has been traveling back and forth from North Carolina and Philadelphia to visit the twins.

"This is one of the earliest separations of craniopagus conjoined twins ever recorded," Dr. Jesse Taylor, reconstructive surgeon, told the hospital. "We know that children heal better

and faster the younger they are; therefore our goal for Erin and Abby was separation as soon as possible with minimum number of surgeries."

After their separation surgery, the twins were closely cared for by their surgeons, nutritionists, developmental pediatricians and other specialists to ensure a successful recovery, the hospital said. The twins will return to Philadelphia over the next few years for more surgeries to replace the missing bone areas at the top of their heads and to adjust their hairlines, the hospital said.

Appendix D. Tech Distractor Article

Entrepreneur Dennis Mortensen is finally ready to unleash Amy into the world. His startup x.ai has been developing Amy, an artificially intelligent personal assistant, for nearly three years. The software is meant to be a dream assistant, of sorts: It's professional, prompt and receptive to critiques.

While Amy has already had some gushing reviews from her so-called employers, Mortensen has made her available up until now to only a closed group of users, for free. Now, he's putting a price tag on Amy and its counterpart Andrew. For $39 each month, anyone can buy the professional edition subscription to schedule unlimited meetings with an x.ai assistant. When cc'ed on an email, the assistant will take over by coordinating schedules and placing a meeting date on the calendar.

For the professional edition, users can select up to 10 VIP contacts who can email Amy directly to set up meeting. This means users don't have to go through the hassle of looping Amy into an email chain and verifying they'd like to set up a meeting. It's also possible to personalize the signature of the assistants, adding text to explain who it is.

The company will eventually have three editions: Personal (free but has a 5 meetings per month limit), Professional and Business, which comes with an admin feature. People currently on the waitlist -- which x.ai says includes "hundreds of thousands" of people -- have the option to sign up for the Professional edition or wait for the Personal edition opening up sometime next year.

Introducing Amy to the world hasn't come quickly.

Amy and Andrew have spent years learning from beta users. The pair has scheduled hundreds of thousands of meetings with the help of 53 x.ai staffers. (The company employs about 84 people).

"We are fighting human ambiguity," Mortensen told CNNMoney, noting the challenges that an AI virtual assistant has to overcome.

For example, when a person replies to an email at 2 a.m. and refers to "tomorrow," Amy might not know the respondent hasn't slept yet and "tomorrow" is technically today. Meanwhile, when a person replies to a separate email thread to confirm, cancel or change a meeting time, Amy can sometimes get confused.

But Mortensen said the technology will continue to get smarter over time.

"You're never at the end of it -- you never write the last piece of code," he said. Mortensen likened the learning curve to self-driving car technology. To start, there's little room for error in the minds of the public. A recent study from the University of Wisconsin found humans are less forgiving of automation than humans.

"The idea of [consumer] forgiveness doesn't exist in this paradigm," Mortensen said. "But we need to have forgiveness."

As both artificial intelligence and self-driving tech become more pervasive, the AI's level of work will get easier in some ways. That's because a mixed world of artificially intelligent assistants and human assistants creates more room for errors.

Mortensen explained that when both assistants are Amys, there's no need to make assumptions about what a person is trying to convey.

When it comes to mistakes with self-driving car technology, the impact is much graver: Human deaths. But for x.ai, it could mean losing customers.

The needs for both, however, are universally acknowledged, said Mortensen.

"It's never argued that we don't need self-driving cars. [Similarly], there's no one that thinks about coordinating a meeting and [says to themselves], "I f------ love it," he said.

Appendix E. Anti-BLM Article

Too many protestors choose to escalate tension and increase the likelihood of violence.

Although Black Lives Matter purportedly began as a movement about ending fear amongst black Americans, it seems to have become something very different—and something perhaps more disturbing than the apparent trend of police shooting unarmed black men. Black Lives Matter, or at least a nontrivial number of its proponents, has become a movement about instilling fear — sometimes in politicians, sometimes in "white people," but mainly and most significantly in police.

Last week, a gunman in Dallas opened fire on police at the end of a Black Lives Matter demonstration, killing five officers and wounding several others. Micah Johnson, the shooter, told a hostage negotiator that he was angry on behalf of Black Lives Matter and "wanted to kill white people, especially police officers." Johnson's Facebook page revealed an affinity for black nationalism, and he followed a Facebook group called the "African American Defense League," which encouraged followers to "ATTACK EVERYTHING IN BLUE EXCEPT THE MAIL MAN" and "sprinkle Pigs Blood."

It would make sense if, in the wake of Dallas, police officers across the country are frightened — and, indeed, they are. "How can you not be afraid?" Boston police sergeant Mark Parolin told the Boston Globe over the weekend. A beat officer, Sammy Mojica, told the paper, "Sometimes we feel like our hands are tied behind our backs and people are out to get us." And that fear compounds what officers have felt for going on two years. In June of last year, the New York Daily News editorialized: "Fear has taken hold of the New York Police Department. The city's cops have grown afraid to do their jobs." Federal officials seemed to confirm that this year,

in May, when one suggested that the "viral video effect" has led police to retreat from carrying out their duties.

Given the heightened passions surrounding the alarming deaths of Alton Sterling and Philando Castile, both shot dead by police last week, it was almost inevitable that this weekend's protests would devolve into violence, and that's precisely what happened. In Sterling's Baton Rouge, 125 people were arrested; an officer struck with a projectile lost several teeth. In Chicago, protesters broke through a police barricade, and multiple people were arrested on charges of battery against police. And in Castile's St. Paul, Minn., more than 100 protesters were arrested when protesters used an overpass over Interstate 94 to throw rocks and rebar at police, injuring 21 officers, including one who suffered broken vertebrae when a concrete block was dropped on him from above. When one officer was injured, protesters cheered: "One piggly-wiggly down!" If police are even more fearful after this weekend, they would not be without reason.

The rule of law is breaking down as riots erupt before the facts come in. The anti-cop movement has moved from attacking the police, to attacking the rule of law itself, and now it is attacking the fundamental human right of self-defense. Twice in a month, rioters have struck back after black cops reportedly shot and killed black men who were threatening the cops with guns.

In Milwaukee, rioters burned businesses and cars after a black officer shot Sylville Smith. Milwaukee officials who reviewed the body-camera footage not only said that Smith was raising his gun at police, they also noted that he "had more firepower than the officer" — possessing a weapon with a 23-round magazine.

