GUILTY BY ASSOCIATION: EXAMINING THE EFFECTS OF DEFENDANT RACE AND PRIOR RECORD KNOWLEDGE ON JURY DECISION-MAKING

by

MIYLA B. McINTOSH

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This thesis for the Master of Arts degree by

Miyla B. McIntosh

has been approved for the

Department of Psychology

By

Edie Greene, Chair

Lori James

Leilani Feliciano

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ABSTRACT

Jurors, like all members of society, possess certain implicit biases that they cannot simply abandon once they have entered the court room, and a wealth of current research explores factors that influence jury decision making, above and beyond the evidence presented or lack thereof. One well-established factor is defendant race, as minority defendants (specifically Black and Hispanic) experience higher arrest rates, higher conviction rates, and harsher sentences than their White counterparts. One possible explanation for this is the implicit assumption of criminality that individuals of all races tend to apply to Blacks, and especially to Black men. The jury’s knowledge of a defendant’s prior convictions also reliably increases rates of conviction, despite explicit instructions from the judge not to allow such information to do so. However, researchers have yet to examine the effect of a defendant’s prior record on mock trial outcomes as a function of race. The current study utilized a 2 X 2 design to examine how defendant race (White Defendant vs. Black Defendant) and prior record knowledge (PRK vs. No PRK) interact to affect conviction rates. It was expected that the well-established prior record effect on jury verdicts would exist for the White defendant, but not for the Black defendant, for whom criminality would already be implicitly assumed. No significant interaction of race and prior record was found, but promising preliminary data and implications are addressed and discussed.
*Keywords:* Implicit biases, defendant race, similarity-leniency effect, assumption of criminality, prior record knowledge, jury decision-making, mock jury
DEDICATION

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CHAPTER I

INTRODUCTION

In our criminal justice system, justice is often elusive. Some defendants are falsely convicted, and some are falsely acquitted, and both outcomes leave the population vulnerable to dangerous individuals. Imagine that you are serving as a juror in a criminal trial where the defendant has been accused of first-degree assault with a deadly weapon, and the evidence is compelling at some points and ambiguous at others. If you convict, you may be protecting your community from further harm by the defendant, but you may also be imprisoning an innocent man. If you have enough reasonable doubt to acquit, you may be allowing an innocent man to retain his freedom, but you may also be allowing a guilty criminal to walk free. The idea of reasonable doubt, even when defined by a judge, is difficult to conceptualize, so jurors are often forced to use other methods of decision-making, such as relying on emotion or instinct to decide a defendant’s fate (e.g. Antonio & Arone, 2005). Unfortunately, this process is not free of bias, as our emotions and our instincts are products of the lives we have been exposed to and the beliefs we have cultivated in response.

Research has found that although jurors are prohibited from factoring a defendant’s race into their decision-making process, defendants of different races tend to have different conviction rates, even when weighing other factors (e.g. Welch, 2007). This means that, simply by being born a certain race, one will automatically be more or less likely to be convicted by a jury, should he find himself on trial. Similarly, jurors are
explicitly prohibited from using any knowledge they have of the defendant’s prior
criminal record to determine the likelihood of his guilt or innocence. However, juries
consistently vote to convict more often when they learn of a defendant’s prior record than
when they do not (e.g. Hunt, 2015). Why do things like prior record knowledge and
defendant race have any bearing on trial outcomes? And when combined, how do these
factors interact with each other to affect conviction rates?

A likely answer to the first question is that jurors are asked to walk a tight rope, to
ensure that the innocent maintain their rights and their freedom, while also attempting to
protect society from those from whom we need protection. Research suggests that
Americans generally view ethnic minorities, and most significantly young Black men, as
being a greater danger to society than White men and men of other races (e.g. St. John &
Heald-Moore, 1995); therefore, some jurors may have a lower threshold for overcoming
reasonable doubt in the case of a Black defendant. When jurors learn of a defendant’s
prior record, they will often explicitly ignore the judge’s limiting instructions that are
meant to keep them from using this as “evidence” of the defendant’s guilt (e.g. Greene &
Dodge, 1995).

The second question is more difficult to answer because in real trials, we know
only the outcome, not the mechanisms by which juries arrive at their verdict.
Additionally, since much of the decision-making process is thought to be implicit, it may
be difficult to find jurors who openly admit to convicting someone on the basis of race or
gender. The current study used a mock jury sample of jury eligible undergraduate
students to help explain how a defendant’s race and the jury’s knowledge of his prior
convictions might interact with each other to affect the verdict. I also explored how these
factors influenced the general impressions that the mock jurors had of the defendant and of other participants in the trial.

Public Ideas of Black Criminality

The American public has a long-standing history of associating crime with race, specifically with Blacks (Chiricos, Welch, & Gertz, 2004; Pickett, Chiricos, Golden, & Gertz, 2012). A general social survey in 1990 found that 54% of Whites believed Blacks to be generally prone to violence, and St. John and Heald-Moore (1995) found that Whites were more fearful of being victimized by Black strangers than by White strangers. More recently, Welch (2007) showed that Blacks are largely characterized by Whites as more likely than any other race to be violent, to abuse drugs, and to engage in crime, and in a review by Oliver (2003), she pointed out that Black men were affected by these implicit biases to a larger degree than were Black women. She found that Black men were suspected of shoplifting at higher rates than were men of other races, and that when Whites were in the presence of Black men, they reported greater concern about crime, in general.

The negative views of Blacks (specifically Black men) in the U.S. have impacted not only the way Whites perceive and interact with Blacks on an individual level, but also the way the American legal system responds to accused criminals. Chiricos et al. (2004) examined the relationship between racial typification of crime (i.e. assumption of Black criminality) and punitive beliefs. They surveyed 855 adults (57% female, 80% White, 11% Black, median age 46 years) regarding their attitudes toward crime, as well as the extent of their racial biases. In order to gauge punitive attitudes, they asked a series of Likert-style questions, such as “On a scale from 0-10, how much do you support making
sentences more severe for all crimes?” Racial bias was explored in three different contexts – general violent crime, non-violent burglaries, and armed robberies – using questions specifically about Blacks, such as “What percentage of people who commit violent crimes in this country would you say are Black?” Furthermore, they gathered data regarding concern about crime, estimates of violent crime volume in the U.S., racial prejudice, and political leanings. Respondents tended to overestimate Black involvement in violent crime and burglaries, while, interestingly, underestimating Black involvement in armed robberies. Ultimately, Chiricos and colleagues found that, controlling for all other factors, racial typification had a strong effect on punitive beliefs; in other words, more prominent assumptions of Black criminality consistently predicted support for generally harsher treatment of criminal offenders. Additionally, this effect was stronger for southerners, conservatives, and those who showed high concern about crime. The results of this study suggest that racial prejudice is associated with the “tough on crime” attitudes that many U.S. citizens hold today and the laws established in accordance with this mindset, such as the “three strikes” law and the war on drugs, both of which have disproportionately affected racial minorities (Welch, 2007).

Media Bias against Blacks

Oliver (2003) found that a majority of information that US citizens learn about crime and criminals comes from the media, and she pointed out that news and reality-based law enforcement shows – largely regarded as the most accurate portrayal of crime – were the most racially biased form of media. In fact, while fictional programs tended to underrepresent Blacks as criminals, compared to real crime statistics, reality-based media and news programs overrepresented Blacks as criminals. Oliver also pointed out that
Blacks in the news were more likely to be portrayed as perpetrators than victims, while the opposite was true for Whites, leading to an underrepresentation of Whites as perpetrators and an overrepresentation of Whites as victims, compared to real crime statistics.

