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Juror Perception: Criminal Verdicts Based on Race

Many studies have investigated factors that affect juror decision making. The results of these studies vary. This study was designed to examine the effect of race of jurors on their perceptions of guilt in a criminal case, and whether or not race of the defendant influenced the juror's perception of guilt. College students served as participants and were asked to read a summary of a criminal case in which the defendant was in possession of marijuana. The race of the defendant was varied (black, white, or race not specified) and subjects were required to determine if the defendant was guilty of simple possession, or guilty of possession of a controlled substance with intent to distribute. It was hypothesized that the black defendant would be found guilty of the distribution charge more frequently than the white defendant or the defendant whose race was not specified. However, a chi-square analysis indicated that the frequency of convictions was not dependent on race of defendant. It was also hypothesized that white participants would convict the defendant of the distribution charge more frequently than black participants. Results of a chi-square analysis supported this hypothesis at the .01 level. These results indicate that race of a juror may affect perception of guilt in a criminal case. Implications of this study are important in terms of juror decision making and what it means to be tried by a jury of ones peers.

In the case of *Batson verses Kentucky* (1986) the United States Supreme Court decided that a person could not be dismissed from a panel of potential jurors because of the color of his or her skin. In that case a black man was convicted of second-degree burglary after the prosecutor used the state's peremptory challenges to remove all blacks from the jury panel. The Court decided that by removing jurors of the same race as the defendant, the defendant's right to be tried by a jury that was representative of the community was violated. With that landmark ruling came several implications regarding the effects that the demographics of a potential juror such as

race, gender, age and religious preference, have on decision making. Furthermore, *Batson verses Kentucky* has provoked critics of the legal system to reevaluate what it means to be tried by a jury of ones peers. These issues have been the focus of several recent studies, some of which report conflicting results.

The highly publicized murder trial of former athlete and actor O.J. Simpson caused many people to speculate as to what effects a potential juror's race, racial attitudes, and gender have on how he or she perceives the guilt or innocence of a defendant. Brigham and Wasserman (1999) designed a longitudinal study in which students from two separate

universities completed one of three questionnaires to evaluate whether or not they felt Simpson was guilty of murder. In this between subjects design, data was collected during jury selection, after closing arguments, and after the jury had reached a verdict in the Simpson trial. Of the students who participated in the study, approximately half were attending a predominantly black university, and the other half were attending a predominantly white university in the same city. Participant's responses on the questionnaires were matched according to race and gender of participants. With respect to the Simpson trial, white participants were more likely to vote guilty while black participants were more likely to vote not guilty. These results indicated that race of the participant was a strong predictor of perception of guilt. Gender of the participant was not a strong predictor. Brigham and Wasserman also found that black participant's attitudes were more positive after closing arguments and after the jury reached a verdict than during jury selection. Attitudes of white participants did not change.

In 1993, Perez, Hosch, Ponder, and Trejo examined the influence of race of a defendant (Hispanic or white) on decisions of predominantly Hispanic and predominantly white juries. In this study participants were assigned to a group of six mock jurors and viewed a videotaped trial in which the race of the defendant was varied. Upon completion of the trial, the groups were required to deliberate until a verdict was reached. If the jury found the defendant guilty, they were also told to recommend a sentence. The results indicated that predominately white juries recommended more lenient sentences for white defendants compared to Hispanic defendants. However, there were no differences in conviction rates between white and Hispanic defendants by the predominately Hispanic jury.

In an examination of criminal cases that involved the death penalty, Lynch and Haney (2000) focused on whether or not race of the defendant (black or white), race of the victim (black or white), and the ability to comprehend penalty phase instructions would effect sentencing. Participants were instructed that they would be serving as mock jurors in the sentencing phase of a trial in which the defen-

dant was found guilty of murder. Participants were to determine if the defendant should be sentenced to life without the possibility of parole, or if he should be sentenced to death. Participants were randomly assigned to watch one of four versions of the simulated trial to become familiar with the facts of the case. The race of the defendant and race of the victim were varied in a 2x2 design. In concurrence with their hypotheses, Lynch and Haney found that black defendants, particularly in cases with white victims, were treated slightly harsher than white defendants in the sentencing phase. These findings were most significant when sentencing instructions were unclear, based on data obtained from a comprehension test administered to all subjects after they sentenced the defendant. The researchers concluded that these results were likely an indication that when confused about the requirements to prove guilt, jury members may focus on racial issues in determining a criminal sentence.

