

WHAT MAKES RACE SALIENT?

Juror Decision-Making in Same-Race Versus Cross-Race Identification Scenarios and the Influence of Expert Testimony

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Research demonstrates that juror race may interact with defendant race to influence decision-making, but little work has investigated interactions with eyewitness race. This study tested whether Black/White jurors would produce different perceptions/decisions when faced with a Black/White defendant identified by a Black/White eyewitness. We also examined the influence of expert testimony regarding the cross-race effect in two floating cells. Mock jurors read a trial transcript, provided a verdict and trial party ratings, and indicated perceived race salience. Black jurors were more likely to convict a White defendant identified by a Black eyewitness than a Black defendant identified by a White eyewitness. Expert testimony was valued more highly when the defendant was Black, but had no direct influence on verdict; however, it raised race salience perceptions (as did presence of Black trial parties). Perceived race salience was associated with lower rates of conviction, suggesting that race and expert testimony have potential courtroom implications.

Keywords: eyewitness race; defendant race; expert testimony; race salience; juror decision-making

Jurors often make decisions about criminal trials based on eyewitness testimony (Lindsay, Wells, & Rumpel, 1981), as eyewitnesses can report on details of the offense as well as identify perpetrators and victims involved in the crime (Wells, Memon, & Penrod, 2006). To many, it would seem inappropriate for a juror to consider an eyewitness' race when evaluating his or her testimony and/or rendering a verdict. However, empirical research has demonstrated that the combination of eyewitness and defendant race is related to identification accuracy; this is known as the cross-race effect (CRE; Jackiw, Arbuthnott, Pfeifer, Marcon, & Meissner, 2008; Meissner & Brigham, 2001; Wu, Laeng, & Magnussen, 2012). There is a robust tendency for people to be more accurate at identifying same-race individuals as compared with those belonging to a different racial group (Meissner & Brigham, 2001; Pezdek, Blandon-Gitlin, & Moore, 2003; Platz & Hosch, 1988). As this effect is

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typically associated with an increase in false-alarm identifications for other-race individuals (Meissner & Brigham, 2001), it is disconcerting that archival analysis suggests that cross-racial identifications are quite common occurrences in real criminal cases (Behrman & Davey, 2001).

Although the CRE has been consistently observed across a number of memory tasks and racial groups, it is currently not well understood whether jurors are sensitive to, or aware of, this phenomenon. In addition, it is unknown whether cross-race identifications themselves increase race salience (the prominence of racial issues or norms in a situation; Sommers & Ellsworth, 2000, 2001) in a trial, or whether expert testimony might further elicit such an effect. This is important, as previous research indicates that White jurors' prejudice against Black defendants is minimized when issues pertaining to race are made prominent in a trial (Cohn, Bucolo, Pride, & Sommers, 2009; Sommers & Ellsworth, 2000, 2009). Previous researchers have primarily manipulated race salience through racially charged testimony (see Sommers & Ellsworth, 2009), with other potential methods largely unexplored. Therefore, the purpose of this study was to examine the interactive effects of defendant, juror, and eyewitness race on verdicts and perceptions of race salience, and to investigate the role of expert testimony regarding the CRE in this context.

DEFENDANT RACE

The legal system assumes that jurors can rationally process information related to the trial in an impartial manner. Unfortunately, research has demonstrated that defendant race can influence jurors' perceptions and decision-making, such that Black defendants are treated more punitively than are those who are White (e.g., Feild, 1979; ForsterLee, ForsterLee, Horowitz, & King, 2006; Jones & Kaplan, 2003). Many of these studies have experimentally demonstrated that mock jurors are biased against Black defendants across a variety of case types, including sexual assault (Desantis & Kayson, 1997) and murder (e.g., ForsterLee et al., 2006; Lynch & Haney, 2000). Furthermore, archival analysis of capital trial data has indicated that juries are more likely to apply a death sentence to defendants who are Black as compared with those who are White (Baldus, Woodworth, Zuckerman, Weiner, & Broffitt, 1998). In comparison, other researchers have found no evidence of bias against Black defendants (Braden-Maguire, Sigal, & Perrino, 2005; Mazzella & Feingold, 1994). Furthermore, some studies have found that jurors perceive Black defendants more favorably than those who are White (Marcus-Newhall, Blake, & Baumann, 2002; Poulson, 1990). In an attempt to explain these contradictory findings surrounding defendant race, researchers (e.g., Jennings, Richards, Smith, Bjerregaard, & Fogel, 2014; Steffensmeier, Ulmer, & Kramer, 1998) have suggested that moderating variables, such as case type (e.g., Jones & Kaplan, 2003), must be considered. Juror race may be one such moderator.

JUROR RACE

A number of studies have demonstrated a race-based similarity-leniency bias, such that jurors perceive defendants of the same race more positively than other-race defendants (Devine & Caughlin, 2014; Sommers & Ellsworth, 2000; Ugwuegbu, 1978). This similarity-leniency bias may be explained by social identity theory (SIT), which posits that a person's perceived sense of self is affected not only by his or her own personal characteristics but also by attributes of groups to which he or she belongs (Tajfel & Turner, 1986). Because

of this, people are generally inclined and motivated to favor and prefer in-groups as a method of enhancing self-value. This tendency can consequently lead to the homogeneity out-group effect, in which people negatively evaluate members of out-groups (Brown, 2000; Ostrom & Sedikides, 1992). In the context of the courtroom, SIT would predict that jurors are less likely to convict defendants of the same race (and more likely to convict those of a different race) to promote their personal sense of self.