Later in Charlotte, N.C., a young black police officer shot and killed Keith Lamont Scott. According to police reports, Scott brandished a weapon and was given multiple commands to drop the weapon. After a woman claiming to be Scott's daughter posted a Facebook Live video that asserted that Scott was disabled and only holding a book, riots erupted. The police say they've not found a book at the scene, but they do have Scott's weapon. Protests began in late afternoon and quickly turned violent. Rioters attacked and injured police officers (including one hit in the face with a rock), shut down and set fire to an interstate, threw rocks and other objects at motorists, damaged police cars, looted tractor trailers, and eventually looted a Walmart. Police reportedly arrested only one person in response to the widespread violence.

Even when Black Lives Matter activists chant "Pigs in a blanket! Fry 'em like bacon!" — and too many of them do — violent rhetoric is not directly responsible for actual violence. But Black Lives Matter is responsible for how it reacts to events such as Dallas. And the response of many was not only dismissal, but it pushed the agitation to an even higher pitch. That is, after Dallas, the response of activists was to willfully create the conditions that make violence more likely, not less. When tensions were high — perhaps as high as they have been since the movement began — Black Lives Matter opted to escalate the situation.

Unjust ends are not secured by unjust means, and many in the Black Lives Matter movement seem to have forgotten that. At the same time that many demand that law enforcement stop forming conclusions based on skin color, many activists form conclusions based solely on the presence of a badge. What does "Black Lives Matter" even mean if a black man in uniform can't protect himself from criminal violence — from a person of any color? Does this look like "social justice" to you?

Appendix F. Pro-BLM Article

Countless studies, statistics, investigations, and anecdotes tell us that a person's race can determine the kinds of interactions he or she will have with the police — and how likely it is that he or she will survive the encounter. At this point, this reality is largely beyond debate. Yet the topic of unarmed black people being disproportionately killed by law enforcement officers is often dubbed "controversial," and is framed as an issue about which reasonable people can disagree. It is not.

Many characterize the dilemma as the result of a lack of "trust between police and communities." That obscures the problem. The phrase "black lives matter," which has been used to draw attention to the problem, has inspired its own pushback, with critics suggesting it means that "blue" (police) lives, or nonblack lives in general, aren't important. That's hugely confused.

But any sincere confusion about what the Black Lives Matter movement means and what motivates critics of racialized police violence should end with the news of the circumstances of 40-year-old Terence Crutcher's death in Tulsa, Oklahoma, last week (to say nothing of the police shooting in Charlotte, North Carolina, of Keith Lamont Scott on Tuesday night, the details of which are still unfolding). After Crutcher's car stalled on the highway, police responding to a call about an abandoned vehicle saw Crutcher — who video shows was following instructions and who police have admitted was unarmed — and deemed him "a bad dude" who would need to be tasered. Moments later, officer Betty Shelby shot him dead.

Anyone should be able to see that this was wrong. The fact that it happened, that the officer may or may not be held responsible, and that it hasn't led to national consensus of horror and outrage paints a clear, simple picture of the reality that people are protesting against when they say "black lives matter." This shooting, the latest in a long, long string of similar cases,

stands out. Because of the specific circumstances, it's a tragedy that even people who hold deeply misguided beliefs about black criminality or intense loyalty to police officers should be able to see as such. There are no distractions. Those who can't identify injustice in this latest textbook example of how racial bias can lead to death probably won't see it anywhere. Crutcher's death proves that you can get killed while doing absolutely nothing wrong (let alone anything that justified deadly force).

His death is a distressing reminder that race informs which people are seen as threats, which in turn affects whether police encounters turn adversarial, which in turn determines people's likelihood of being killed. You don't have to be black to imagine the terror people feel knowing that their skin color means there's a chance they will at some point be seen as a threat, a police officer will react to them as such, their every hesitation or terrified motion will be interpreted as failure to comply, and they will end up dead. Worse, accountability will be unlikely because police are so rarely determined to have improperly used deadly force. And of course, even if someone were charged, the person whose skin color set off this chain of events would still be dead.

We don't have to imagine what the video doesn't show — that Crutcher probably would have survived his car troubles had he been white. Generally, data backs that up, as German Lopez has explained: "An analysis of the available FBI data by Vox's Dara Lind shows that US police kill black people at disproportionate rates: They accounted for 31 percent of police killing victims in 2012, even though they made up just 13 percent of the US population. Although the data is incomplete, since it's based on voluntary reports from police agencies around the country, it highlights the vast disparities in how police use force."

And there’s good reason to believe that racial bias is a factor. Studies show that officers are quicker to shoot black suspects in video game simulations. Josh Correll, a University of Colorado Boulder psychology professor who conducted the research, said it’s possible the bias could lead to even more skewed outcomes in the field. "In the very situation in which [officers] most need their training," he said, "we have some reason to believe that their training will be most likely to fail them." It’s a reminder that it’s not random tragic mistakes, “bad apples,” or a “lack of trust” that kills innocent black people

In the case of police, all cops are dealing with enormous cultural and systemic forces that build racial bias against minority groups. Even if a black cop doesn't view himself as racist, the way policing is done in the US is racially skewed — by, for example, targeting high-crime neighborhoods that are predominantly black. These policing tactics can also create and accentuate personal, subconscious bias by increasing the likelihood that officers will relate blackness with criminality or danger — leading to what psychologists call "implicit bias" against black Americans. Combined, this means the system as a whole — as well as individual officers, even black ones — by and large act in ways that are deeply racially skewed, even if they are not consciously aware of it.

Appendix G. Trial Transcript

Judge: Please be seated. Court is now in session. We have before us criminal case, number 94-143, the *State of Missouri vs. Donald Ray Braswell*. The defendant, Mr. Braswell is being charged with the crimes of armed robbery and assault with a deadly weapon inflicting serious injury. The defendant has appeared in this court and has entered a plea of not guilty to the charges of armed robbery and assault with a deadly weapon inflicting serious injury. I note for the record that Dana Nielson is here, representing the state as the prosecutor, and Beth Cochran is here as defense counsel for Mr. Donald Ray Braswell. All right Mrs. Nielson, you may proceed with your opening statement.