In a study similar to that of Lynch and Haney (2000), Pfeifer and Ogloff (1991) found that race of the defendant influenced decision making when jury instructions explaining reasonable doubt were not provided to participants. In this study, participants read the transcript of a trial in which the race of the defendant and race of the victim were varied. After reading the transcript, half of the participants were given instructions explaining the prosecutor's requirement to prove the defendant's guilt beyond a reasonable doubt. The other half of the participants received no instructions. Once again, in scenarios in which the defendant was black and the victim was white, the defendant was more likely to be found guilty than in scenarios with a white defendant. However, when jurors were provided with clear instructions clarifying the prosecutor's burden of proof beyond a reasonable doubt, the differences in conviction rates between black and white defendants were eliminated.

While Pfeifer and Ogloff (1991) found the victim's race did influence the likelihood of a guilty verdict the results were different for Rector, Bagby, and Nicholson (1992). In their study participants read a transcript of a simulated rape trial in which the race of the defen-

dant and the race of the victim were varied (black, white or not stipulated). Half of the participants were presented with instructions regarding reasonable doubt, while the other half received no instructions. Rector et al. (1992) determined that the race of the victim and race of the defendant, along with judicial instructions stressing the need for proof beyond a reasonable doubt, were predictive of the verdict. However, in contrast to the findings of Pfeifer and Ogloff (1991) Rector et al. (1992) found that race of the victim was not predictive of conviction rates in the absence of judicial instructions.

In 1990, Gordon also found that the race of the defendant influenced jury decision making. He hypothesized that certain crimes were stereotypically associated with certain races. Participants were randomly assigned to read one of four scenarios where the defendant's race was varied (black or white) and the type of crime committed varied (burglary or embezzlement). The participant's recommendations for sentencing, and responses to a questionnaire requiring participants to rate the likelihood that the defendant would reoffend, confirmed Gordon's hypothesis about crime and racial stereotypes. His study showed that certain white-collar crimes (embezzlement) are associated with white defendants and certain blue-collar crimes (burglary) are associated with black defendants.

In another study examining stereotypes, Poulson (1990) examined the influence that racial stereotypes may have on the insanity defense. Using a slide presentation and an audiotape, Poulson presented a mock trial to participants. He varied the race of the defendant and race of the victim, and also varied the options for sentencing. All participants had the option to find the defendant 'not guilty by reason of insanity', but only half of the participants were given the option of 'guilty but mentally ill'. Poulson concluded that a black defendant was more likely to be found not guilty by reason of insanity than a white defendant. This outcome was attributed in part to perceived mental status differences between races. "Put simply, the defendant, when presented as black, was viewed as being significantly less able to appreciate the criminality of his crime than when presented as

white" (Poulson, 1990, p.1606). Poulson went on to conclude that participants appeared to attribute the black defendant's behavior to hallucinations or schizophrenia whereas the same behavior in white defendants was attributed to an antisocial personality disorder. However, in concurrence with Rector et al. (1992), these results were not affected by the manipulation of the victim's race.

Although Poulson (1990) and Rector et al. (1992) did not find different results in juror decision making by manipulating the race of the victim, most studies have found otherwise. Hymes, Leinart, Rowe, and Rogers (1993), in evaluation of racial variables in acquaintance rape cases, found that conviction rates were much higher when the victim was of a different race than the defendant. In this study participants read a trial transcript that implied whether or not the victim knew the defendant, but did not clarify if the sexual contact was consensual. The race of the defendant and race of the victim were varied in a 2x2 factorial design. The results revealed that conviction rates increased when the victim's race was different from the defendant's race. These findings were the same for both black and white defendants.

In a similar study that examined several variables including the effects of race of the defendant and race of the victim, Foley and Chamblin (1982) found that white jurors were more likely to convict in a sexual battery case when the defendant was black and the victim was white. However, black participants as mock jurors were more likely to convict when the race of the victim was the same as the race of the defendant. Foley and Chamblin (1982) suggested that this finding may be an indication of the black community's awareness ". . .of the amount of crime committed by blacks against other blacks and that they view crime in an extremely negative light and attribute greater guilt to blacks who offend against other blacks..." (p. 49).