Violent crime is a major component of news coverage, often encompassing up to 75% of air time (Klite, Bardwell, & Salzmann, 1997), and in order to increase viewership and ratings, news reports on crime tend to follow a specific “script”, which requires a regular “cast” of similar characters who fit a certain criminal profile. This often includes disproportionately high reporting of Black crime, as well as different imagery of Black offenders than of White offenders (e.g. mugshot vs. family photo; Klite et al., 1997). Entman (1992) conducted a content analysis of news segments on several local Chicago television stations over the course of six months, specifically to examine racial differences in reporting styles. During this period, a majority of Black-centered news involved violent crimes committed by Black individuals in the local area. Additionally, 84% of crime news stories involving Black perpetrators depicted violent offenses, compared to 71% for White perpetrators. Finally, the way in which arrests were filmed and reported on varied by race as well, with Black criminals more likely than White criminals to remain unnamed, more likely to be shown in physical restraints, and less likely to speak. This crime script produces more than just good ratings, as it significantly impacts the way we observe people and events in our daily lives.

The public view of the “violent Black man” that the media reinforces often manifests in implicit biases, rather than conscious beliefs and prejudices. For example, Gilliam and Iyengar (2000) conducted a study in which participants were exposed to a
15-minute news cast, including fake coverage of a murder and one of three conditions: a Black man’s mugshot, a White man’s mugshot, or no mugshot or mention of the suspect’s identity. When participants were later asked to recall the race of the perpetrator, those who had viewed the White mugshot responded less accurately than participants who had viewed the Black mugshot. Furthermore, participants who had viewed the White mugshot were 50% less likely to recall having seen a mugshot at all, compared to those in the Black mugshot condition. Perhaps most alarmingly, more than half (~60%) of the participants who had not been shown a mugshot falsely recalled seeing one, and among those who experienced false recall, 70% identified the perpetrator as Black.

**Law Enforcement Views of Black Citizens**

Various players in the legal system are not immune to this influence, including police, prosecutors, and juries. For example, police often use racial profiling, both consciously and subconsciously, in determining how to approach and estimate the threat level of individuals they encounter while on the job. In a study conducted by Rosenfeld, Rojek, and Decker (2012), in which they examined the 2007 traffic stop records of male drivers in St. Louis, young Black males were reportedly searched at a significantly higher rate than young White males or older male drivers of any race. Interestingly, police conducted discretionary searches of young White drivers more often than older Black drivers, suggesting that age may moderate the stereotype of Black criminality.

On an explicit level, Eberhardt, Goff, Purdie, and Davies (2004) found that police officers viewed Black men to be generally more criminal than White men. In one study, they recruited 182 officers from an urban police department and exposed them to a series of photographs depicting the faces of either Black men or White men of various ages (18-
40 years old). The officers viewed each photograph for 5 s, and one third of the officers circled either yes or no to indicate whether they thought the individual in each photo “looked criminal.” Officers judged a significantly greater number of Black faces than White faces as criminal, even when controlling for attractiveness and stereotypicality of race-specific facial features (e.g. skin tone, nose and mouth shape, etc.). This suggests that officers likely view or approach Black citizens with a greater level of initial suspicion than they normally would White citizens.

**Law enforcement treatment of Black suspects.** These snap judgments can often have dangerous implications for the African American public. Several experimental studies over the last two decades have attempted to examine racial differences in police shooter biases, with widely varying results. The term “police shooter bias” encompasses several factors, including error rate (shooting at an unarmed target or not shooting an armed target), reaction time, and shooting threshold (tendency to shoot or not shoot). This bias was most commonly measured using simulated first-person shooter games. A popular variant of the game, created by Correll, Park, Judd, and Wittenbrink (2002) showed a neutral background (e.g. an office, a parking lot, a desert landscape, etc.) on a screen and the introduction of either a White or Black man in various stances, either holding a gun, or a similarly sized object, such as a wallet or soda can. Participants, members of the general community as well as police officers, pressed either a button to “shoot” or to “not shoot” the suspect, as determined by whether the suspect was armed. Correll and colleagues found that undergraduates and participants from the general community had higher error rates than police when faced with a Black target than when faced with a White target; their reaction times also differed by race, in that they were
quicker to choose to shoot an armed Black target than an armed White target, and they were quicker to choose not to shoot an unarmed White target than an unarmed Black target. Police officers’ error rates did not differ between Black and White targets, but they showed the same trend as the general population sample in terms of reaction times, suggesting that police officers and civilians alike had to overcome certain implicit biases before making the correct decision. Another study did reveal higher error rates for police officers when faced with Black targets than White targets (Plant & Peruche, 2005), but only in earlier trials, not in later ones. Additionally, an interaction was found between shooting threshold and trial, in that during earlier trials, the officers’ showed a much lower shooting threshold for Black targets than for White targets, but in later trials, shooting thresholds were similar for both races. Shooting threshold for White targets did not differ between early and later trials.

In order to establish an overall trend for police shooter bias, Mekawi and Bresin (2015) conducted a meta-analysis of 42 first-person shooter game studies, which included undergraduates, community members, and police officers. They found no difference in shooter bias between the three sample populations. Overall, error rates were similar for Black and White targets. However, reaction times did significantly differ by race, in that participants made the choice not to shoot unarmed White targets more quickly than they did unarmed Black targets, and they chose to shoot armed Black targets more quickly than they did armed White targets. Additionally, shooting threshold (bias toward or against shooting) was significantly lower for Black targets than for White targets, meaning that Black targets were more likely to be shot, and the decision to do so was made more quickly than for White targets. Interestingly, Mekawi and Bresin found that
state gun laws were a consistent moderator for shooter bias, specifically participants who lived in states with liberal gun laws showed lower thresholds for shooting Blacks than did participants who lived in states with more restrictive gun laws. This relationship remained significant, even when accounting for political orientation of the state (measured by percentage of the state population who voted for Barack Obama in 2012).

Oliver’s (1994) content analysis of reality-based police shows (e.g. America’s Most Wanted) revealed that police officers were generally more likely than suspects to show aggression, regardless of suspect race, and that even while controlling for several other variables (e.g. nature of the crime, suspect’s behavior, etc.), police officers showed aggression toward Black and Latino suspects at a significantly higher volume than against White suspects.

These findings are mirrored by real world statistics. Burch (2011) found that between 2003 and 2009, White suspects comprised a greater percentage of arrest-related deaths than Black suspects (41% vs. 32%, respectively), and White arrest-related homicides were more common than Black arrest-related homicides (42% vs 32%, respectively). However, arrest-related accidental deaths were more common for Blacks (41% vs. 34%, respectively) as were arrest-related deaths due to unknown causes (36% vs. 30%, respectively). While the circumstances surrounding these statistics are unknown, they may lend evidence to the idea of harsher or more negligent treatment of Blacks than Whites in police custody, as well as more thorough investigations into the causes of death for White suspects than for Black suspects.
Effect of Stereotyped Racial Views on Jury Decision Making

Prosecution Influence on Jury Decision Making

These biased views of Black males go beyond confrontations with police, and extend to criminal proceedings, prosecutors’ decisions about whom to charge and for what offenses, jurors’ decisions about whether to convict and on what charges, and judges’ choices about how to sentence convicted offenders. This section will focus on the role of defendant race on jurors’ judgments, but first, it is important to examine how other players in the legal system take advantage of jurors’ existing biases. It has been established that jurors often enter the courtroom with some sort of racial bias, due to their exposure to Black stereotypes, and prosecutors have been known to perpetuate these stereotypes, resulting in high conviction rates for Black defendants (Welch, 2007). These higher conviction rates then work to reinforce public ideas of criminality.