Researchers have observed the similarity-leniency bias across a number of types of trials and cases. In one of the first studies of this effect with jurors, Ugwuegbu (1978) found that Black and White jurors rated defendants accused of sexual assault as more culpable when they were of a different race. Similarly, Abshire and Bornstein (2003) found that White mock jurors convicted a Black defendant of murder more often than did jurors who were Black, and ForsterLee and colleagues (2006) observed that participants (who were all White) assigned harsher sentences to Black defendants than to White defendants. In a study using deliberating mock juries, White-majority juries were more likely to convict Hispanic defendants of robbery than White defendants (Perez, Hosch, Ponder, & Trejo, 1993). Interestingly, defendant race had no effect on verdicts for Hispanic-majority mock juries. Recent meta-analyses have demonstrated that Black jurors tend to demonstrate more same-race leniency than White jurors—both Devine and Caughlin (2014) and Mitchell, Haw, Pfeifer, and Meissner (2005) identified a small, but significant outgroup-bias effect, finding that this effect was more pronounced for Black as compared with White jurors.

RACE SALIENCE

One possible explanation for these differences between Black and White jurors' same-race leniency is rooted in Gaertner and Dovidio's (1986, 2005) theory of aversive racism. As North American society becomes increasingly pluralistic, overtly racist attitudes and beliefs have become less socially acceptable. There has been a shift from explicit racism, in which people are openly expressive about their biased beliefs, to a subtler form of prejudice. According to the aversive racism framework, many individuals who are explicitly egalitarian unknowingly possess negative implicit attitudes regarding racial minorities. Aversive racism theory predicts that when racial issues are made salient or prominent, White individuals are motivated to respond in a socially desirable manner so that their behavior does not appear overtly prejudiced to themselves or to others (Cohn et al., 2009; Gaertner & Dovidio, 2005). However, when racial issues are not made salient, individuals tend to express bias in subtle, indirect forms that can be justified on the basis of other grounds. Thus, aversive racism and race salience theory predict that in trials without prominent race-related issues, White jurors will rely on their racial stereotypes when evaluating evidence and rendering a verdict.

In one of the first examinations of race salience in the courtroom, Sommers and Ellsworth (2000) manipulated defendant race (Black/White), as well as the salience of racial issues (by including racially charged language in witness testimony in race-salient conditions, and no such language in non-race-salient conditions), in a trial stimulus given to Black and White participants. In both the race-salient and non-race-salient conditions, Black mock jurors demonstrated same-race leniency. In comparison, the White participants only displayed leniency toward White defendants in the non-race-salient conditions. The authors concluded that a trial's race salience heightens White jurors' awareness of their potential bias, leading them to correct for it. In contrast, Sommers and Ellsworth (2000) theorized

that Black mock jurors automatically perceive race to be a salient component in interracial crimes, thus exhibiting leniency for Black defendants in both race-salient and non-race-salient trials. Although a number of subsequent studies have replicated these results (e.g., Bucolo & Cohn, 2010; Cohn et al., 2009; Sommers & Ellsworth, 2001), they have manipulated and operationalized race salience in largely the same manner: racially charged eyewitness or victim testimony, or racially charged opening/closing statements (Sommers & Ellsworth, 2009). Because alternate methods of evoking race salience have yet to be examined, it is currently unclear whether racial issues can be made prominent through other means, such as including testimony from an other-race eyewitness, or providing expert testimony concerning race.

PERCEPTIONS OF TRIAL PARTIES

Aside from the relationship between juror and defendant race, legal psychologists have also found that there is an association between a juror's race and his or her perceptions of experts and eyewitnesses (Abshire & Bornstein, 2003; Memon & Shuman, 1998). In an experiment that examined mock jurors' perceptions of expert witnesses in civil trials, Black participants perceived the expert witness to be less credible and qualified than did White participants (Memon & Shuman, 1998). Abshire and Bornstein (2003) further demonstrated that Black mock jurors rated the prosecution's eyewitness, as well as the lead detective, as less credible than did White mock jurors. In comparison, Black participants perceived the defense's alibi witness more favorably than did White participants. Black Americans have also been found to hold more skeptical views of the criminal justice system (Sommers & Ellsworth, 2000). It follows, then, that Black jurors may generally perceive eyewitnesses testifying for the defense more positively, and eyewitnesses provided by testifying for the prosecution more negatively, than would White jurors. However, this pattern may also depend upon the race of the eyewitness.

EYEWITNESS RACE

Although a fair amount of research has been conducted on the effects of defendant and juror race, there is a surprising paucity of literature regarding the influence of an eyewitness' race on juror decision-making. In 2007, Frumkin conducted a study wherein American mock jurors viewed videotaped testimony from a German, Mexican, or Lebanese eyewitness. Ethnic background influenced eyewitness perceptions; both German and Mexican eyewitnesses were viewed as more credible than those who were Lebanese. Frumkin (2007) also observed that jurors rendered more guilty verdicts when the eyewitness was Mexican as compared with Lebanese.

Abshire and Bornstein (2003) investigated whether mock jurors are sensitive to the CRE, the previously described effect in which people are more accurate at identifying individuals belonging to their own racial group (Jackiw et al., 2008; Pezdek et al., 2003; Wu et al., 2012). Using a trial transcript involving a Black defendant, Abshire and Bornstein (2003) observed that participants rated the prosecution's eyewitness as more credible when he was Black as compared with White. A significant interaction between eyewitness and juror race indicated that only Black participants perceived differences in eyewitness credibility depending upon eyewitness race, whereas White jurors rated the Black and White eyewitness similarly. Although Abshire and Bornstein's (2003) research is a good starting point, they did

not manipulate the race of the defendant. Therefore, it is unclear whether Black jurors were accounting for the CRE, or simply perceived Black eyewitnesses more favorably than White eyewitnesses. A fully crossed defendant-eyewitness race design is needed to gain a more complete understanding of jurors' awareness of this phenomenon. Because additional literature has demonstrated that expert testimony can assist jurors' evaluation of eyewitness evidence, including such testimony may also impact jurors' perceptions of cross-race identifications.