Prosecutor (Dana Nielson): Thank you, your honor. Ladies and gentleman of the jury, the State of Missouri charges Mr. Donald Ray Braswell of robbing the Kum & Go convenience store, on the corner of Washington and 8th Avenue. He is also charged with shooting and seriously injuring the clerk, Mr. Andrew Flynt. Due to his injuries, Mr. Flynt has no memory of the events of February 22nd, 2016. He is therefore unable to testify for himself about the events of that day. Mrs. Cynthia Easterling, a frequent shopper of the Kum & Go Convenience store, who was present at the time the crimes were committed, has identified Mr. Donald Ray Braswell as the person who shot Mr. Flynt. The evidence will show that Mrs. Cynthia Easterling positively identified the defendant in a lineup conducted by a member of the Springfield Police Department. The defense will attempt to convince you that the Springfield Police Department used biased procedures to construct the lineup. However, as you will see, the procedures used in constructing and administering the lineup were fair and unbiased, and the evidence will show that the lineup from which Mrs. Cynthia Easterling identified the defendant was in fact the standard lineup used by the Springfield Police Department. Furthermore, the evidence will show

that the circumstances leading up to the arrest of the defendant are highly incriminating, and it is our feeling that a close examination of the evidence of this case, will convince you beyond a reasonable doubt that the defendant is guilty as charged.

Judge: Thank you, Mrs. Nielson. Mrs. Cochran, you may make your opening statements.

Defense (Beth Cochran): Thank you, your honor. Ladies and gentleman of the jury, the defendant, Mr. Donald Ray Braswell has been mistakenly identified by a single eyewitness as the man who robbed the Kum & Go convenience store and who shot and injured the clerk, Mr. Andrew Flynt. The evidence will show that the defendant is innocent of the crimes for which he has been accused. You see the defendant, Mr. Donald Ray Braswell, wasn't at the Kum & Go convenience store that day. You'll hear testimony from his friend, Mr. Rice that Mr. Donald Ray Braswell was home at the time that the crimes occurred—thus it is impossible for him to have been the perpetrator. The evidence will show that Officer Ackerman used biased and unfair procedures to construct the lineup from which the eyewitness made her identification. Ladies and gentleman of the jury, substantial questions exist regarding the eyewitness's memory of the crime and the conditions under which she identified the defendant. Careful attention to the evidence today will show that Mrs. Easterling was incorrect in her identification of the defendant, and that my client, Mr. Donald Ray Braswell, is innocent of the charges. Thank You.

Judge: Mrs. Nielson, you may proceed with your first witness.

Prosecutor (Dana Nielson): Thank you, your honor. I would like to call Cynthia Easterling to the stand.

Judge: Please raise your right hand. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Witness #1 (Cynthia Easterling): I do.

Judge: Please be seated.

Prosecutor (Dana Nielson): Mrs. Easterling, will you please state your full name for the record.

Witness #1 (Cynthia Easterling): My name is Cynthia Jane Easterling.

Prosecutor (Dana Nielson): Mrs. Easterling, are you familiar with the Kum & Go convenience store on the corner of Washington and 8th Avenue?

Witness #1 (Cynthia Easterling): Yes I am. I often stop in there to buy gas or a soda.

Prosecutor (Dana Nielson): Did you stop at the Kum & Go convenience store on February 22, 2016?

Witness #1 (Cynthia Easterling): Yes I did. I stopped in there to buy gas at about 8:40pm that evening.

Prosecutor (Dana Nielson): Could you please tell the jury what events took place that evening?

Witness #1 (Cynthia Easterling): Well after I filled up with gas, I went inside and paid the cashier, um, I then went to the back to use the restroom. As I came out, I heard yelling and saw a man waving a gun at the cashier. So, I froze in the entrance to the main area of the store. I didn't duck or anything, just stood there—I was literally petrified.

Prosecutor (Dana Nielson): Mrs. Easterling, could you please tell the jury what you saw next?

Witness #1 (Cynthia Easterling): I saw the cashier give the guy with the gun some money. Um, the guy with the gun was swearing and yelling. The guy with the gun seemed to get really upset—I guess because it wasn't enough money—and then he started shouting more obscenities even louder while he was shaking the gun at the cashier. Then he shot the clerk and ran out of the store.

Prosecutor (Dana Nielson): What happened next?

Witness #1 (Cynthia Easterling): Well after the guy left, I called 911 and the police came.

Prosecutor (Dana Nielson): Mrs. Easterling, were there any other customers in the store?

Witness #1 (Cynthia Easterling): No. Besides the cashier, I was the only other person in the store.

Prosecutor (Dana Nielson): You said you stood still and didn't take cover. Did this allow you an opportunity to get a good look at the robber?

Witness #1 (Cynthia Easterling): Yes I feel like got a good look at him.

Prosecutor (Dana Nielson): Approximately how long were you able to get that good look at the robber?

Witness #1 (Cynthia Easterling): Um, I'd say about a minute, it felt like two hours.

Prosecutor (Dana Nielson): Were you distracted at all during this time period?

Witness #1 (Cynthia Easterling): No I was not.

Prosecutor (Dana Nielson): Did you find that during this time period, you were able to pay close attention to the robber's face?

Witness #1 (Cynthia Easterling): Yes, I believe I was able to pay close attention to the robber's face.

Prosecutor (Dana Nielson): Was the robber wearing a mask or a disguise of any kind?

Witness #1 (Cynthia Easterling): No he wasn't.

Prosecutor (Dana Nielson): Mrs. Easterling, is the person you saw rob the Kum & Go convenience store in the room at this time?

Witness #1 (Cynthia Easterling): Yes he is.

Prosecutor (Dana Nielson): Could you please point to this person?

Witness #1 (Cynthia Easterling):*(she points to Mr. Donald Ray Braswell)* Yes, that's him there.

Prosecutor (Dana Nielson): Let the record reflect that the witness has identified the defendant, Mr. Donald Ray Braswell.

Judge: So noted.

Prosecutor (Dana Nielson): Mrs. Easterling, let's now turn our attention to the events that took place *after* the crime was committed. Did you at a later date, have an opportunity to view a photographic lineup and make an identification of the robber?

Witness #1 (Cynthia Easterling): Yes I did.

Prosecutor (Dana Nielson): And after the robbery occurred, how confident were you that you would be able to make a positive identification?

Witness #1 (Cynthia Easterling): I was pretty sure that I would be able to make an identification from a lineup, assuming the guy was there.

Prosecutor (Dana Nielson): How confident were you immediately after having made the identification?

Witness #1 (Cynthia Easterling): Um, I was 95% sure that the person I selected from the lineup was the robber. **Prosecutor (Dana Nielson):** And Mrs. Easterling, how confident are you now that your identification was correct?

Witness #1 (Cynthia Easterling): I'm still 95% confident that my decision was correct.

Prosecutor (Dana Nielson): Thank you, your honor. Mrs. Easterling, how many lineups did you view the day that you identified Mr. Donald Ray Braswell?

Witness #1 (Cynthia Easterling): I only saw one lineup.

Prosecutor (Dana Nielson): And how long did it take you to identify the man that you believed to have been the robber?