Higginbotham (2002) conducted a content analysis of court transcripts dating back over a century, and he found that judges and prosecutors had a longstanding tradition of overt discrimination and attempts to undermine and discredit African American defendants and witnesses, on the basis of their race. This behavior included treating Black witnesses and defendants with generally less respect than their White counterparts, for instance, refusing to address them by their last names and/or titles, as was accepted practice for White witnesses and defendants. Higginbotham also noted ways by which prosecutors have been known to attempt to sway juries, by making race-based statements about Black defendants and witnesses, often insinuating that their word cannot be trusted over that of a White person, or implying that Blacks are “street people,” not like Whites, and Black witnesses will lie for each other. Finally, prosecuting attorneys
have a longstanding history of appealing to the public fear of Black violence, by making
the jury feel as though White communities will not be safe if Blacks are allowed to go
unpunished. These are all examples of strategies used in trials that eventually resulted in
convictions, and while overt discrimination in the courtroom has become rarer in modern
times, prosecutors continue to use more subtle methods of appealing to jurors’ racial
biases in efforts to increase conviction rates (e.g. Hunt, 2015).

Jurors are susceptible to the influence of prosecutors and judges, and numerous
mock jury trials have found that Black and Hispanic defendants received harsher
judgments than White defendants. Bodenhausen (1988) found that mock jurors
tended to predict more future violent criminal behavior for minority defendants than for White
defendants. This phenomenon may be partially explained by the similarity-leniency
effect, or the tendency for jurors to make harsher judgments about defendants from
different racial or ethnic groups than their own. Hunt (2015) examined the body of
research on racial biases in the criminal justice system, and found evidence of the
similarity-leniency effect, specifically that jurors tend to recommend harsher sentences
for other-race defendants, although this tends to be relevant only in capital cases. Little
research has been conducted on the role of similarity between jury members and
defendants in real, non-capital cases, although the existing mock jury research suggests
that the similarity-leniency effect may have an even stronger effect on conviction rates in
non-capital trials, and results of mock jury research appears to align well with real
trials.

While the mechanism behind the similarity-leniency effect is not entirely clear, it
likely has to do with how one attributes responsibility or blame. Internal attributions are
the belief that a person’s behavior was caused by stable, innate factors, whereas external attributions suggest that actions are caused by unstable, situational factors. Individuals who display signs of racial biases are more likely to make external attributions for criminal behavior to same race defendants and internal attributions to other race defendants (Hunt, 2015). In other words, jurors tend to see other race defendants as more blame-worthy and innately criminal, and therefore more culpable for their actions, increasing the likelihood of a vote to convict.

**Moderating Factors of Racial Biases in Jury Decision Making**

Although defendant race clearly has a strong effect on trial outcomes, this effect is moderated by several factors, including the jury’s racial composition, race/ethnicity of the victim(s) and defendant(s), and gang membership of defendant(s). Social dominance orientation (defined as the level of acceptance one shows of inequality in terms of power and resources), stereotypicality of the crime in question, salience of the defendant’s race, and clarity of limiting instructions, all play a role as well (Hunt, 2015; Maeder & Hunt, 2011). This is by no means an exhaustive list, but rather, it encompasses the most well-researched moderators in predicting trial outcomes based on racial factors.

Hunt (2015) found that, consistent with the observed similarity-leniency effect, trial outcomes are influenced by the number of ingroup versus outgroup members, with reference to the defendant, on a jury. The term ingroup refers to people with whom an individual feels he or she shares common ground, such as race, gender, religious beliefs, political affiliation, age group, etc.; conversely, the term outgroup refers to people with whom an individual does not identify on these types of issues or characteristics. Attorneys are well aware of this trend, and although dismissing potential jurors on the
basis of these factors is not allowed, prosecuting attorneys often find ways around this restriction, with the ultimate goal of stacking the jury with a majority of outgroup members in reference to the defendant (defense attorneys, in turn, attempt to stack the jury with ingroup members).

In cases involving violent crimes, the victim’s race also affects the trial outcome, in that jurors pass down harsher judgments against defendants when the victim of the crime in question is White (Hunt, 2015). Gang affiliation is another moderating factor, but Hunt found that jurors judged gang members more harshly than defendants with no gang affiliation, only when the defendant was Black. She also pointed out that jurors judged defendants more harshly when the crime for which they were on trial aligned closely with racial stereotypes (e.g. Black defendants were judged more harshly for drug crimes than for embezzlement). Conversely, evidence that contradicted racial stereotypes, such as a character witness testifying about the defendant’s strong community involvement, tended to dampen the similarity-leniency effect, leading to less harsh judgments of other race defendants (Maeder & Hunt, 2011).

**Jury Interpretation of Evidence**

Hunt (2015) and Levinson (2007) pointed out that the similarity-leniency effect not only biases the way jurors view the defendant, but also the way they interpret evidence. When presented with a darker-skinned defendant, mock jurors tend to view ambiguous or weak evidence as stronger than when the defendant is light-skinned. Jurors also show better memory for incriminating evidence against minority or other race defendants, even at times misremembering evidence as more damning than it really was, or even experiencing false recall of incriminating evidence that was never actually
presented. Additionally, mitigating evidence tends to be weighed less heavily by juries when a defendant is Black than when he is White (Hunt, 2015).

**Factors Influencing a Defendant’s Decision to Testify or to Remain Silent**

**Effect of Defendant Testimony or Silence on Jury Decision Making**

A defendant’s testimony is an opportunity to humanize himself or herself to jurors and, in the case of minority defendants, to potentially reduce the implicit racial biases that jury members enter the courtroom with. However, it is important to also examine whether and how a defendant’s decision to testify or refrain from testifying affects the outcome of the trial.

Eisenberg and Hans (2009) analyzed reports from over 300 criminal trials across four countries. They examined factors that influenced defendants’ decisions whether to take the stand, as well as juror reactions to defendant testimonies and to learning of defendants’ prior records, when applicable. They found that, overall, jurors viewed defendant testimony to be one of the most important testimonies throughout the trial, more so than police, informant, and expert witness testimonies, and second only to the victim’s testimony. Given this knowledge, it seems advisable for defendants to take the stand rather than remain silent.

As part of their Capital Jury Project, Antonio and Arone (2005) investigated jurors’ reactions to either defendant silence or defendant testimony in the guilt stage of the trial. They interviewed thousands of jurors from 353 capital trials across 14 different states, and they found that jurors generally wanted or expected defendants to take the stand, and they tended to react negatively when this did not happen. The most common response, from 27% of jurors, was a feeling that the defendant’s silence was an admission
of guilt. About 13% of jurors felt curious or generally skeptical about the defendant’s silence, while 11% felt it showed a lack of remorse for the crime committed. About 25% of jurors were understanding of the defendant’s decision, and they recognized that the defendant likely had legitimate reasons for not testifying. However, this still suggests that these jurors believed the defendant had something potentially incriminating to hide. The smallest proportion of jurors interviewed, only 6%, reported that the defendant’s silence had no influence on their decision. Based on this evidence, it seems that jurors would favor defendants who take the stand; however, the decision to testify also leaves defendants vulnerable in many ways, one of the most impactful being that they risk jurors adopting a negative perception of their character.