EXPERT TESTIMONY

Surveys of the jury-eligible population indicate that many laypeople have insufficient knowledge concerning eyewitness memory, and are particularly misinformed about factors that affect the accuracy of eyewitness identifications (Benton, Ross, Bradshaw, Thomas, & Bradshaw, 2006; Kassin & Barndollar, 1992; Magnussen, Melinder, Stridbeck, & Raja, 2010). It may not be surprising, then, that inaccurate eyewitness identifications are often the primary form of evidence in wrongful convictions (see the Innocence Project, n.d.; Scheck, Neufeld, & Dwyer, 2001); jurors may be allocating inappropriate weight to flawed, unreliable identifications (Lindsay, Wells, & O'Connor, 1989; Lindsay et al., 1981). In an attempt to safeguard against this problem, expert testimony concerning issues with eyewitness memory has become increasingly common in the courtroom (Kassin, Tubb, Hosch, & Memon, 2001), with the ultimate goal of increasing jurors' ability to appropriately evaluate eyewitness evidence (Leippe, 1995).

Empirical studies have examined the effect of expert testimony about the unreliability of eyewitness identifications on jurors' perceptions and decisions (see Martire & Kemp, 2011 for a review). These have demonstrated that jurors presented with expert eyewitness testimony are more sensitive to factors affecting eyewitness accuracy (Cutler, Penrod, & Dexter, 1989; Devenport, Stinson, Cutler, & Kravitz, 2002), report decreased perceived credibility of eyewitnesses (Hosch, Beck, & McIntyre, 1980; Leippe, Eisenstadt, Rauch, & Seib, 2004), and are less likely to render convictions when the prosecution's primary form of evidence is an eyewitness identification (Loftus, 1980). Thus, expert testimony concerning issues with eyewitness identification seems to influence jurors' evaluations of eyewitness evidence, and may also affect their verdicts. In this study, we were specifically concerned with the potential effect of expert testimony regarding the CRE, on both perceptions of eyewitness accuracy and the salience of racial issues.

CURRENT STUDY

In criminal trials, race is ordinarily a factor that should be irrelevant to jurors' perceptions and verdicts. However, the CRE suggests that in trials involving eyewitness identification, the combination of defendant and eyewitness race is an important factor for jurors to consider, as this relationship has an impact on eyewitness accuracy (Jackiw et al., 2008; Meissner & Brigham, 2001; Wu et al., 2012). Furthermore, given findings that Black jurors may perceive interracial crimes as race salient regardless of whether the crime/trial itself is racially charged (Sommers & Ellsworth, 2001), it is important to understand whether this would extend to trials involving cross-race identifications. Finally, the role of expert evidence in this context is worthy of investigation, particularly since expert testimony regarding the

TABLE 1: Cell Sizes Per Condition

Defendant race	Eyewitness race	Juror race, <i>n</i>	
		White	Black
White	White	33	26
	Black—no expert	36	27
	Black—expert	29	33
Black	Black	32	42
	White—no expert	32	33
	White—expert	31	31

CRE may heighten the salience of racial issues in the trial. Although such testimony draws attention to the race of both the defendant and eyewitness (thereby presumably making race a prominent issue) and suggests that race is relevant to accuracy, it is unknown whether this is a method of eliciting race salience.

The current study involved Black and White mock jurors reading a trial transcript before responding to a series of questions concerning the case. We used a 2 (defendant race: Black, White) $\times$ 2 (eyewitness race: Black, White) $\times$ 2 (juror race: Black, White) factorial design. We also included two conditions in which an expert testified about the CRE—one in which a White eyewitness testified against a Black defendant, and one in which a Black eyewitness testified against a White defendant, resulting in an offshoot 2 (cross White eyewitness/Black defendant, Black eyewitness/White defendant) $\times$ 2 (juror race: White, Black) design. As such, this study used a partially crossed factorial design with two floating cells, resulting in six versions of the trial. See Table 1 for a breakdown of cell sizes per condition. Drawing from literature on the effects of juror race, defendant race, eyewitness race, and expert testimony, several hypotheses were developed.

Hypothesis 1a: Based on SIT (Tajfel & Turner, 1986), we predicted that jurors would be more lenient toward same-race defendants and more punitive toward other-race defendants (i.e., an interaction between juror race and defendant race on verdict decisions).

Hypothesis 1b: In accordance with race salience theory (Sommers & Ellsworth, 2000, 2001), we hypothesized that the exception to the above prediction would come in conditions in which White jurors evaluating the guilt of a Black defendant heard an expert testify about the CRE (i.e., an interaction between juror race, defendant race, and expert testimony on verdict decisions). This is because such testimony would make racial issues more salient, leading White jurors to correct for their bias.

Hypothesis 2a: Abshire and Bornstein (2003) found that Black jurors perceived Black eyewitnesses to be more credible, but that verdicts were not related to eyewitness race. Accordingly, we predicted that our results would mirror and extend these findings, such that jurors would perceive same-race eyewitnesses to be more credible than eyewitnesses who were of a different race than their own, with no effect of eyewitness race on verdict (i.e., an interaction between juror race and eyewitness race on ratings of the eyewitness).