The studies described above addressed several issues including jury instructions, the race of the victim, and the insanity defense as they affect juror decisions. This study was an attempt to further investigate this area of research. Specifically this study was designed to examine the effect of a juror's race on his

or her perception of guilt in a criminal case, and whether or not the race of the defendant influenced the juror's perception of guilt. Participants read a summary of a criminal case in which the defendant was accused of possessing an illegal narcotic with intent to distribute. Participants were instructed to determine if the defendant was planning to sell the drug or if he was going to use it himself. It was hypothesized, because of stereotypes found in past research (Gordon, 1990), that the black defendant would be found guilty of the distribution charge more frequently than other defendants. It was also hypothesized that white participants would convict the defendant for the distribution charge more frequently than black participants, regardless of the defendant's race.

METHOD

Participants

This researcher used a nonrandom sampling technique to contact participants. One hundred and fifty undergraduate students from a four-year, southeastern university voluntarily agreed to participate in this study. The participants included 56 men and 94 women, with a racial composition of 128 white, 17 black and 5 minority students other than black. Mean age of participants was 21.06 years.

Students were selected from three different undergraduate classes and data collection took place in two days. These classes included introduction to sociology, psychological statistics, and American national government. There were approximately twenty-five students in each of the first two classes and about one hundred students in the government class. Classes for participant solicitation were chosen based on the likelihood that enrollment in these classes would include a variety of majors.

Materials

This investigator developed three different versions of a hypothetical criminal case. The only differences among the three scenarios were the race of the defendant (black, white, or race not specified) and the school in which he attended (predominantly black, predominantly white, or not specified).

In the hypothetical case the defendant was arrested after being caught with marijuana. The scenario was written so that there was no doubt that the defendant had possession of the marijuana, but it was unclear what the defendant intended to do with the drug. The scenario included a brief description of the circumstances in which the defendant was arrested, and a few details about the trial. Following each scenario a single question was written: If you were a juror in this case, how would you find the defendant? Participants were to indicate if they felt the defendant was guilty of simple possession, or guilty of possession of a controlled substance with intent to distribute by checking the appropriate item on the survey. A copy of these scenarios appears in Appendix A.

A brief survey was also developed and was printed on the reverse side of the page as the scenario. On this survey, the participant was required to provide their age, gender, race, academic status, major (if declared), and frequency of attendance at religious services or functions.