Most jurors interviewed felt that if they were on trial, and if they were innocent, they would certainly choose to testify on their own behalf. Ironically, however, Antonio and Arone found that jurors’ reactions to defendant testimonies were just as negative as the reactions that jurors had in trials during which the defendant remained silent. The most common reaction, from 30% of jurors, was the belief that the defendant was lying, followed by the feeling that the defendant showed little or no remorse, reported by 15% of jurors. About 10% found the defendant to be inarticulate, while 8% viewed the defendant as smug or arrogant, and another 8% felt the defendant generally lacked emotion. Only 6% of jurors had a positive reaction to the testimony or felt that it helped the defendant's case. In short, it appears that juries react equally unfavorably whether defendants testify or not.
Prior Record Effect on Jury Decision Making

Another factor that has been consistently shown to affect the jury decision making process is knowledge of the defendant’s prior record. The primary way that jurors learn of a defendant’s prior record is through their own testimony. Eisenberg and Hans (2009) found that, among the cases they analyzed in which defendants with prior records testified on their own behalf, juries learned of their criminal history about 50% of the time, compared to only 9% if they did not offer a testimony. This knowledge can lead defense attorneys to discourage clients with prior records from testifying, considering the previously discussed low likelihood of a positive response to their testimony in the first place. Devine (2012) evaluated data from multiple studies investigating how juries respond to defendants with prior records and found that jurors vote to convict more often when they are aware of a prior record. This relationship is strengthened by similarity of prior convictions to current accusation(s), as well as prior convictions that paint the defendant as dishonest or unreliable (e.g. for fraud, perjury, identity theft, etc.).

While Eisenberg and Hans (2009) found that a jury’s knowledge of the defendant’s record is linked to higher conviction rates, the mechanism behind this was not clear based on real trial outcomes. Hans and Doob’s (1975) meta-analysis of mock jury research revealed that when juries were exposed to the knowledge of a prior record, especially when prior convictions were similar to the crime for which the defendant was on trial, this affected several aspects of the deliberation process. When mock jurors knew about similar prior convictions, they tended to use more pro-prosecution statements, viewed incriminating evidence as stronger, and made more references to damaging
evidence during deliberation than did mock jurors with no knowledge of the defendant’s prior record.

**Racial Differences in Defendant Testimony**

Statistics obtained from the National Center for State Courts from 2000-2001 reveal racial differences in regard to defendant testimony, specifically White defendants were more likely than minority defendants – as defined by Black and Hispanic – to testify on their own behalf (64% to 47%, respectively). Part of this disparity comes from the fact that minority defendants were much more likely to have a prior record (71%) than their White counterparts (55%), but even when controlling for prior record, Whites still testified at a higher rate (60%) than minorities (40%). This may be because minorities generally have higher rates of conviction (Bodenhausen, 1988; Hunt, 2015; Welch, 2007), so defense attorneys feel that the risk of further increasing the likelihood of conviction by revealing a minority defendant’s prior convictions outweighs the already unlikely benefit of humanizing the defendant to the jury through his or her testimony.

**Efficacy of Limiting Instructions**

A defendant’s current charges are legally considered independent from any prior record he or she may have, although learning of a prior record is reliably shown to bias jury decision making (Devine, 2012; Eisenberg & Hans, 2009; Hans & Doob, 1975). One way that court systems attempt to reduce biased deliberations is through the use of limiting instructions. Limiting instructions inform jurors either that they may not factor some pieces of evidence into their decision-making process (inadmissible evidence), or that they may use certain pieces of evidence only in specific contexts of deliberation. For example, jurors are permitted to use their knowledge of a prior record to determine the
defendant’s credibility but precluded from using such information to infer the likelihood of guilt or innocence in the current trial. Essentially, the goal for these instructions is to act as a safeguard against jurors’ inclinations to base their votes on knowledge of a defendant’s record; however, the efficacy of this safeguard is, at best, minimal (Devine, 2012; Greene & Dodge, 1995).

To investigate factors that may affect jurors’ attentiveness to limiting instructions, Wissler and Saks (1985) recruited 160 participants from the Boston metropolitan area to act as mock jurors in an experimental study. They explored several possible influences on the outcome of a trial, including jurors’ knowledge of the defendant’s prior record and adherence to limiting instructions. They found that similarity of charges between the prior and current trials was the most significant predictor of whether jurors adhered to limiting instructions. In other words, if the defendant had prior convictions related to the crime for which he was on trial, the mock jurors were more likely to weigh this into their decision-making process, rather than to comply with the instructions. This relationship was weakened with increasing severity of the crime, which suggests that as crime severity increases, jurors tend to be more attentive to limiting instructions, and possibly other jury instructions.

A meta-analysis by Steblay, Hosch, Culhane, and McWethy (2006) examined 48 studies that introduced inadmissible evidence with limiting instructions to real juries, and found that limiting instructions did mitigate jury bias, but only when judges gave a rationale for the instructions they presented. In this case, conviction rates were still higher than those of juries with no knowledge of the inadmissible evidence, but to a lesser degree. Mock jury research has found similar effects of knowledge of priors on jury
decision making, but some evidence suggests that, while jurors did not explicitly cite the defendant’s prior conviction as a factor in their decision-making process, this knowledge did increase their attentiveness to *admissible* damaging evidence (Eisenberg & Hans, 2009; Hans & Doob, 1975). Without knowledge of defendants’ prior record, mock jurors were much more skeptical of prosecution evidence, and were more likely to point out limitations of eyewitness accounts, biased police lineups, and circumstantial evidence.

Hunt (2015) also observed racial differences in jurors’ compliance with limiting instructions. Specifically, when a defendant is Black, White jurors are more likely to ignore limiting instructions and factor inadmissible evidence into their decision-making process, but only when the inadmissible evidence is incriminating.

**Current Study**

The current study brought together these lines of research to propose an opposing viewpoint to the idea that knowledge of a prior record impacts jury decision-making similarly for defendants of all races. Specifically, it tested the notion that the implicit biases that juries hold regarding Black criminality lead them, on some conscious or unconscious level, to assume that Black defendants have a criminal history, *even in the absence of concrete evidence to that effect*. Therefore, the effect of gaining prior-record knowledge on the outcome of the trial may be minimized or absent in the case of Black defendants, whereas it would be significantly more detrimental to their White counterparts, for whom the assumption of criminality is not a factor.

The current study utilized mock jurors to examine differences in conviction rates for Black and White defendants, as a function of prior record knowledge. Participants listened to a recording of an abbreviated court transcript, based on a real trial held in
Denver County, Colorado, viewed photographs of the defendant and the victim, and read judicial instructions that informed them of the burden of proof, how they should evaluate trial testimonies, and the elements of the crime of first degree assault. They then completed individual questionnaires pertaining to the details of the case and the preferred verdict. Following the individual questionnaires, participant groups of four or more were given a chance to discuss the details of the case to simulate a jury deliberation and provide jury verdicts.

**Design**

The study used a 2 X 2 between-subjects factorial design, which manipulated the race of the defendant (Black or White) and the jurors’ knowledge of the defendant’s prior convictions (PRK = prior record knowledge or NPRK = no prior record knowledge).