Hypothesis 2b: However, because we included expert testimony regarding the CRE in some conditions, we predicted that jurors' ratings of the eyewitness would be less favorable in conditions involving cross-race identifications and expert testimony as compared with those in which a cross-race identification was present and jurors did not hear such testimony, and that verdicts would correspondingly be more lenient (i.e., an interaction among defendant race, eyewitness race, and expert testimony).

Hypothesis 3: In line with previous research (Memon & Shuman, 1998), we predicted that Black participants would have less favorable perceptions of expert testimony than would White participants (i.e., a main effect of juror race on ratings of the expert witness).

METHOD

PARTICIPANTS

Overall, 391 participants completed the study after responding to a request on Amazon's Mechanical Turk (MTurk). To ensure that we could properly test for effects of mock juror race, we stopped data collection for White participants once our desired cell size was reached,¹ and continued data collection for Black participants until cell sizes were balanced.² Six participants responded to the manipulation/attention checks incorrectly (see below), and were removed from the sample. The remaining participants were 385 American jury-eligible (i.e., American citizens, over the age of 18, with no prior convictions, and a strong comprehension of the English language) community members. In all, 193 (50%) of the participants were White and 192 (50%) were Black. The sample consisted of 237 (62%) women and 139 (36%) men (an additional eight participants identified as transgender or another gender, and one did not respond to the question regarding gender), whose ages ranged from 18 to 73 years ($M = 44.39$, $Mdn = 45.00$, $SD = 14.38$).

MATERIALS

Trial Transcript

Participants read a fabricated five-page second-degree murder case (word count: 2,730, plus 379 words of instructions) involving a male defendant. To ensure that the evidence led to an even split of verdicts in the absence of racial manipulations, we conducted a pilot study with 32 participants. There was no initial bias toward either a guilty (47%) or not guilty (53%) verdict ($\chi^2 = 0.00$). In the transcript for the main study, we manipulated the race of the defendant and eyewitness using stereotypical White or Black surnames (obtained from a list of popular surnames by ethnicity from the U.S. Census, <http://census.gov>) as well as color photographs that were matched on perceived age, attractiveness, and likability (in a separate pilot study; $n = 30$).

Therefore, participants were presented with a same-race or cross-race identification trial. In an additional two conditions involving a cross-race identification, an expert witness (described as "Dr. Martin Johnson" in both conditions) testified regarding the influence of the CRE. Specifically, the expert's testimony contained information about overturned convictions involving cross-race identifications, other statistics of erroneous cross-race identifications, and his own research concerning the fallibility of eyewitness identification in cross-race scenarios.

Jury Instructions

To inform mock juror judgments, participants were presented with the California Penal Code criteria for the charge (i.e., Section 187 of the California Penal Code, which lists the criteria for first degree murder and then specifies that all other forms of murder would be murder in the second degree), as well as California Criminal Jury Instructions (2018) regarding the burden of proof and reasonable doubt.

Juror Questionnaire

After reading the trial transcript, participants completed a number of measures. Participants rendered a verdict of either guilty or not guilty for the second-degree murder charge. Next, they rated the reliability of the eyewitness' description of the event, description of the suspect's appearance, and identification (from 1 = *not at all reliable* to 9 = *very reliable*), as well as overall reliability and accuracy (from 1 = *not at all accurate* to 9 = *very accurate*). These five questions regarding the eyewitness showed very strong internal consistency ($\alpha = .97$), so we averaged them into a single eyewitness rating measure.

Participants rated the expert's influence on their verdict decision (1 = *not at all* to 7 = *very much*), usefulness in providing information (1 = *not useful* to 7 = *very useful*), persuasiveness in providing information (1 = *not persuasive* to 7 = *very persuasive*), and credibility (1 = *not credible* to 7 = *very credible*). These four items showed good internal consistency ($\alpha = .83$), so we averaged them into a single expert rating measure.

To investigate whether jurors perceived race to be a salient issue in the case, participants were asked: "Do you feel that race and racial issues featured prominently in this trial?" (yes/no). This served as our measure of perceived race salience.

Manipulation/attention checks

Participants indicated the race of the defendant and eyewitness in multiple-choice questions (participants had to choose among five racial categories). Another question measured participants' recall of the trial stimulus (i.e., where the crime took place) and served as an attention check. Participants who failed any of these checks were eliminated from the study as a form of quality control.

PROCEDURE

Upon initial recruitment via MTurk, participants were screened to ensure juror eligibility. We also asked them to indicate their race—White and Black participants who were jury eligible were randomly assigned to read one of six trial transcripts (see above). Participants who identified as another race were provided with US\$.10, but were not directed to the remainder of the study. Following the trial transcript, participants completed the jury questionnaire, then were debriefed, thanked for their participation, and compensated (US\$1). This study received approval from the Research Ethics Board at Carleton University.

RESULTS

VERDICT

See Table 2 for a breakdown of verdicts by condition and participant race. To test Hypothesis 1a (jurors would be more lenient toward same-race defendants), we ran a 2 (juror race: White, Black) $\times$ 2 (defendant race: White, Black) $\times$ 2 (verdict: guilty, not guilty) hierarchical loglinear analysis (HILOG). HILOG is used to test for relationships among categorical variables, and is preferred over the use of χ^2 analyses for investigations of multiple categorical variables in that it allows for examinations of three-way or higher interactions (Green, 1988).