Procedure

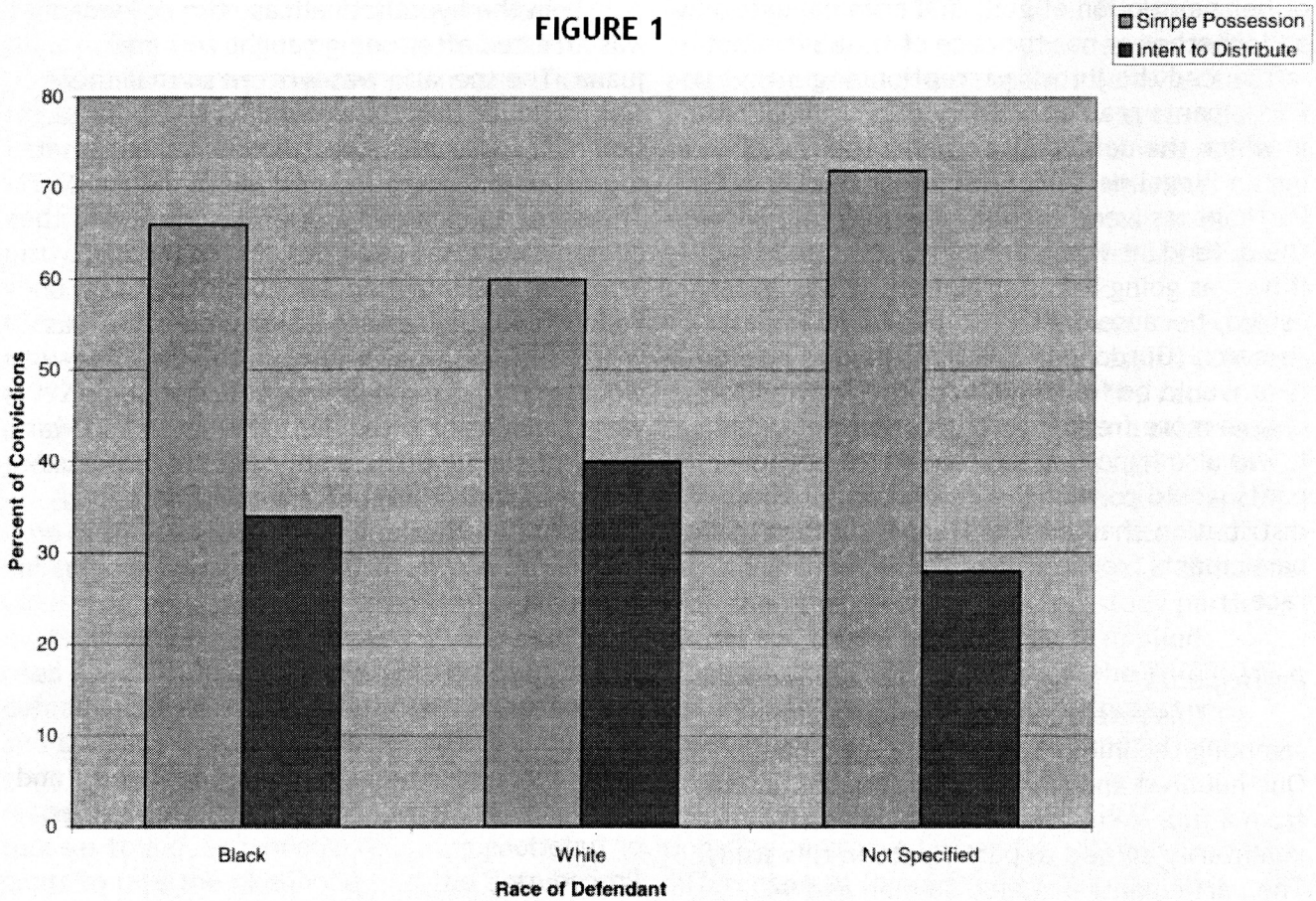
Fifty copies of each of the three scenarios were printed. All scenarios were shuffled together prior to distribution in attempts to insure random distribution of materials.

This researcher approached university faculty with whom he was acquainted to obtain permission to solicit participants and obtain data in their classrooms. Once permission was obtained the researcher visited select classrooms, addressed the students and read standardized instructions prior to the class lecture. Students were told that they were not obligated to participate in the study, and they could withdraw from the study at any time. Students who chose not to participate were asked to accept stimulus materials, sit quietly and return blank surveys to the researcher when participants returned their completed surveys.

RESULTS

A total of one hundred and fifty students participated in this study. Each participant read a criminal case in which the race of the defendant was varied (black, white, or not specified). Fifty participants read the scenario