Witness #1 (Cynthia Easterling): I didn't have to finish looking at all the men in the lineup. As soon as I saw the defendant I recognized him.

Prosecutor (Dana Nielson): Could you please describe to the court, what if anything, the police officer said to you prior to viewing the lineup.

Witness #1 (Cynthia Easterling): Well before I saw the lineup, the police officer read me some instructions. Um, he told me that he would be showing me a photographic lineup of men that may or may not contain the person who committed the crime. He told me that I'd be seeing each photograph individually and that I'd need to make a decision after each one. Um, he told me that I couldn't go back and see a lineup member that I'd seen before and he couldn't tell me how many line-up members that I would be seeing. He read to me that I, um, should keep in mind that hairstyles, beards and mustaches could easily be changed, so I should look at each line-up member carefully, and after each one I should tell him whether I saw the person who committed the crime. Then he read to me that I shouldn't tell anyone else whether I had identified anyone.

Prosecutor (Dana Nielson): Thank you Mrs. Easterling, I have no further questions.

Judge: Mrs. Cochran, your witness.

Defense (Beth Cochran): Thank you, your honor. Mrs. Easterling, did you view mug shots of robbery suspects of any kind between the robbery and the lineup identification?

Witness #1 (Cynthia Easterling): No I did not.

Defense (Beth Cochran): And how long was it from the robbery to the day you identified my client from the photographic lineup.

Witness #1 (Cynthia Easterling): It was about 2 weeks.

Defense (Beth Cochran): Mrs. Easterling, could you please tell us the description of the robber that you gave to the police?

Witness #1 (Cynthia Easterling): Yes, I described him as being a black guy, about 25 to 30 years old, 5'10, about 175lbs. Um, his hair was buzzed. He was wearing a pair of white shorts, a yellow t-shirt, and white tennis shoes.

Yes, I described him as being a white guy, about 25 to 30 years old, 5'10, about 175lbs. Um, his hair was buzzed. He was wearing a pair of white shorts, a yellow t-shirt, and white tennis shoes.

Defense (Beth Cochran): And how did the members of the lineup dress? Were any of them wearing the same clothes that you described?

Witness #1 (Cynthia Easterling): No, none of them were wearing the clothes that I had described. Of course, I could only see the shirt each man in the photograph was wearing, but none of them were wearing the same kind of shirt.

Defense (Beth Cochran): Now, generally speaking, did most of the people in the lineup match the description of the person you saw rob the convenience store?

Witness #1 (Cynthia Easterling): No, not really. A couple of them were too heavy, one of them was lighter-skinned, and one was white. **No, not really. A couple of them were too heavy, one of them was darker-skinned, and one was black.**

Defense (Beth Cochran): Mrs. Easterling, how many people were in the line-up?

Witness #1 (Cynthia Easterling): There were 6 men in the line-up.

Defense (Beth Cochran): You said earlier that you stop at this store often?

Witness #1 (Cynthia Easterling): Yes, that is where I usually stop to get gas when I need it.

Defense (Beth Cochran): Is it possible that you recognize the defendant not from the day of the robbery, but from one of your earlier stops at the store?

Witness #1 (Cynthia Easterling): No, I don't think so.

Defense (Beth Cochran): How many of the five men in the lineup looked like the man you described to the police?

Witness #1 (Cynthia Easterling): Only one man did, Mr. Braswell.

Defense (Beth Cochran): Let me make sure that I understand your testimony Mrs. Easterling. It is your testimony that there is no chance that you identified Mr. Braswell because he was the only man in the lineup that looked similar to the description you gave police.

Witness #1 (Cynthia Easterling): Well, um, I identified him because he's the man I saw that robbed the store.

Defense (Beth Cochran): And you are completely sure without any doubt that you recognized Mr. Braswell from the robbery and not from a previous time you were at the Kum & Go.

Witness #1 (Cynthia Easterling): I am pretty confident that it was from the day of the robbery.

Defense (Beth Cochran): Pretty sure, but not 100% completely sure right Mrs. Easterling?

Witness #1 (Cynthia Easterling): Almost, but not completely 100%.

Defense (Beth Cochran): Thank you, I have no further questions.

Judge: Mrs. Easterling, you may step down.

Judge: Mrs. Nielson, you may call the next witness.

Prosecutor (Dana Nielson): Thank you, your honor. At this time, the state wishes to call Officer Paul Ackerman, to the stand.

Judge: Officer Ackerman, raise your right hand. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Witness #2 (Officer Ackerman): I do.

Prosecutor (Dana Nielson): Officer Ackerman, will you please state your full name for the record?

Witness #2 (Officer Ackerman): My name is Paul Douglas Ackerman.

Prosecutor (Dana Nielson): And what is your occupation?

Witness #2 (Officer Ackerman): I'm a police officer with the Springfield Police Department.

Prosecutor (Dana Nielson): Officer Ackerman, have you been involved at all in the investigation of the robbery of the Kum & Go convenience store, which took place on February 22, 2016?

Witness #2 (Officer Ackerman): Yes I was.

Prosecutor (Dana Nielson): And in what capacity were you involved?

Witness #2 (Officer Ackerman): I was the chief investigating officer. I took the witness's statement immediately following the crime. I organized and conducted the lineup.

Prosecutor (Dana Nielson): Could you please tell the court how it is that the defendant was picked up and charged with this crime?

Witness #2 (Officer Ackerman): The defendant was picked up at about 10 blocks from the crime scene, for loitering and suspicious behavior in front of another small convenience store. He matched the description of the perpetrator given by Mrs. Easterling and based on that information was held, placed under arrest, and taken to the Springfield Police Department. He was released on bond, but we had his mugshot to use in a photographic lineup.

Prosecutor (Dana Nielson): Officer Ackerman, in your experiences with the police force, about how many photographic lineups have you been involved with?

Witness #2 (Officer Ackerman): I've conducted at least 50 lineups in other cases.

Prosecutor (Dana Nielson): Prior to having Mrs. Easterling view the photo lineup, did you say anything to her?

Witness #2 (Officer Ackerman): I instructed her on the lineup that she would be seeing.

Prosecutor (Dana Nielson): And what were those instructions?

Witness #2 (Officer Ackerman): Well, they were the standard instructions for a lineup used by the Springfield Police Department.

Prosecutor (Dana Nielson): Could you please recite those for the Court?