TABLE 2: Percentage of Participants Voting Guilty Across Conditions

Defendant race	Eyewitness race	Juror race, %	
		White	Black
White	White	64	50
	Black—no expert	44	70
	Black—expert	55	64
Black	Black	63	52
	White—no expert	50	42
	White—expert	55	39

For this analysis, to avoid confounding/imbalanced effects of expert testimony, we excluded the two floating cells in which expert testimony was provided. This analysis revealed no significant main effect of defendant race, $\chi^2(1, n = 261) = 1.46, p = .23, d = .15$, or juror race, $\chi^2(1, n = 261) = 0.55, p = .46, d = .09$, on verdict, and no significant interaction between defendant race and juror race on verdict, $\chi^2(1, n = 261) = 2.84, p = .09$.

To test Hypothesis 1b (that verdicts may differ in conditions in which White jurors evaluating the guilt of a Black defendant heard an expert testify about the CRE), we ran a 2 (juror race: White, Black) $\times$ 2 (defendant race: White, Black) $\times$ 2 (expert testimony: present, absent) $\times$ 2 (verdict: guilty, not guilty) HILOG limited to those conditions in which a cross-race identification was made. Our predicted four-way interaction did not emerge as significant, $\chi^2(1, n = 252) = 0.14, p = .71$; however, we did observe a significant interaction among juror race, defendant race, and verdict, $\chi^2(1, n = 252) = 5.44, p = .02$. Follow-up tests revealed that for White jurors, there was no significant effect of defendant race on verdict in these cross-race identification conditions, $\chi^2(1, n = 128) = 0.13, p = .72, d = .06$. However, for Black jurors, we observed a significant effect of defendant race on verdict, $\chi^2(1, n = 124) = 8.44, p = .004, d = .54$. Specifically, Black jurors were more likely to convict White defendants (67%) than Black defendants (41%) in conditions involving a cross-race identification.

To explore this further, we sought to understand whether cross-race identifications differed from same-race identifications. As such, we ran a 2 (juror race: White, Black) $\times$ 2 (defendant race: White, Black) $\times$ 2 (eyewitness race: White, Black) $\times$ 2 (verdict: guilty, not guilty) HILOG. This analysis also tested Hypothesis 2a, which predicted that verdicts would be unrelated to eyewitness race. We eliminated conditions in which an expert testified, as this was not fully crossed (expert testimony could only be present in cross-race identification conditions). The four-way interaction among these variables did not reach traditional levels of statistical significance, $\chi^2(1, n = 261) = 2.96, p = .09$. As predicted, the effect of eyewitness race in this analysis was not significant, $\chi^2(1, n = 252) = 0.13, p = .73, d = .05$.

EYEWITNESS RATINGS

To further test Hypothesis 2a, we conducted a 2 (defendant race: White, Black) $\times$ 2 (eyewitness race: White, Black) $\times$ 2 (juror race: White, Black) ANOVA with eyewitness rating as the dependent variable. Again, we eliminated conditions in which an expert testified, as this was not fully crossed. This revealed a significant interaction between eyewitness and juror race, $F(1, 253) = 5.44, p = .02, \eta^2 = .02$. Follow-up analyses revealed that for White jurors, there was no significant effect of eyewitness race on eyewitness rating, $t(131) = .80$,

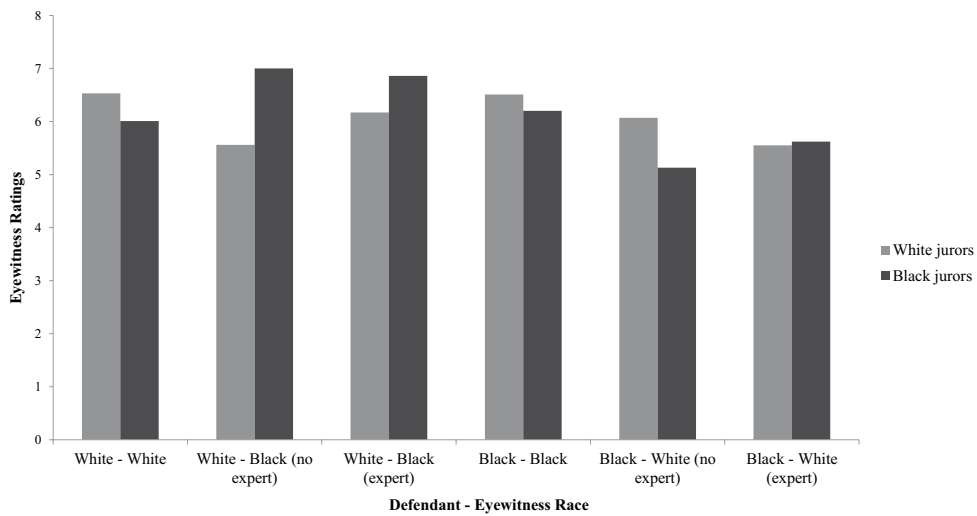


Figure 1: Eyewitness Ratings by Condition and Juror Race

$p = .43$, $d = .14$. However, Black jurors perceived Black eyewitnesses ($M = 6.51$, $SD = 2.18$) significantly more favorably than White eyewitnesses ($M = 5.52$, $SD = 2.47$), $t(126) = -2.41$, $p = .02$, $d = -.43$.