**Hypotheses**

I predicted that there would be a main effect of race on verdicts, such that the Black defendant would be convicted at a higher rate than the White defendant, irrespective of prior record admission. A main effect of prior record was also expected, specifically that the defendant with a known prior conviction would be convicted at a higher rate than the defendant who did admit to having a prior record, regardless of race. Thirdly, I predicted an interaction of prior record and defendant race on verdicts, specifically that the Black defendant with a known prior record would be convicted at a similar rate to the Black defendant with no mention of a prior conviction, whereas knowledge of a prior conviction would significantly increase the likelihood that the White defendant would be convicted, compared to the White defendant with no mention of a prior record. In addition to conviction rates, the study also explored differences in
mock jurors’ impressions of the defendant and of other trial participants, as a function of defendant race and prior record knowledge.
CHAPTER II

METHOD

Participants

The sample ($N = 119$) included undergraduate students at the University of Colorado Colorado Springs. All students were compensated for their participation with 4 points of course credit. All participants were jury-eligible (18 years or older and had a valid driver’s license or were registered to vote). Participants were between the ages of 18 and 65 years old ($M = 23.36, SD = 6.47$). A majority of participants were female (68.9%) and Caucasian (61.3%). Political leanings varied between liberal/progressive (28.6%), moderate (25.2%) and conservative/traditional (16.8%), with a slight majority of participants (29.4%) claiming other or no political leanings. Most participants (71.4%) had never experienced a physical assault, while 21.8% had been victims, and of those who had been victims, three reported that they had also been perpetrators of physical assault. Four participants were unsure if they had been physical assault victims. Only seven participants had worked in the criminal justice system in any capacity, and four had previously served on a jury.

Materials

**Trial transcript.** Criteria for a usable transcript included (1) violent crime (excluding overly emotionally salient crimes such as murder or rape), (2) ambiguous evidence (i.e. no physical evidence against the defendant), (3) one defendant, (4) one victim, (5) only one charge, (6) race-neutral crime (i.e. not a racially-charged hate crime), (7) male victim and
perpetrator, and (8) defendant testimony available. These criteria were used to simplify the study procedure while maintaining realism, to ensure believable racial interchangeability of the defendant, to avoid causing the participants heightened distress, and to force mock jurors to “fill in the blanks” left by a scarcity of concrete evidence. The transcript that I ultimately selected came from a trial for first-degree assault and attempted murder which took place several years ago in Denver County, CO, that Dr. Edie Greene had participated in as an expert witness. The trial originally violated criterion 5 (only one charge), and I corrected this by excluding any evidence that supported the attempted murder charge. This left only the first-degree assault charge, and all other criteria were met in the original form of the transcript.

The transcript initially included 660 pages documenting testimonies from seven different witnesses over the course of a 3-day trial. After inclusion of the prosecution and defense opening statements, as well as the victim’s and the defendant’s testimonies, I and two research assistants familiar with the transcript independently voted on a third testimony that was most vital to the trial and should be included in the final version of the study. We determined, by a unanimous vote, to include the eye-witness testimony of the victim’s female neighbor, and all other testimonies were deleted from the transcript. Once the trial participants were determined, each of their names was altered, and the race of the victim was changed from Black to Hispanic, in order to avoid any well-known victim race effects on jury decision-making (e.g. Hunt, 2015). I assigned a race-neutral name to the defendant (Eli Montgomery), standard female North American names to the attorneys (Danielle Pruitt and Michelle Davidson), and traditionally Hispanic names for the victim (Roman Alvarado) and the female witness (Brenda Ornelas). I chose the defendant’s name by brainstorming names
that I had commonly heard used for both Black and White American men, and I chose the victim’s and witness’s names by combining some of the most common first and last names from the predominately Mexican community in which I grew up. The research assistants then edited the remaining portions of the transcript according to a predetermined set of guidelines. All questions/disagreements regarding content were resolved by majority opinion. When the research assistants completed their edits, I then conducted my own final edits to the transcript, with the advice of Dr. Greene, and ultimately produced a 19-page study transcript, which included abbreviated versions of the opening statements, direct and cross-examination of three witnesses, and judicial instructions, and could be read from start to finish at a conversational pace in about 45 min.

For the transcript recording, voice actors were recruited from the UCCS Psychology and Theater departments. Each actor was paid $15 per hour for their time. Separate recordings were obtained for each statement or testimony, and the entire study transcript was recorded on the same day. There were no racial differences in the transcript, and the only difference between the PRK and NPRK recordings was a final line of questioning in the defendant’s testimony, in which he either did or did not admit to a recent second-degree assault conviction (see Appendix for a complete list of study materials). After a final edit of the recordings, which included cutting out long pauses and multiple takes, the entire study-tailored “trial” lasted just under 30 min.

**Defendant mugshots.** To select defendant mugshots for this study, I conducted a Google image search of White male mugshots and Black male mugshots. I then selected three White men and three Black men who appeared to be in the same age range and who had similar haircuts and facial expressions, with no outstanding facial features or marks (tattoos
were acceptable, so long as they were not on the face). I then prepared a PowerPoint slideshow displaying each mugshot individually and in random order. I played this slideshow for 40 undergraduate Psychology and Law students, and I asked them to rate all six individuals on four different dimensions: attractiveness, likeableness, trustworthiness, and criminal appearance. For each dimension, students rated the photographed individuals on a scale from zero to five (zero being least fitting of that dimension, and five being most fitting of that dimension). Raters had 30 s to view and rate each photograph, for a total of 3 min. To select the final two images that would be used in this experiment, I summed the average ratings for each mugshot, and selected the White man’s mugshot (10.67) and the Black man’s mugshot (10.70) which were rated most similarly across all four dimensions.

**Individual pre-deliberation questionnaire.** The individual questionnaire included questions about the preferred verdict and the defendant and his testimony, as well as about other testimonies and statements that participants heard during the recording. The first question on the pre-deliberation questionnaire asked participants to give their individual verdict of either guilty or not guilty. They rated their verdict confidence on a six-point Likert-type scale ranging from *not at all confident* to *extremely confident*. Response options for the next series of four-point Likert scale questions ranged from *very weak/unconvincing* to *very strong/convincing* and asked about the perceived strength and credibility of each statement or testimony, including the defendant’s, after which the PRK questionnaires also included a rating of the impact that learning about the defendant’s prior conviction had on the participant’s verdict, ranging from *no impact at all* to *very strong impact*. The PRK questionnaire then asked about the extent to which participants felt they had adhered to the judge’s limiting instructions on another six-point Likert scale ranging from *disregarded*
completely to followed strictly. All packets included a multiple choice question, in which participants selected the statement or testimony that they found most influential to their verdict choice. Next, participants rated how well the following statements described the defendant: *(a) he is a physically attractive person, (b) his testimony is likely credible, (c) he appears likeable, and (d) he fits my idea of a typical criminal,* on a six-point Likert-type scale ranging from *not at all* to *extremely well.*

The decision to use 4-point versus 6-point scales was made based on whether the question required some level of self-reflection on the part of the participant (e.g. verdict confidence and adherence to limiting instructions), for which they could be expected to use a more complex decision-making process than when answering questions that only required reflection on elements of the trial. The exception to this rule was the 6-point scale used in ratings of the defendant. For these items, I had used a 6-point scale during the preliminary mugshot selection, and in order to maintain uniformity between the preliminary and final ratings, I kept the same scale.

**Demographics Form.** The demographics form included information such as gender, age, race/ethnicity, political orientation, experience serving on a real jury, personal experience with physical assault, and general views of the American criminal justice system. The form also gathered education information, but because almost none of the participants had yet completed a 2-year or 4-year degree, education data was not included in the analysis.