Witness #2 (Officer Ackerman): Yes. I have them right here. "The photo array of men you are about to see might or might not contain the person who committed the crime. Each lineup member will be presented individually and you must make a decision after viewing each one. You cannot go back to see a lineup member whom you have already viewed and I cannot tell you how many lineup members you are going to see. Please keep in mind that hairstyles, beards and mustaches can easily be changed. I want you to look at each lineup member carefully and after each one, tell me whether you see the person who committed the crime. Please do not tell anyone else whether you have identified anyone."

Prosecutor (Dana Nielson): Thank you very much. Officer Ackerman, was there anything unusual about the procedure used to construct the photo array?

Witness #2 (Officer Ackerman): No. Like I said, the procedures I used to conduct the lineup were standard procedures used by the Springfield Police Department. In fact, the Springfield procedures are designed to avoid suggestiveness, and this particular administration was carefully conducted to ensure its fairness.

Prosecutor (Dana Nielson): Officer Ackerman, is it true that Mrs. Easterling, the eyewitness, identified the defendant, Mr. Donald Ray Braswell, from the line-up, as the man who robbed the convenience store?

Witness #2 (Officer Ackerman): Yes she did.

Prosecutor (Dana Nielson): Thank you, Officer Ackerman. I have no further questions.

Judge: Mrs. Cochran, your witness.

Defense (Beth Cochran): Thank you, your honor. Officer Ackerman, let's consider the lineup from which witness picked the defendant. You were in charge of determining the composition of the lineup and of administering it to the witness, were you not?

Witness #2 (Officer Ackerman): Yes, I was responsible for everything.

Defense (Beth Cochran): Is there an established procedure for constructing a lineup?

Witness #2 (Officer Ackerman): We have a database of mugshots at the station, so we select five or six people who look like the perpetrator and those are the people we use as fillers in the photo array.

Defense (Beth Cochran): Did any of the other men in the lineup have all the characteristics described by the eyewitness of the crime?

Witness #2 (Officer Ackerman): No.

Defense (Beth Cochran): So then you were wrong when you said that you selected five or six people as fillers who look like the perpetrator because you actually only picked one person in this case that looked like the perpetrator?

Prosecutor (Dana Nielson): Objection.

Judge: Sustained.

Defense (Beth Cochran): Would it be fair to say that the only person that resembled the perpetrator in this lineup was the defendant?

Witness #2 (Officer Ackerman): Yes, but only because he is the one that Mrs. Easterling described and identified as the robber.

Defense (Beth Cochran): Are you aware that instructing a witness on possible appearance changes can make them more likely to mistakenly identify somebody?

Witness #2 (Officer Ackerman): No I was not aware of that. Our procedures are fair.

Defense (Beth Cochran): Officer Ackerman, was the gun that was used to shoot the clerk, Andrew Flynt, ever found?

Witness #2 (Officer Ackerman): No, we searched the area surrounding the premises, but were unable to locate it.

Defense (Beth Cochran): Did you search my client's apartment for the gun?

Witness #2 (Officer Ackerman): Yes we did.

Defense Attorney (Beth Cochran): And were you able to locate the gun there?

Witness #2 (Officer Ackerman): No, we were still unable to locate the gun there.

Defense (Beth Cochran): Thank you, your honor. I have no further questions for this witness.

Judge: Officer Ackerman, you may step down. Mrs. Nielson, you may call your next witness.

Prosecutor (Dana Nielson): Thank you, your honor. The state rests at this time.

Judge: Mrs. Cochran, you may call your first witness.

Defense (Beth Cochran): Thank you, your honor. The defense would like to call Daniel Rice to the stand.

Judge: Raise your right hand. Mr. Rice, do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Witness #3 (Daniel Rice): I do.

Judge: Please be seated.

Defense (Beth Cochran): Mr. Rice, would you please state your full name for the record?

Witness #3 (Daniel Rice): My name is Daniel Martin Rice.

Defense (Beth Cochran): Mr. Rice, what is your relationship to the defendant, Donald Ray Braswell?

Witness #3 (Daniel Rice): Donald Ray is a close friend from childhood.

Defense (Beth Cochran): Are you familiar with the Kum & Go convenience store located on the corner of Washington and 8th?

Witness #3 (Daniel Rice): Yes, I get beer there sometimes. It's just a few blocks from my house.

Defense (Beth Cochran): Approximately how long does it take you to get to the Kum & Go from your apartment?

Witness #3 (Daniel Rice): It's not too far. I would say it's about a 5-minute drive.

Defense (Beth Cochran): Could you please tell the jury where you were at approximately 8:30pm on the evening of February 22, 2016?

Witness #3 (Daniel Rice): Sure. I was at home watching the basketball game.

Defense (Beth Cochran): Was there anyone else there with you that evening?

Witness #3 (Daniel Rice): Yeah, Donald, was with me.

Defense (Beth Cochran): Was Donald Ray with you the entire evening?

Witness #3 (Daniel Rice): Well, he was supposed to be. He came for pizza and beer, we started watching the game, and then he had to run home real quick because we needed a little more beer and he thought he had some there. Then he was gonna come back.

Defense (Beth Cochran): How far away does Donald Ray live?

Witness #3 (Daniel Rice): About a 10 minute drive.

Defense (Beth Cochran): At approximately what time did he leave?

Witness #3 (Daniel Rice): I remember it was right at the end of the third quarter, and flipping channels I saw the Rules of Engagement was just coming on, so I would say between 8:30 and 8:40 p.m..

Defense (Beth Cochran): Did you see or speak to him again after that?

Witness #3 (Daniel Rice): Yeah I called him at around 8:45 to tell him to stop off at the store to get some chips for me.

Defense (Beth Cochran): And did he sound normal?

Witness #3 (Daniel Rice): He sounded like he was a touch out of breath, but he was in a hurry to get back—he said he was just walking out of his house. He realized he didn't have beer at home, so he was going to go to the store anyway.

Defense (Beth Cochran): And did you see or hear from him after that?

Witness #3 (Daniel Rice): Nope, he got arrested before he could come back.

Defense (Beth Cochran): While you were hanging out with Donald Ray that night at your house, did you notice anything unusual about his voice or behavior?

Witness #3 (Daniel Rice): You know, I really didn't notice anything out of the ordinary. I knew he was a little short on money per usual, but that was always the case.

Defense (Beth Cochran): So just to be clear, how would you describe Donald's demeanor that evening as you guys watched the game?

Witness #3 (Daniel Rice): His demeanor was just as it always is. Actually, he seemed to be in good spirits all things considered.

Defense (Beth Cochran): Mr. Rice, to your knowledge, has Donald Ray Braswell ever owned a gun?

Witness #3 (Daniel Rice): No, not that I'm aware of.