To test Hypothesis 2b, we ran a 2 (defendant/eyewitness race: White/Black, Black/White) $\times$ 2 (expert testimony: present, absent) $\times$ 2 (juror race: White, Black) ANOVA using eyewitness ratings as the dependent variable. We included only those conditions in which a cross-race identification was made, so that the true effect of expert testimony could be determined. This analysis revealed a significant main effect of defendant/eyewitness race on eyewitness rating, $F(1, 244) = 9.10$, $p = .003$, $\eta^2 = .04$. Participants rated the Black eyewitness identifying a White defendant ($M = 6.35$, $SD = 2.13$) significantly more favorably than the White eyewitness identifying a Black defendant ($M = 5.59$, $SD = 2.14$). This effect was qualified by a significant interaction between defendant/eyewitness race and juror race, $F(1, 244) = 7.90$, $p = .005$, $\eta^2 = .03$ (see Figure 1). For White jurors, there was no significant effect of defendant/eyewitness race on eyewitness rating in cross-race conditions, $t(126) = .05$, $p = .96$, $d = .01$. Black jurors rated the Black eyewitness identifying a White defendant ($M = 6.93$, $SD = 1.79$) significantly more favorably than the White eyewitness identifying a Black defendant ($M = 5.37$, $SD = 1.99$), $t(122) = 4.56$, $p < .001$, $d = .83$. No other main effects or interactions were significant.

EXPERT RATING

To determine whether perceptions of the expert varied as a function of juror or defendant/eyewitness race (Hypothesis 3), we ran a 2 (juror race: White, Black) $\times$ 2 (defendant/eyewitness race: Black/White, White/Black) ANOVA with expert rating as our dependent variable (as a result, only conditions involving expert testimony were included). This analysis revealed a significant effect of defendant/eyewitness race, $F(1, 93) = 6.03$, $p = .02$, $\eta^2 = .06$. Participants rated the expert significantly more highly when he testified in a trial involving

a Black defendant and White eyewitness ($M = 3.11$, $SD = .96$) than in a trial involving a White defendant and Black eyewitness ($M = 2.63$, $SD = .97$). There was no significant main effect of juror race, nor did we observe a significant interaction.

PERCEIVED RACE SALIENCE

Given the mixed results above for verdict, we sought to determine whether participants actually perceived race to be a salient issue as a function of expert testimony, and whether this would differ by juror and/or defendant race. To do this, we ran a 2 (defendant/eyewitness race: White/Black, Black/White) $\times$ 2 (expert testimony: present, absent) $\times$ 2 (juror race: White, Black) $\times$ 2 (racial issues perceived as salient: yes, no) HILOG. This analysis was limited to cross-race identification conditions, so that the true effect of expert testimony could be determined. Indeed, expert testimony did significantly affect perceptions of race as a prominent issue in the trial, $\chi^2(1, n = 249) = 19.39$, $p < .001$, $d = .58$. Those who heard expert testimony regarding the CRE perceived race to be a salient issue significantly more often (46%) than those who did not hear expert testimony in cross-race identification trials (20%). We also observed a significant interaction among defendant/eyewitness race, juror race, and perceived race salience, $\chi^2(1, n = 249) = 7.57$, $p = .006$. Follow-up tests revealed that for White jurors, there was no significant relationship between defendant/eyewitness race and perceived race salience, $\chi^2(1, n = 126) = 0.10$, $p = .75$, $d = .06$. However, for Black jurors, there was a significant relationship, $\chi^2(1, n = 123) = 14.64$, $p < .001$, $d = .74$. Black jurors perceived racial issues to be featured prominently in cross-race identification trials significantly more often when the defendant was Black (49%) as compared with White (17%).

To determine whether cross-identifications themselves elicited perceptions of race salience, we ran a 2 (defendant race: White, Black) $\times$ 2 (eyewitness race: White, Black) $\times$ 2 (juror race: White, Black) $\times$ 2 (racial issues perceived as salient: yes, no) HILOG. We excluded the two conditions in which expert testimony was presented, to eliminate the confounding effect of this variable. This analysis revealed a significant relationship between juror race and perceived race salience, $\chi^2(1, n = 258) = 14.64$, $p < .001$, $d = .49$. Overall, in conditions without expert testimony, Black jurors were more likely to perceive racial issues as featuring prominently in the trial (21%) than were White jurors (11%). We also observed a significant relationship between defendant race and perceived race salience, $\chi^2(1, n = 258) = 15.63$, $p < .001$, $d = .51$. In conditions without expert testimony, those who read about a Black defendant (25%) were much more likely to see race as a prominent issue in the trial than did those who read about a White defendant (7%). However, we further observed a significant interaction among defendant race, eyewitness race, and perceived race salience, $\chi^2(1, n = 258) = 4.93$, $p = .03$. Follow-up tests revealed that when the defendant was White, participants were significantly more likely to perceive racial issues as salient when the eyewitness was Black (11%) as compared with White (2%), $\chi^2(1, n = 121) = 4.51$, $p = .03$, $d = .39$. When the defendant was Black, there was no effect of eyewitness race on perceived race salience, $\chi^2(1, n = 137) = .88$, $p = .35$, $d = .16$. See Figure 2 for a breakdown of perceived race salience by juror race and trial condition.

Interestingly, perceived race salience was significantly related to verdict decision, $\chi^2(1, n = 382) = 26.85$, $p < .001$, $d = .55$. Those who perceived race to be a prominent issue