**Jury verdict form.** The jury verdict form was identical to the real verdict form used in the trial that was selected for the study. The defendant’s name was changed to reflect the name from the study transcript, and the case number and division were changed to preserve confidentiality. The attempted murder charge was also removed from the form.
Procedure

This study took place in the mock deliberation room on the fourth floor of Columbine Hall at the University of Colorado at Colorado Springs. Each session included between one and six participants, all of whom were assigned to the same condition. Students registered for the study via the online SONA system, indicated that they were jury eligible, and then chose a time to come in to participate in the study.

During each visit, the researcher first read a brief overview of the study and gave participants the option to read along on the first page of their packets. Next, they listened to the trial summary, and as they listened, they also viewed photographs of the defendant’s mugshot during his testimony, and of the victim’s injuries during the victim’s testimony. After listening to the trial summary, participants read jury instructions on reasonable doubt, the burden of proof, and the legal requirements for proving assault. For participants in the PRK conditions, the jury instructions also included the judge’s limiting instructions. When participants felt confident about their grasp on the instructions, they continued at their own pace to complete the individual questionnaire and a demographic survey. All groups of four or more (n = 8) then deliberated as a group for up to 30 min to reach a unanimous verdict and completed a jury verdict form.
CHAPTER III

RESULTS

Impressions of the Defendant and Other Trial-Related Factors

Overall, the victim’s testimony appeared to have the strongest impact on participants, with 41.2% of participants indicating that it was the most influential statement or testimony during the trial. This was followed by the defendant’s testimony (30.3%), the eye witness’s testimony (16%), and finally the prosecution (6.7%) and defense (5.9%) opening statements. According to a 2-way (Race X Prior Record) analysis of variance, race played a role in jurors’ impressions of the defendant in a number of ways (see Table 1). They tended to view the defendant’s testimony as stronger when he was Black ($M = 2.37, SD = .81$) than when he was White ($M = 2.08, SD = .77$), $F(1,115) = 3.90, p = .0507$. They also found the Black defendant more likeable ($M = 2.88, SD = .89$) than the White defendant ($M = 2.38, SD = 1.06$), $F(1, 115) = 8.35, p = .005$, and they felt that the White defendant fit their idea of a typical criminal ($M = 2.82, SD = 1.02$) more closely than the Black defendant ($M = 2.32, SD = 1.09$), $F(1, 115) = 6.70, p = .011$. Knowledge of the defendant’s prior record did not play a significant role in juror’s views of him, but it is notable that the participants did view him as marginally more likeable when they did not know about his prior record ($M = 2.79, SD = 1.02$) than when they did ($M = 2.48, SD = .98$), $F(1, 115) = 3.52, p = .063$. Perceived prior record impact and adherence to limiting instructions did not significantly vary as a function of the defendant’s race (descriptives are shown in
Table 1

*Impressions of defendant as a function of race and prior record*

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To what extent do you agree with this statement: "The defendant fits my idea of a typical criminal"*

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<th></th>
<th>No Prior</th>
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</tbody>
</table>

Note. * denotes items that significantly varied as a function of defendant race.

Table 2). No significant interactions were found between race and prior record, regarding jury impressions of the defendant or other trial-related factors.

**Individual Verdicts (Pre-Deliberation)**

A direct logistic regression was conducted to determine whether race and prior record could predict individual verdicts (see Table 3). The full model containing both predictors was not statistically significant $\chi^2(2,N=119) = .70$, $p = .705$. The model as a whole only explained between .6% (Cox & Snell R square) and .8% (Nagelkerke R square) of the variance in individual verdicts.
Table 2

*Impact of prior record knowledge and adherence to limiting instructions as a function of defendant race*

<table>
<thead>
<tr>
<th>Item</th>
<th>Race Level</th>
<th>M</th>
<th>SD</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>Please indicate what kind of impact the defendant's prior record had on your verdict decision</td>
<td>Black</td>
<td>2.87</td>
<td>1.50</td>
<td>31</td>
</tr>
<tr>
<td></td>
<td>White</td>
<td>2.79</td>
<td>1.50</td>
<td>29</td>
</tr>
</tbody>
</table>

| Please indicate how closely you followed the judge's instructions about how to use your knowledge of the defendant's prior record | Black      | 3.35 | .55 | 31 |
|                                                                                      | White      | 3.23 | .73 | 30 |

Table 3

*Logistic Regression for Individual Verdicts as a function of Race and PRK*

<table>
<thead>
<tr>
<th></th>
<th>B</th>
<th>SE</th>
<th>Wald</th>
<th>df</th>
<th>p</th>
<th>Odds Ratio</th>
<th>95% C.I. for Odds Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
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<td></td>
<td></td>
<td></td>
<td>Lower</td>
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<tr>
<td>Race</td>
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<td>.69</td>
<td>1</td>
<td>.41</td>
<td>.74</td>
<td>.36</td>
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<tr>
<td>Prior Record</td>
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<td>.00</td>
<td>1</td>
<td>.96</td>
<td>.98</td>
<td>.48</td>
</tr>
<tr>
<td>Constant</td>
<td>.64</td>
<td>.79</td>
<td>.65</td>
<td>1</td>
<td>.42</td>
<td>1.90</td>
<td></td>
</tr>
</tbody>
</table>
Descriptive statistics revealed that the White defendant was convicted more often than the Black defendant, overall (50% to 42.4%), while the defendant was convicted roughly at equal rates regardless of prior record (PRK = 45.9%, NPRK = 46.6%). No significant interaction of race and prior record was found. However, figure 1 shows that prior record knowledge did negatively impact Whites slightly more than Blacks; specifically, the White defendant was 8.5% more likely to be convicted when he had a prior record than when he did not. Conversely, the Black defendant was 9.6% less likely to be convicted when he had a prior record that when he did not.

![Figure 1. Individual Conviction rates as a function of Race and PRK](image)

Demographically, political leanings were a significant predictor of predeliberation verdicts, $\chi^2(8, N = 119) = 10.17, p = .017$ (see Table 4). Those who identified as conservative/traditional voted guilty 65% of the time, while moderates convicted only 23.3% of the time, and those who identified as liberal/progressive voted to convict 50% percent of the time. The model as a whole explained between 8.2% (Cox & Snell R square) and 10.9% (Nagelgerke R square) of the variance in individual verdicts.
Table 4

Logistic Regression for Individual Verdicts as a function of Political Leanings (Exploratory)

<table>
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<tr>
<th></th>
<th>B</th>
<th>SE</th>
<th>Wald</th>
<th>df</th>
<th>p</th>
<th>Odds Ratio</th>
<th>95% C.I. for Odds Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Lower</td>
<td></td>
<td>Upper</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other/None</td>
<td>9.02</td>
<td>3</td>
<td>.03</td>
<td></td>
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<td></td>
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<tr>
<td>Conservative</td>
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<td>.95</td>
<td>1</td>
<td>.33</td>
<td>.57</td>
<td>.18</td>
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<tr>
<td>Moderate</td>
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<td>1</td>
<td>.02</td>
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<td>1.19</td>
</tr>
<tr>
<td>Liberal</td>
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<td>.01</td>
<td>1</td>
<td>.91</td>
<td>1.06</td>
<td>.41</td>
</tr>
<tr>
<td>Constant</td>
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<td>.34</td>
<td>.03</td>
<td>1</td>
<td>.87</td>
<td>.94</td>
<td></td>
</tr>
</tbody>
</table>