FIGURE 1



Conviction percentages as a function of defendant's race

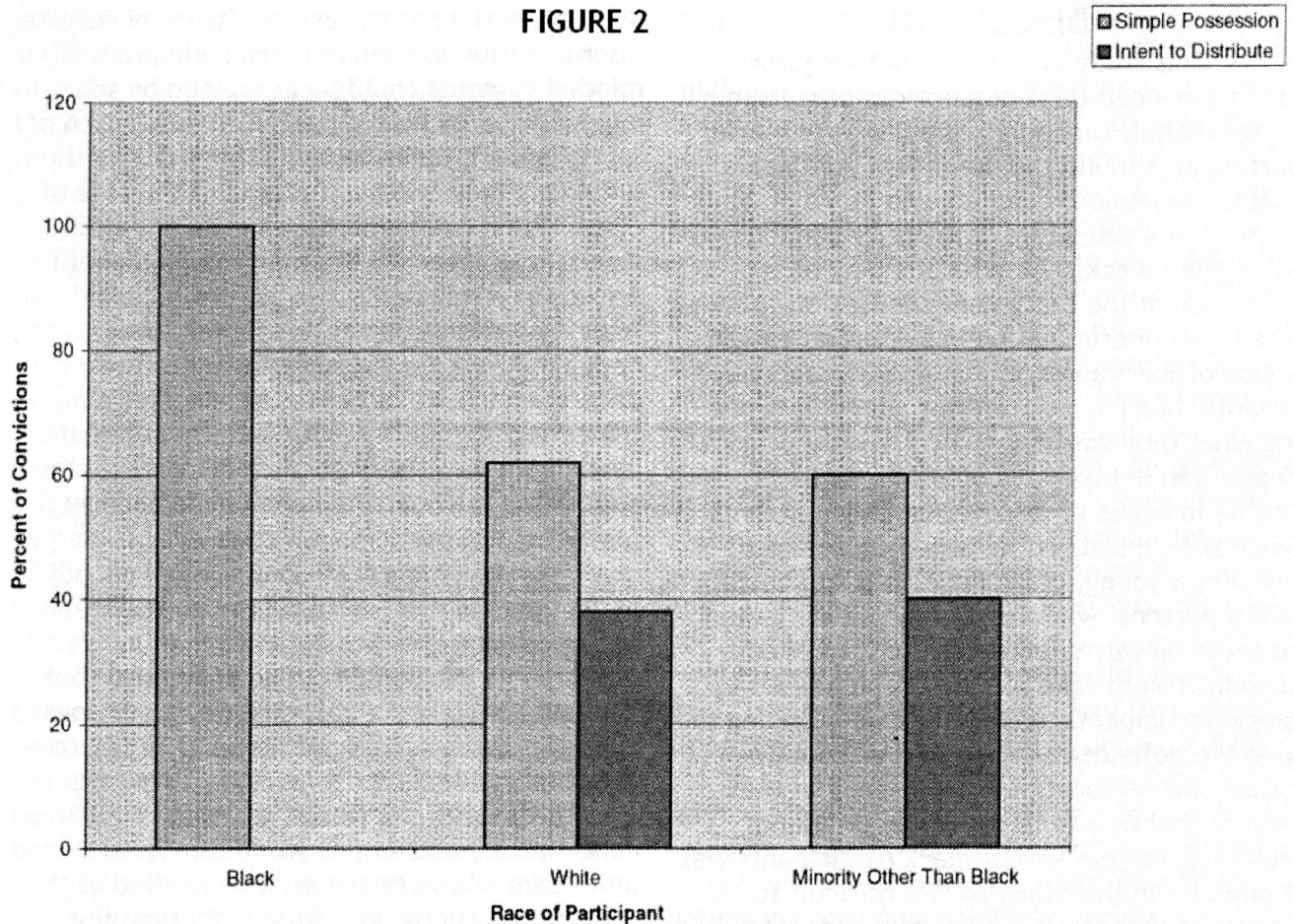
with the black defendant, 50 participants read the scenario with the white defendant and the remaining 50 participants read the scenario with race of defendant not specified. Participants then determined if the defendant was guilty of simple possession, or possession of a controlled substance with intent to distribute.

It was hypothesized that the black defendant would be convicted of the distribution charge more frequently than the white defendant or the defendant whose race was not specified. However, contrary to the hypothesis participants found the black defendant guilty of possession of a controlled substance with intent to distribute in only 17 (34.0%) of the cases, compared to 33 (66.0%) convictions for simple possession. The white defendant was convicted of the intent to distribute charge in 20 (40.0%) of the cases, compared to 30 (60.0%) convictions for simple possession. There were 14 (28.0%) convictions of intent to distribute when the defendant's race was not specified, compared to 36 (72.0%) convictions for simple possession. A chi-square analysis indicated that

rate of conviction of possession of a controlled substance with intent to distribute for black defendant was not statistically significant $X^2(n=150) = 1.60, p > .01$. Results indicated that race of the defendant did not affect juror decision making. The percentages of all convictions organized by race of the defendant are displayed in Figure 1.

It was also hypothesized that white participants would convict defendants of the distribution charge more frequently than black subjects. Of the 128 white participants, 49 (38.3%) found the defendant guilty of possession of a controlled substance with intent to distribute and 79 (61.7%) found the defendant guilty of simple possession. However, none of the 17 black participants found the defendant guilty of the distribution charge. Of the 5 minority participants other than black, 2 (40.0%) found the defendant guilty of the distribution charge and 3 (60.0%) found the defendant guilty of simple possession. A chi-square was calculated to examine the frequency of convictions for white participants, black participants and minority

FIGURE 2



Conviction percentages as a function of participant's race

participants lack. Results were found to be statistically significant $2(n = 150) = 9.86, 12 < .01$. These results indicated that decision making covaried with the race of the participant. The percentages of all convictions organized by race of participant can be found in Figure 2.