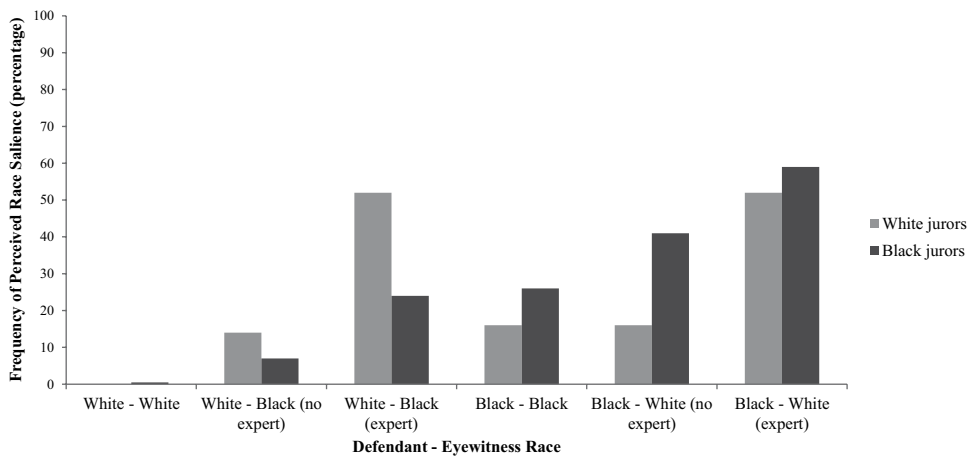


Figure 2: Rates of Perceived Race Salience Across Conditions

in the trial were significantly less likely to convict (15%) than those who did not believe race to be salient (38%). Perceived race salience was also related to eyewitness rating, $t(380) = -5.97, p < .001, d = -.70$, such that those who perceived race to be salient ($M = 5.01, SD = 2.09$) rated the eyewitness significantly less favorably than did those who did not ($M = 6.49, SD = 2.12$). However, perceived race salience was not significantly related to ratings of the expert witness, $t(96) = 1.81, p = .07, d = .38$; this test fell just short of traditional cutoffs for statistical significance.

DISCUSSION

This study explored the combined effects of juror race, defendant race, and eyewitness race on jurors' perceptions, as well as the potential effect of expert testimony regarding the CRE on both verdict decisions and the perceived salience of racial issues. Our results revealed a number of interesting effects of race, although not always in the expected direction.

Our first hypothesis positing that juror and/or defendant race would directly affect verdict decisions was not confirmed. We observed no direct effects of juror or defendant race, nor was there a significant interaction between these two variables, on verdict decision when including all conditions without expert testimony. This runs contrary to the literature suggesting that there is an overall similarity-lenency bias in juror decision-making (Devine & Caughlin, 2014; Mitchell et al., 2005), but corresponds with other work that failed to find a direct influence of race on verdicts (e.g., Braden-Maguire et al., 2005). We did observe an interesting interaction in our cross-race identification conditions, such that for White jurors there was no effect of defendant race, but Black jurors were more likely to convict White defendants (thus demonstrating similarity-lenency specifically in cross-race identification conditions). This finding replicates that of Abshire and Bornstein (2003), who discovered that Black jurors were less likely to convict the (Black) defendant than were White jurors (there was no White defendant condition in that study).

In our study, it is possible that our Black participants were particularly skeptical of a White eyewitness identifying a Black defendant. This potential explanation is bolstered by our finding that Black jurors also rated the Black eyewitness as more credible/accurate/reliable than his White counterpart—partially confirming Hypothesis 2a, and partially replicating the finding of Abshire and Bornstein (2003) with regard to eyewitness race—whereas White jurors perceived the White and Black eyewitnesses similarly. However, there was no direct effect of eyewitness race on verdict (supporting Hypothesis 2b). It is also possible that these effects are operating through perceived race salience; Black jurors may have voted guilty for White defendants more often, and rated Black eyewitnesses as more favorable in cross-race identification conditions, at least partially due to heightened perceptions of racial issues in the courtroom. Future research should examine this directly, using a more sophisticated measure of perceived race salience.

We also predicted (Hypothesis 1b) that conditions in which White jurors heard expert testimony regarding the CRE would differ from others, in that such testimony would make race more salient to these jurors and lead them to correct for bias. We did not find a direct effect of race on verdict in our initial test, and so it is not surprising that this condition did not differ. Contrary to Hypothesis 3, Black and White jurors did not differ significantly in their ratings of the expert witness. Interestingly, however, participants rated the expert more favorably when testifying in conditions involving a Black defendant and a White eyewitness. Given that this did not interact with juror race, it appears that on the whole, expert testimony regarding the CRE carries more weight in cases involving a Black defendant identified by a White eyewitness than the reverse. This finding lends support to the watchdog hypothesis (Sargent & Bradfield, 2004), which posits that jurors attend more to legally relevant information in trials involving a Black defendant to be “watchdogs” against racism.

Arguably, our most interesting findings involved our participants’ perceptions of the prominence of racial issues in the trial. We did confirm that expert testimony regarding the CRE increased the likelihood that participants perceived racial issues as playing a significant role in the trial (i.e., perceived race salience). Earlier studies of race salience used manipulations of victim/witness testimony and opening/closing arguments (Cohn et al., 2009; Sommers & Ellsworth, 2001), but this is the first study (to our knowledge) that confirms that it can be elicited via expert testimony regarding race.

Perceived race salience was also higher among Black jurors when a White eyewitness testified against a Black defendant as compared with when a Black eyewitness testified against a White defendant, again confirming the skepticism noted above. White jurors, conversely, were no more likely to think that race was a salient issue in one cross-race identification scenario than another. Sommers and Ellsworth (2000, 2001) have noted that Black jurors may not be affected by manipulations of race salience in the same way as White jurors because they are overall more likely to perceive race as salient. This study adds support to that claim, in that in conditions without expert testimony regarding the CRE (which raised perceptions of race salience), Black jurors were more likely to perceive race as a salient issue.