Defense (Beth Cochran): Thank you, Mr. Rice. I have no further questions.

Judge: Your witness, Mrs. Nielson.

Prosecutor (Dana Nielson): Thank you, your honor. Mr. Rice, you said Mr. Braswell was chronically short on money.

Witness #3 (Daniel Rice): Yes, I suppose.

Prosecutor (Dana Nielson): Did you form the impression over time that he would've been happier—generally speaking—if he wasn't always so short on money.

Witness #3 (Daniel Rice): Ha, well wouldn't we all?

Prosecutor (Dana Nielson): Well sure, but would you say that Donald Ray was a little more preoccupied with this issue than most other people?

Witness #3 (Daniel Rice): Yes. Um, he tended to talk about it a lot.

Prosecutor (Dana Nielson): Did you sense, generally speaking, that he was angry about his money situation?

Witness #3 (Daniel Rice): Perhaps, generally speaking because he hated his job. That doesn't mean he would go rob a store and shoot somebody.

Prosecutor (Dana Nielson): OK, and you said he was actually in good spirits before he left your house the night of the crime?

Witness #3 (Daniel Rice): Well, yes.

Prosecutor (Dana Nielson): Interesting…Thank you, your honor. I have no further questions for this witness.

Judge: Mrs. Cochran, you may call your next witness.

Defense (Beth Cochran): Your honor, at this time, the defense rests.

Judge: Ladies and gentlemen of the jury, we will now proceed with the closing arguments. The prosecution will go first, and then the defense will proceed. Mrs. Nielson, you may now begin with your closing arguments.

Prosecutor (Dana Nielson): Thank you, your honor. Ladies and gentlemen of the jury, today you have heard the case against the defendant, Mr. Donald Ray Braswell. The defendant stands accused of robbing the Kum & Go convenience store on the corner of 8th Avenue and Washington. He also stands accused of shooting and severely injuring the clerk, Mr. Andrew Flynt. And as a representative of the state of Missouri, it's my job to prove to you beyond a reasonable doubt that Mr. Donald Ray Braswell committed these crimes. Today you have heard the testimony of Mrs. Cynthia Easterling, the eyewitness to the crimes that were committed. You heard her testify that the person who she saw commit these crimes at the Kum & Go convenience store was in fact, the defendant. She positively identified the defendant in a police lineup. Now also within this trial, you heard the testimony of Officer Ackerman of the Springfield Police force. Officer Ackerman was the chief investigating officer on this crime. You heard Officer Ackerman describe the standard procedures used in instructing eyewitnesses, choosing photographs for the lineup, and the standard procedure for presenting these photographs to the eyewitness in a police lineup. You also heard Officer Ackerman testify that these standard procedures were the ones used in the creation and administration of the lineup in this case, and that these procedures are designed to reduce suggestiveness. He also testified that this *particular* police line-up was conducted in an unbiased and fair manner. Finally, you heard the defendant's close friend and supposed alibi witness indicate the Defendant's chronic preoccupation with his lack of money, which establishes a clear motive for his committing these crimes. Ladies and gentleman, I believe that upon close examination of the evidence that was presented here today at this trial, you will be convinced beyond a reasonable doubt that the defendant, Mr. Donald Ray Braswell, is guilty as charged.

Judge: Thank you, Mrs. Nielson. Mrs. Cochran, you may proceed with your closing arguments.

Defense (Beth Cochran): Thank you, your honor. Ladies and gentleman of the jury, today you have heard testimony from a couple of witnesses stating that the defendant, Mr. Braswell, is guilty of the charges. However, we cannot conclude from the evidence that he committed this crime. Reasonable doubt exists as to who committed these crimes, and you must therefore, in the interest of justice, find him not guilty. Let's go back to the testimony that we heard today. First, we heard the testimony of Mr. Rice, the defendant's good friend. He testified to a number of important pieces of information. First, he testified that the defendant was at his apartment and that he then went directly home, demonstrating that he was not near the store at the time the crimes were committed. Mr. Rice knows Donald Ray went directly home because he spoke to him on the phone as he left there. Additionally, Mr. Rice testified that he asked Donald Ray to go to the store and that Donald Ray needed to go to the store anyway—this explains why the Defendant was out when the police apprehended him. Finally, he testified that to his knowledge, the defendant does not own a gun.

The only incriminating evidence is the testimony of Mrs. Easterling, a single eyewitness. She is a well intentioned woman who has mistakenly identified the defendant from a biased lineup. In evaluating the evidence, you should consider the procedure used to construct the lineup. The suspects used in the line-up were biased against my client because only my client actually matched the description of the perpetrator. . Also, the instructions given to the witness were biased against my client because they included information about possible changes in the perpetrator's appearance. Such change-of-appearance instructions can cause a witness to choose when he or she is uncertain. These factors led to a mistaken identification of the defendant; therefore, you must vote to acquit my client, Mr. Braswell. Thank you.

Judge: Members of the jury, I thank you for your attention during this trial. Please pay

attention to the instructions I am about to give you. It's my duty to instruct you on the rules of law that you must use in deciding this case. Your decision must be based only on the evidence presented during the trial. You must not be influenced in any way by either sympathy for or prejudice against the Defendant or the Government. You must follow the law as I explain it – even if you do not agree with the law – and you must follow all of my instructions as a whole. You must not single out or disregard any of the Court's instructions on the law.

The indictment or formal charge against a Defendant isn't evidence of guilt. The law presumes every Defendant is innocent. The constitution requires the state to prove its accusations against the defendant, and therefore it is up to the state to prove the defendant's guilt by evidence. The defendant exercised his right of choosing not to be a witness in this case. You must not view this as an admission of guilt nor should you be influenced in any way by his decision.

The Government's burden of proof is heavy, but it doesn't have to prove a Defendant's guilt beyond all possible doubt. The Government's proof only has to exclude any "reasonable doubt" concerning the Defendant's guilt. Mr. Donald Ray Braswell, the defendant in this case, is accused of the armed robbery of the Kum & Go and assault with a deadly weapon inflicting serious injury of Andrew Flynt. A "reasonable doubt" is a real doubt, based on your reason and common sense after you've carefully and impartially considered all the evidence in the case. A reasonable doubt is not a possible doubt, speculative, imaginary or forced doubt. Such a doubt must not influence you to return a verdict of not guilty if you have an abiding conviction of guilt. A reasonable doubt as to the guilt of the defendant may arise from the evidence, conflict in the evidence, or lack of evidence. "Proof beyond a reasonable doubt" is proof so convincing that you would be willing to rely and act on it without hesitation in the most important of your own

affairs. It is to the evidence introduced upon this trial and to it alone, that you are to look for that proof.