**Jury Verdicts**

Eight mock juries deliberated (two from each condition; $n = 39$), of which seven came to a unanimous verdict, one was hung after the 30-min time limit. Three of the seven unanimous juries voted guilty, and four voted not guilty. None of the juries began deliberation with unanimous individual verdicts, but four began with only one jury member voting for a particular verdict. As shown in Figure 2, in each of these instances, the jury verdict eventually swung in the direction of the majority. The Black PRK juries had one conviction and one acquittal, while both Black NPRK juries voted to acquit. Of the White PRK juries, one convicted and one was hung, and of the White NPRK juries, one convicted and one acquitted.
Figure 2. *Individual Predeliberation Verdicts for each jury.* Note: * indicates juries that convicted. ** indicates a hung jury.
CHAPTER IV

DISCUSSION

Results did not support my hypothesis that jurors’ knowledge of a prior record would significantly increase conviction rates for a White defendant, but not for a Black defendant. Furthermore, even the well-established effects of race (higher conviction rates for Blacks than Whites, overall) and prior record (higher conviction rates overall for defendants who reveal a related prior conviction than for those who do not) were not replicated by my findings, and several possible explanations exist for this. First, the data did at least partially trend in the hypothesized direction, in that prior record evidence negatively impacted the White defendant but not the Black defendant. However, I was unable to reach the 200-participant sample size recommended for achieving statistical significance per my power analysis (Faul et. Al, 2007; Wissler & Saks, 1985); therefore, it is possible that a larger sample size would have yielded significant results. There is also the issue that the Black defendant was convicted less often when he revealed a prior record than when he did not. This is likely due to the specific knowledge set of the sample population. As psychology students, most of the participants had at least some formal understanding of racial biases and the racial divide in the United States. Therefore, participants in the Black PRK condition may have seen the defendant as a scapegoat and become even less likely to convict with increasing circumstantial evidence, but with no physical evidence. A broader community sample could help clarify the existence of, or the mechanism behind this trend. Additionally, the trial recording lasted
around 30 minutes, and the prior record was revealed (or denied) only at the very end. Participants may have already formulated a belief about the appropriate verdict by this point, or they may have been considering other, previously mentioned pieces of evidence when they learned of the prior record, which prevented the revelation, or lack thereof, from having its predicted impact. It is also interesting to note the significant differences in ratings of credibility, likeability, and criminal appearance of the defendant as a function of his race. While no definitive explanation exists for this finding it does suggest that unaccounted for factors may have muted the effects of race and prior record on the trial outcome. For example, it is possible that jurors view White defendants who testify more negatively, in general, than they do Black defendants who testify. Antonio & Arone (2005) established that across races, defendants were viewed equally negatively by juries whether they took the stand or not, but as discussed previously, this was not measured as a function of race. It is possible that, for whatever reason, this effect of negative perception is significantly stronger for White defendants than for Black defendants, and follow-up research should be conducted, including defendant testimony (defendant does or does not testify) as a potential predictor of trial outcome and juror impressions of the defendant.

**Limitations**

Due to time and monetary constraints, recruitment from a broad community was not possible for the current study, and instead, data was collected from undergraduate psychology students. Additionally, because of the homogeneity of the sample population, I was unable to test for well-established moderating factors (i.e. the similarity-leniency effect; Bodenhausen, 1988; Hunt, 2015; Maeder & Hunt, 2011), which are known to
influence trial outcomes over and above defendant race. Convenience samples can be useful in generating preliminary data on which to expand, but it is imperative that student sample findings be replicated using non-student populations, to ensure external validity (Krupnikov & Levine, 2014; Murray, Rugeley, Mitchell, & Mondak, 2013; Wiener, Krauss, & Lieberman, 2011). Murray et al. (2013) suggested that jury pools represent a promising sample for mock jury research, although access to these groups may be limited, and in our lab, is prohibited by local judges. Because of this barrier, the next best course of action for increasing ecological validity in the Colorado Springs area would be to obtain funding for jury simulation studies in order to recruit local jury-eligible residents and compensate them for their time.

The present study used a very abbreviated version of a real trial, and this limited its generalizability to actual trials, which can take days or weeks, and it cannot be overlooked that the study transcript excluded testimonies and statements that were likely pivotal moments in the real trial (Vidmar, 2008). Ideally, the mock trial would be unedited and take place over the same course of time as the real trial (e.g. the trial that this study was based on took 3 days), in order to maintain all factors that the original jury was exposed to, the only differences being the variables of interest. This presents another issue of funding for local jury studies. Furthermore, although the audio recording was meant to add a level of realism over simply reading a transcript, as is most common in mock jury studies (Bornstein, 1999), it would be important for future researchers to compare different mediums of trial format (i.e. audio recording v. video recording v. live trial). Bornstein found mixed results as to whether an effect of medium exists, and the directionality of such an effect (e.g. in some cases, increased similarity to a real trial
resulted in more guilty verdicts, and in some causes it resulted in fewer guilty verdicts).
The question also remains as to how the charge(s), length of trial, etc. factor into the medium effect. While more controlled research should be conducted to establish whether a reliable medium effect exists in trial simulations, any degree of removal from the genuine courtroom experience could reasonably be expected to alter the perspective, and therefore the ultimate decision-making process, of mock jurors.

Several factors known to influence trial outcomes were not measured in this study. For instance, Higginbotham (2002) and Welch (2007) both discussed the idea that prosecutors use stereotype-perpetuating language during trials with Black defendants, which tends to increase conviction rates. This type of language is not observed in trials with White defendants, which calls into question the realism of the current study, in which the trial transcript did not vary between the Black and White defendant. It is possible that the nuanced differences in attorney demeanor and language in real criminal proceedings, as a function of a defendant’s race, may have a more significant impact on verdicts than initially anticipated or than I was able to convey in the study.

Implications and Future Directions

The preliminary findings of this study are promising. However, it would be difficult to address the previously discussed limitations and to also sufficiently increase the participant sample size without cooperation from the courts and adequate funding opportunities to compensate actors and community volunteers for more realistic, but also more time-consuming mock trials. As Bornstein (1999) discussed in his meta-analysis, mock jury studies have become less realistic over the decades, both in participant recruitment and trial simulation. The lack of access to jury pools is likely not a problem
that is specific to Colorado Springs and El Paso County, as the reasoning behind these restrictions may be universal. It is imperative that psychological scientists attempt to appeal to local judges and public servants and enlighten them on the importance of ecologically valid research, in the interests of criminal justice reform and advancement. In doing so, psycholegal researchers might regain support and access to the most ideal mock jury sample populations.