Importantly, cross-race identifications themselves did not exactly elicit higher perceptions of perceived race salience. In conditions with a White defendant, unsurprisingly, a Black eyewitness elicited higher ratings of perceived race salience than did a White eyewitness (in fact, only one participant who read about a White defendant identified by a White

eyewitness perceived race to be a salient issue). In conditions with a Black defendant, the race of the eyewitness was unrelated to perceptions of the salience of racial issues in the trial—the race of the defendant was sufficient to drive those perceptions (as evidenced by the significant effect of defendant race on perceived race salience). Therefore, perceived race salience appears to be driven mostly by defendant race, although it can be bolstered (in this study, with the inclusion of expert testimony regarding a race-based effect, or with the presence of a Black eyewitness if the defendant is White).

Notably, and replicating the findings of Maeder, Yamamoto, and McManus (2015), perceived race salience was related to verdict decision, such that those who perceived race as a salient issue were less likely to convict the defendant. This suggests that perceived race salience is related to either lower levels of punitiveness, higher levels of skepticism of the legal system, or both. This may be an effort to correct for a system in which Black persons are dramatically overrepresented (e.g., Nellis, 2016). Further work is needed to better understand the relationship between perceived race salience and juror decision-making, as the current study clearly demonstrates that it is associated with a number of both predictors and potential outcomes.

LIMITATIONS

As with any study of juror decision-making, this study is limited in a number of ways. To begin, the study used mock jurors and a simulated trial—knowing that their responses had no consequences for a defendant may have influenced participants' decision-making process and/or outcome (Bornstein et al., 2017; Bornstein & McCabe, 2005). Although the issue with consequentiality could be overcome by studying actual jury trials, such methodology would introduce its own host of issues concerning internal validity (e.g., confounding variables, establishing causality, etc.), and would be difficult to accomplish due to the current study's complex factorial design. Nevertheless, it is important to note that our results may have differed if participants' decisions had real-world consequences.

Furthermore, the current study used a written transcript, again affecting ecological validity (Wenger & Bornstein, 2006). However, the literature suggests that presentation mode has little impact on our outcomes of interest (Bornstein, 1999; Pezdek, Avila-Mora, & Sperry, 2010). Although we used a trial transcript with accompanying legal instructions—thus meeting the standards of acceptability identified by jury researchers (Lieberman, Krauss, Heen, & Sakiyama, 2016)—future work should replicate the current study using a more naturalistic form of presentation, such as a trial video.

Because the study was conducted online, there was a lack of control over the environment in which participants completed the study, allowing for the possibility of environmental confounds. However, using an online study allowed us to recruit from the community, which is more representative than a student sample (Baker, Fox, & Wingrove, 2016), particularly because cognitive processing may differ between these populations (McCabe, Krauss, & Lieberman, 2010; Miller, Wood, & Chomos, 2014). An additional limitation of the current study is the lack of jury deliberation. Although individual verdicts can be largely predictive of group decisions (Devine, Buddenbaum, Houpp, Stolle, & Studebaker, 2007; Kalven & Zeisel, 1966), group discussion can also serve to increase or decrease levels of bias among its members (Salerno & Diamond, 2010). Sommers (2006) also found that the racial composition of the jury can affect discussions of race during deliberations, and so

while we uncovered some effects of individual juror race, group effects are especially relevant here. As such, given the potential for jurors to raise issues of racial bias or knowledge regarding the CRE during deliberation, it is possible that we are missing the true effects of these variables in the jury context. Future research is certainly needed to see whether deliberation alters the findings of the current study.

Aside from the limitations to ecological validity, this study made use of a single-item measure of perceived race salience. This dichotomous measure may not have been adequately sensitive to test differences in perceptions of race salience. Future research should make use of a more sophisticated measure of this variable. Notably, the lack of one-to-one correspondence between expert testimony and perceived race salience, and cross-race identifications and perceived race salience, suggest that these would not be sufficiently strong manipulations in a study intended to test the effect of race salience manipulations on juror decision-making.

Wiener, Krauss, and Lieberman (2011) argued that jury research should be conducted in multiple steps; initial studies may use convenient samples and stimuli, with subsequent research building upon the original design by adding more realistic trial processes. As such, this study could be considered the initial study in a larger program of research, with future work implementing more realistic trial presentations and a deliberation component.

CONCLUSION

Our study examined the role of juror, defendant, and eyewitness race, the potential influence of expert testimony regarding the CRE, and the possibility of differing perceptions of race salience in the context of trials involving eyewitness identification. We observed a number of interesting effects: Notably, that Black jurors demonstrated similarity-leniency in cross-race identification conditions (and were accordingly most skeptical of a White eyewitness testifying against a Black defendant); that participants rated the expert more favorably when testifying in conditions involving a Black defendant, lending support to Sargent and Bradfield's (2004) watchdog hypothesis; and that perceived race salience is elicited primarily by defendant race, but can be bolstered with expert testimony, or particular defendant/eyewitness race combinations. As with previous investigations of race salience (e.g., Sommers & Ellsworth, 2001), we found that juror race is also strongly related to perceptions of the salience of racial issues in a trial. Aside from raising perceptions of race salience, expert testimony regarding the CRE was largely uninfluential. It may be that jurors rely on their own understanding of eyewitness memory, rather than the information that the expert provides to them. These findings imply that expert testimony may not be as influential as might be expected. Future research is needed to determine which factors might raise the impact of expert testimony in these cases.

NOTES

1. We conducted an a priori power analysis using G*Power (Faul, Erdfelder, Lang, & Buchner, 2007) to determine the number of participants required to test our hypotheses. To achieve power of 0.80 and a medium effect size (0.25; Cohen, 1988), a sample size of 351 is necessary to surpass the critical *F* value of 3.87.

2. Although it is possible that participants presented false demographic information to participate, we did not make it clear that the study was closed to White participants at that time, and multiple responses were not allowed. As such, once participants found out they were ineligible, they were not permitted to reenter the survey with different demographic information.

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