As I said before, you must consider only the evidence that I have admitted in the case. You must disregard or ignore any evidence that I may have ordered as evidence to be stricken from the testimony or disregarded by you good members of the jury. That means that when you are deciding the case, you must not consider that inadmissible evidence. Evidence includes the testimony of witnesses and the exhibits admitted. But, anything the lawyers say is not evidence and isn't binding on you. Remember, the lawyers are not on trial. Your feelings about them should not influence your decisions in this case. You shouldn't assume from anything I've said that I have any opinion about any factual issue in this case. You should use your common sense in deciding which is the best evidence and which evidence should not be relied upon when considering your verdict. You must find some of the evidence not reliable or less reliable than other evidence.

When I say you must consider all the evidence, I don't mean that you must accept all the evidence as true or accurate. You should consider how the witnesses acted as well as what they said. You should decide whether you believe what each witness had to say, and how important that testimony was. In making that decision you may believe or disbelieve any witness, in whole or in part. To decide whether you believe any witness I suggest that you ask yourself a few questions: Did the witness impress you as one who was telling the truth? Did the witness have any particular reason not to tell the truth? Did the witness have a personal interest in the outcome of the case? Did the witness seem to have a good memory? Did the witness have the opportunity and ability to accurately observe the things he or she testified about? Did the witness's testimony differ from other testimony or other evidence?

These are some general rules that apply to your verdict decision. You must follow these rules in order to return a lawful verdict. Before you can find the defendant guilty of assault with a deadly weapon inflicting serious injury, the state must prove the following three elements beyond a reasonable doubt: 1) Andrew Flynt was seriously injured; 2) That this occurred as a consequence of the use of a deadly weapon; 3) Donald Ray Braswell was the person who actually injured Andrew Flynt. The crime of robbery is taking of money or other property of value from the person or custody from another by force, violence, assault, or putting in fear. Before you can find the defendant guilty of armed robbery the state must prove the following elements beyond a reasonable doubt: 1) larceny or attempted larceny occurred at the Kum & Go; 2) from a person or the presence of a person; 3) with the use or threatened use of a dangerous weapon; 4) Donald Ray Braswell was the person who actually committed these acts. Remember that, in a very real way, you're judges – judges of the facts. Your only interest is to seek the truth from the evidence in the case.

Appendix H. Verdict Questionnaire

Instructions: Please answer the following questions.

1. As a juror in this case, do you find the defendant Donald Ray Braswell:

Guilty Not Guilty

2. Please rate how confident you are about this judgment (circle appropriate number)

0% 5 10 15 20 25 30 35 40 45 50% 55 60 65 70 75 80 85 90 95 100%

3. Please indicate the likelihood that the defendant is guilty on a scale from 0-100%, where 0% indicates zero likelihood that he is guilty and 100% indicates that you are positive he is guilty.

0% 5 10 15 20 25 30 35 40 45 50% 55 60 65 70 75 80 85 90 95 100%

For the following questions, please make an "X" in one of the boxes to indicate your opinion of the person in question.

Please rate the defense attorney, Beth Cochran, on the following characteristics:

Likeable								Not likeable
Inarticulate								Well- spoken
Persuasive								Not Persuasive
Competent								Incompetent
Unintelligent								Intelligent

Please rate the prosecuting attorney, Dana Nielson, on the following characteristics:

Likeable								Not likeable
Inarticulate								Well- spoken
Persuasive								Not Persuasive
Competent								Incompetent
Unintelligent								Intelligent

Please rate the eyewitness, Cynthia Easterling, on the following characteristics:

Likeable								Not likeable
Inarticulate								Well- spoken
Persuasive								Not Persuasive
Competent								Incompetent
Unintelligent								Intelligent

Please rate the arresting police officer, Paul Ackerman, on the following characteristics:

Likeable								Not likeable
Inarticulate								Well- spoken
Persuasive								Not Persuasive
Competent								Incompetent
Unintelligent								Intelligent

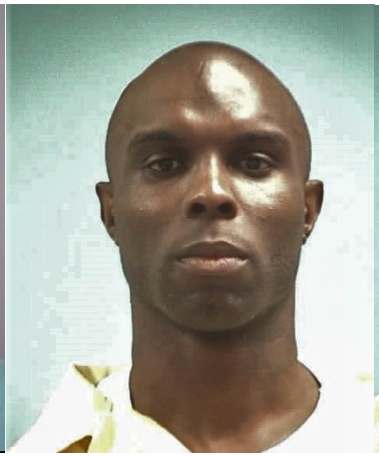
Please rate the defendant's friend, Daniel Rice, on the following characteristics:

Likeable								Not likeable
Inarticulate								Well- spoken

Persuasive								Not Persuasive
Competent								Incompetent
Unintelligent								Intelligent

Appendix I. Defendant Photographs

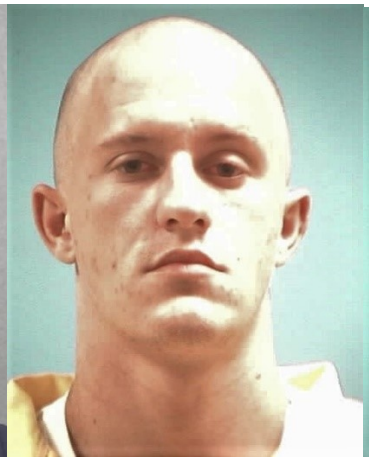
Defendant 1



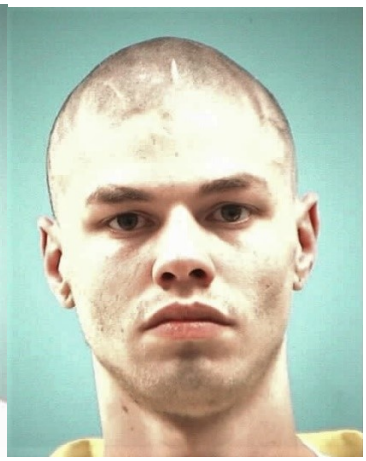
Defendant 2

Defendant 3

Defendant 4



Defendant 5



Defendant 6

Appendix J. CoBRAS

Rate the following on a scale of 0-5, with 0 indicating strongly disagree and 5 indicating strongly agree:

1. White people in the U.S. have certain advantages because of the color of their skin.
2. Race is very important in determining who is successful and who is not.
3. Race plays an important role in who gets sent to prison.
4. Race plays a major role in the type of social services (such as type of health care or day care) that people receive in the U.S.
5. Racial and ethnic minorities do not have the same opportunities as white people in the U.S.
6. Everyone who works hard, no matter what race they are, has an equal chance to become rich.
7. White people are more to blame for racial discrimination than racial and ethnic minorities.
8. Social policies, such as affirmative action, discriminate unfairly against white people.
9. White people in the U.S. are discriminated against because of the color of their skin.
10. English should be the only official language in the U.S.
11. Due to racial discrimination, programs such as affirmative action are necessary to help create equality.
12. Racial and ethnic minorities in the U.S. have certain advantages because of the color of their skin.
13. It is important that people begin to think of themselves as American and not African American, Mexican American or Italian American.