Table 1 summarizes raw scores of convictions as a function of both the participant's race and defendant's race.

TABLE 1

Participant	Conviction	
	Simple Possession	Intent to Distribute
Black (n=17)		
Black Defendant	6	0
White Defendant	6	0
Defendant's Race Not Specified	5	0
White (n=128)		
Black Defendant	27	16
White Defendant	23	20
Defendant's Race Not Specified	29	13
Minority other than Black (n=5)		
Black Defendant	0	1
White Defendant	1	0
Defendant's Race Not Specified	2	1

DISCUSSION

This study examined whether juror's race influenced their perceptions of guilt in a criminal trial. One hundred percent of black participants found the defendant guilty of simple possession, compared to 61.7% of white participants and 60.0% of minority participants other than black. These results may be a reflection of the black communities' awareness of alleged discrimination in law enforcement. Police officers and criminal investigators have recently been scrutinized for allegedly profiling what they consider to be a typical drug dealer and detaining people who fit that profile in hopes of discovering illegal activity. Since the typical profile of a drug dealer involves a young, black male, it is difficult for white persons, who are usually not subjected to these unwarranted detentions, to believe such intrusions take place. It is possible that black participants in this study were willing to give the defendant the benefit of doubt because of a personal past experience of their own or that of a family member or friend. However, sample size of black participants was a problem in this study so it is difficult to generalize these results to the entire black community.

Another problem with this study was that a paper and pencil methodology was used to describe the case and obtain "juror's" decisions. Actual courtroom data may have produced different results. Therefore, these findings may be lacking in external validity, and generalizations to actual criminal cases should be made with caution.

An additional problem in this research was that all participants were college students. College students tend to be more liberal than the larger population, regardless of race. It is possible in this study that participant's awareness of racial discrimination had a reverse effect. A reverse effect of racial discrimination may be an issue when participant's decision making is influenced by their desire to appear nondiscriminatory. Instead of disregarding race of defendant, participants may have used the defendant's race as a means to promote equality. If there was a reverse effect of racial discrimination in this study, the defendant's race may have affected juror decision making by influencing participants to vote in a deliber-

ate nondiscriminatory fashion. Issues of reverse discrimination as seen in typically liberal minded students could be addressed by soliciting participants from the general population of jury eligible citizens instead of restricting the sample to only college students. If the rate of conviction for possession of a controlled substance with intent to distribute were higher in a study in which participants were solicited from the general population, it would be necessary to determine what caused that difference in rate of conviction. In designing the demographic survey for a study in which participants are solicited from the general population it would be important to account for the age of participants, their education level, and how liberal or conservative participants rate themselves. In this study the mean age of participants was 21.06 years, and all participants had some college experience but had not yet earned a bachelor's degree. However, this research did not account for liberal or conservative inclinations of participants.

Although the results were not significant, participants in this study convicted the defendant whose race was not specified of the distribution charge less frequently than the black defendant or the white defendant. It is possible that when race of defendant was not specified participants did not develop a mental image of the defendant and therefore did not assign the defendant any positive or negative characteristics. If jurors do assign positive or negative characteristic to a defendant based on the race of the defendant, criminal trials would be less biased if the defendant were not present in the courtroom and race of the defendant was never disclosed to the jury. There are obvious constitutional concerns in using this approach. However, in considering the results reported by Gordon (1990) and Poulson (1990), in which the defendant was stereotyped by race, it is worth considering all options to insure a fair trial.