14. Immigrants should try to fit into the culture and values of the U.S.
15. Racial problems in the U.S. are rare, isolated situations.
16. Talking about racial issues causes unnecessary tension.
17. Racism is a major problem in the U.S.
18. It is important for public schools to teach about the history and contributions of racial and ethnic minorities.
19. It is important for political leaders to talk about racism to help work through or solve society's problems.
20. Racism may have been a problem in the past, it is not an important problem today.

Appendix K. POPS

Rate on a scale of 0-4 with 0 indicating strongly disagree and 4 indicating strongly agree:

1. Police officers are friendly
2. Police officers protect me
3. Police officers treat all people fairly
4. I like the police
5. The police are good people
6. The police do not discriminate
7. The police provide safety
8. The police are helpful
9. The police are trustworthy
10. The police are reliable
11. Police officers are unbiased
12. Police officers care about my community

Appendix L. Demographics Questionnaire

1. Gender (select one) FEMALE MALE TRANSGENDER OTHER

2. What is your age?_____

3. What is your occupation? _____

4. How many children do you have, if any? _____

How many of your children are under age 18? _____

5. Which of the following statements best describes your highest educational achievement?

____ Some high school

____ High school graduate (or GED)

____ Trade school

____ Some college

____ College graduate

____ Some graduate school

____ Graduate degree

6. What is your ethnicity? (circle one)

Hispanic

Non-Hispanic

7. What is your race?

Native American/Alaska Native

Asian

African-American

Native Hawaiian/Pacific Islander

White

8. What is your current marital status?

Single Married

Divorced Widowed

9. Which of the following best describes your income before taxes?

___ Less than 20,000 ___20,000-30,000

___30,000-45,000 ___45,000-60,000

___60,000-75,000 ___More than 75,000

10. Which of these opinions best represents your views?

1	2	3	4	5	6	7
Extremely Liberal	Liberal	Slightly Liberal	Moderate	Slightly Conservative	Conservative	Extremely Conservative

11. Which of the following best characterizes your religious affiliation?

Agnostic

Atheist

Buddhist

Christian

Hindu

Jewish

Muslim

Pagan

Other

Appendix M. Consent Form One: Reading Comprehension and the Media

The purpose of this research is to examine reading comprehension of modern newspaper articles. We plan to have approximately 250 participants in this study. If you decide to participate, you will be asked to read some articles online and answer questions about the articles—in order to qualify for the follow-up session and receive credit, you must correctly recall information from the articles you read and complete all other parts of the online session. The online component you are about to complete should take approximately 15 minutes.

For the follow-up session, you will listen to an audio recording and answer some questions about it. Participation should take about 45 minutes to 1 hour, and you are required to complete both sessions in order to receive credit.

There are few foreseeable risks for participating in this research; while unlikely, you may experience slight psychological discomfort from some of the material presented. You will receive course credit for participating. Benefits to you are the positive educational experience of participating in important research, and the potential benefits to society are increased knowledge of human perception.

Your participation in this study is completely voluntary. You have a right to refuse to participate without consequences. If you decide not to participate your decision will not affect your relationship with Missouri State University or any of the researchers involved with this study. If you decide to participate you may discontinue participation at any time. You may refuse to answer any specific questions or refuse to engage in any task at any time during the study. Withdrawal or refusing to answer specific questions or engage in specific tasks will not result in

any consequences to you and will not affect your relationship with Missouri State University or any of the researchers involved with this study.

Gift Card Lottery Incentive. If you complete **both sessions of this study** and **provide your contact information in a link at the end of the second study session**, you will be entered into two separate drawings, each for a $100 visa gift card, that will occur before the end of the Fall 2018 semester.

Your responses to all of the questions will remain confidential. Information gathered from you will be stored on password protected computers, and all of your responses will be completely confidential. By checking the box below you indicate that you have read this consent form, that you fully understand the nature and consequences of participation and that you have had all questions regarding participation in this study answered satisfactorily.

If you have further questions about this research please feel free to contact the Principal Investigator **David Zimmerman** (dzimmerman@missouristate.edu) or Co-Investigator Emily Nerness (klug91@live.missouristate.edu). If you have any questions regarding your rights as a research participant please feel free to contact the Missouri State University Institutional Review Board Office at irb@missouristate.edu, or by phone at 417-836-8362 OR 417-836-8991.

Appendix N. Consent Form Two: Jury Decision Making

Researchers at Missouri State University are asking you to take part in a study on jury decision making. The researchers want to learn more about juror decision making. You will listen to an audio recording of a felony trial and provide ratings of the trial participants and the evidence. You will also complete surveys about your attitudes related to the case and other relevant topics. Because a trial requires basic attention to the information being presented, the first half of this study screened participants to identify who would be able to sufficiently focus on the material being presented to be able to provide an informed verdict. The research should take about one hour to complete.

There are few foreseeable risks for participating in this research; while unlikely, you may experience slight psychological discomfort from some of the material presented. You will receive course credit for participating. Benefits to you are the positive educational experience of participating in important research, and the potential benefits to society are increased knowledge about juror decision making.

Taking part is voluntary. You have a right to refuse to participate without consequences. If you decide not to participate your decision will not affect your relationship with Missouri State University or any of the researchers involved with this study. If you decide to participate you may discontinue participation at any time. You may refuse to answer any specific questions or refuse to engage in any task at any time during the study. Withdrawal or refusing to answer specific questions or engage in specific tasks will not result in any consequences to you and will not affect your relationship with Missouri State University or any of the researchers involved with this study.

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If you have questions about the study, please ask the researcher or contact the Principal Investigator, **David Zimmerman** (dzimmerman@missouristate.edu) or Co-Investigator, Emily Nerness (klug91@live.missouristate.edu). If you have any questions regarding your rights as a research participant please feel free to contact the Missouri State University Institutional Review Board Office at irb@missouristate.edu, or by phone at 417-836-8362 OR 417-836-8991.