Future research to examine the likelihood of a fair trial without the presence of the defendant, to possibly eliminate juror bias, is a possible next step in this area of research. A study should be designed to identify preconceived notions that a juror has prior to entering the jury box. In this study a possible confound was the likelihood of deliberate nondis-

crimination. A study in which a crime is described to participants who are then asked to play the role of a criminal profiler may reduce the likelihood of deliberate nondiscrimination. Assuming the role of a criminal profiler may provoke participants to reveal stereotypes they attribute to certain crimes without feeling the need to express nondiscrimination. Upon hearing details of a hypothetical crime participants would describe in their own words what they believe are the likely demographic characteristics of the perpetrator. Allowing participants to describe the perpetrator in their own words might make data difficult to categorize, but would insure that characteristics suggested by participants are a result of internal beliefs of the participant, not from the influence of the researcher. For example, if after reading about a crime, participants were specifically asked to determine the likely race of the perpetrator, they would do so to fulfill the researcher's request. However, without that request participants may not consider race as a possible predictor of that crime. If a significant portion of participants suggested a particular race to describe the perpetrator, one might conclude that that race is associated with that crime. If participants did not volunteer race as a predictor of a particular crime, one could conclude that race is not automatically associated to that crime.

By using a type of role playing participants may inadvertently express underlying stereotypes. The problem with a study in which participants assume a role other than that of a juror is that it assumes participants who stereotype demographics to fulfill one role would do the same thing while playing the role of a juror.

There are several implications resulting from the outcome of the current study. Since frequency of conviction varied with race of the juror in this study, one must consider what it means to be tried by a jury of ones peers. It is difficult to understand how a just judicial system would allow, for example, a young minority defendant with little education and low economical status to be tried by a jury comprised of mostly older Caucasians who are well educated, financially secure and have no way of understanding the defendant's position in society. The problem is finding twelve

people within a community who are the same demographically as the defendant. Since finding twelve people who are identical to the defendant is literally impossible, the goal is to select a jury that would be representative of the community. Although demographic information is collected every ten years in this country, there are thousands of traits and demographic characteristics within every individual. Picking twelve people who are proportional to the community in just a few of those areas would be difficult. Therefore, a jury of ones peers must be defined as a group of people from the same general area as the defendant, regardless of age, gender, race, socioeconomic status, and other characteristics that define who a person is. The goal of a criminal trial is not for the defendant to be judged by his or her friends or even by a group of people who would likely be able to identify with the defendant. If the goal was to find a jury that understood the defendant's position people would not be automatically excluded from jury service after being convicted of a felony. It could be argued that a person with a criminal record would be closer to being a peer of the defendant than anyone else in society.

While this study found that a juror's race might affect perception of guilt in a criminal case, it is important to remember that a juror's race is not the only influence on the decision making process and may not be the most important influence. To assume that the elimination of any demographic characteristic in criminal proceedings would insure a fair trial would be a mistake. However, by understanding the effects demographic characteristic have on the decision making process, criminal defendants would be more likely to receive a fair trial.

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APPENDIX

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On Friday, October 8 1999, in Horry County, South Carolina, a 17-year-old black/white male was arrested at a public high school after administrators, acting on an anonymous tip, found nine individually wrapped pieces of marijuana in the student's pocket. The student claimed that the marijuana belonged to a friend, who was never identified, and that he was just holding it. Because of the way the marijuana was individually wrapped in nine equally sized bags, which were later determined to have a street value of \$10 each, prosecutors charged the student with "possession of a controlled substance with the intent to distribute."

While the defendant could not deny he had the marijuana, he said he was not trying to sell it. Therefore, he pled not guilty and the case went to trial. During the trial, jurors learned that the defendant had no prior record, but was considered to be a mild discipline problem at school. He frequently skipped classes and spent a fair amount of time in the principal's office. The jurors were also informed of the type of crowd the defendant was affiliated with, and, although he was extremely athletic, that he had stopped participating in school sports.

Several people were called to testify, including school administrators from the predominantly black/white school, and the arresting officer. The defendant's attorney agreed that his client had made some mistakes in the past but argued that he was a good kid and was simply in need of guidance. With family support, he argued, his client could turn his life around. The defendant's single mother testified on her son's behalf in support of these points.

After closing arguments, the judge informed the jury of their options. They were told to determine if he was guilty of "possession of a controlled substance with the intent to distribute," or the lesser charge of "simple possession." Simple possession is a misdemeanor, for which the defendant would likely be sentenced to probation. If convicted of the more serious charge, because he has no prior record, he would likely receive a reduced sentence, but would still spend about twelve months in prison. If you were a juror in this case, how would you find the defendant?

Check one:

Guilty of Simple Possession

Guilty of Possession of a controlled substance with intent to distribute