The knowledge that stands to be gained from this research could, potentially, be far reaching. First, defense attorneys can use this knowledge to determine which of their clients to put on the stand, based on the client’s race and whether they have a prior record. If it is established that a Black defendant with prior convictions is no more likely to be convicted than one without, and that additionally, a Black defendant will not be viewed as negatively on the stand as White defendants typically are, then the attorney can confidently make the decision to advise her clients to either testify or not, depending on each defendant’s individual characteristics and background. Furthermore, judges provide trial-specific instructions to juries, and if they are aware of the impact that certain pieces of evidence have on the decision-making process, they can use this information to provide more effective justification for certain instructions, such as how the jury may use their knowledge of a defendant’s criminal history. Perhaps most importantly, studies such as this lay the groundwork for educating our citizens about their unconscious racial biases and other intrinsic factors that might influence their perceptions as jurors, before they are ever actually selected for jury service. In fact, Devine, Forscher, Austin, and Cox (2012) found that simply making individuals aware of their racial biases can reduce these biases, and in combination with other interventions, such as perspective taking, can actually increase a person’s overall concern about inequality and discrimination at a societal level. It is imperative that we continually build on our understanding of prejudice and disseminate this knowledge to as wide a population as possible, because ultimately
the best way to combat racial inequality, both in and out of the courtroom, is to shine a spotlight on it that cannot be ignored or overlooked.
REFERENCES


APPENDIX A

IRB APPROVAL

University of Colorado
Colorado Springs
Institutional Review Board (IRB) for the Protection of Human Subjects

Date: 5/17/2018

IRB Review

IRB PROTOCOL NO.: 18:066
Protocol Title: Your Chance to be a Juror
Principal Investigator: Mirtha McIntosh
Faculty Advisor if Applicable: Edie Greene
Application: New Application
Type of Review: Expedited 7
Risk Level: No more than Minimal Risk
Renewal Review Level (If changed from original approval) if Applicable: N/A No Change
This Protocol involves a Vulnerable Population: N/A (No Vulnerable Population)
Expires: 16 May 2019

Note, if applicable: If there are no major changes in the research protocol, does not require review on a continuing basis by the IRB. In addition, the protocol may match more than one review category not listed.

Externally funded: ☐ No ☐ Yes
OSP #: 

Sponsor: 

Thank you for submitting your Request for IRB Review. The protocol identified above has been reviewed according to the policies of this institution and the provisions of applicable federal regulations. The review category is noted above, along with the expiration date, if applicable.

Once human participant research has been approved, it is the Principal Investigator's (PI) responsibility to report any changes in research activity related to the project:
- The PI must submit all protocol, recruitment, advertising, and consent form amendments/revisions to the IRB for approval.
- The IRB must approve these changes prior to implementation.
- If you are a student, please note that it is required to include the IRB approval letter to the library when you submit the dissertation thesis.
- The PI must promptly inform the IRB of all unanticipated serious adverse events within 72 hours. All unanticipated adverse events must be reported to the IRB within 1 week (see 45CFR46.103(b)(3)). Failure to comply with these federally mandated responsibilities may result in suspension or termination of the project.
- Remove study with the IRB at least 10 business days prior to expiration.
- Notify the IRB when the study is complete.

If you have any questions, please contact Research Compliance Program Director in the Office of Sponsored Programs and Research Integrity at 719-255-3909 or rsbi@uccs.edu.

Thank you for your concern about human subject protection issues, and good luck with your research.

Sincerely yours,

Zak Valisky
Zak Valisky, PhD
IRB Reviewer
APPENDIX B

Mugshots and Rating Scale Used for Mugshot Selection

You will view a series of photographs, and you will be asked to rate the individuals in the photographs on the dimensions below, based SOLELY on appearance. For each dimension, rate the individual on a scale of 0 to 5, with 0 being the least fitting of that dimension (e.g. very unattractive) and 5 being the most fitting of that dimension (e.g. very attractive). Please number the photographs in the order in which you view them.
<table>
<thead>
<tr>
<th>Photograph #</th>
<th>How attractive is this individual?</th>
<th>How likeable is this individual?</th>
<th>How trustworthy is this individual?</th>
<th>How much does this individual fit your image of a criminal?</th>
</tr>
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</table>

**Final Mugshots and Victim Photo**

![Images of mugshots and a victim photo]
You have been selected to serve as a juror in a criminal case in which the state of Colorado has charged the defendant, Eli Montgomery, with assault in the first degree of the alleged victim, Roman Alvarado. The charge alleges that on June 21, 2017 in Denver, Colorado, Eli Montgomery intentionally, unlawfully and feloniously caused serious bodily injury to Roman Alvarado by means of a deadly weapon, namely a knife. **The details of this case are factual, although the names and dates have been changed, for privacy reasons.**

You will listen to a summary of the case, including testimonies that were presented at the trial. You will also view a mugshot of the defendant and a photograph of the victim’s injuries. Your job, after you have heard the case summary, will be to determine whether to convict or acquit the defendant, Eli Montgomery, of assault in the first degree. Please listen to the case summary and answer the questions that follow. Thank you for your participation.
OPENING STATEMENTS:

Plaintiff Opening Statement by District Attorney Danielle Pruitt: In June of 2017, Roman Alvarado was working as a truck driver trying to make ends meet. And on June 20, 2017, it was a good day for Roman, a day he had received a promotion at work. Later that same day in the very early morning hours, his life was shattered when, as the evidence will show, Eli Montgomery took a knife and plunged it into Roman Alvarado’s eye causing him to lose his eye. What led up to that fateful moment for Roman Alvarado is this:

At about 2:30 in the morning Roman started making his way home to his apartment after stopping and purchasing some soda pop from the grocery store. As Roman is coming back to his apartment, a few doors down from where Roman and his girlfriend live, he sees an obvious large party going on. This was an apartment of a neighbor, Brenda Ornelas. Brenda was about to turn 18 and she was hosting a party. Roman steps inside the apartment to say hello, has a drink, and heads back to his apartment nearby.

A few minutes later He’s standing on his porch, about to go inside, and Brenda Ornelas comes running up to his apartment. She’s visibly upset. She’s crying. She tells Roman, They’re trying to kill me. Suddenly, and without warning, the Defendant and several of his associates rushed Roman Alvarado on his porch. The first unknown person with the Defendant had a bottle. And Roman will tell you that this person came up and slashed him on his back. Roman knew that he was in the fight for his life. He’s facing a dozen men, one of which is the Defendant, who is in the front of the pack. After Roman was stabbed by a bottle, the defendant pulls out his knife and slashes Roman across his eye. Roman was fortunate enough, given his size and determination, to get some of the men off of him. And it was at this point in time he hears the defendant, Eli Montgomery, tell his associates, get the gun. Fortunatel the police respond. And as the police responded everyone fled, including the Defendant and all of his associates. And unfortunately for Roman Alvarado, so did the witnesses. Roman lay there bloody, losing his eye.

About two weeks after the fact, after Roman had his eye surgically removed, suffering serious bodily injury as a result of the Defendant’s stabbing, the Detective on the case, Detective Rainey, found Brenda Ornelas. Brenda was then and will be today uncooperative and unwilling to assist the Detective fully. But although she’s uncooperative, Detective Rainey is able to persuade her to give a written statement. And she identifies Eli Montgomery as being involved in this melee and being there, but admits that she is uncertain that he stabbed Roman. Detective Rainey was able to obtain the Defendant’s photograph and put it in a photo lineup. He then met again with Roman Alvarado. And Roman was shown six different photographs. In that photo lineup process Roman gets to photo number 4, he taps it immediately and repeatedly for Detective Rainey and says “this is the man that stabbed me. This is him.” The man that he identifies for Detective Rainey is Eli Montgomery.

Roman has a glass eye now. He’ll take the stand today and tell you that night what happened to him. And based on his testimony, and the things that Brenda Ornelas had said previously, I’m going to ask you to find the Defendant guilty of the first degree assault of Roman Alvarado. Thank you.

Page Break

Defense Opening Statement by defense attorney Michelle Davidson: Good afternoon, ladies and gentlemen. On June 20, Brenda Ornelas did have a party. The evidence in this case is
going to show that there was probably around 20 to 25 different people attending that party, that there was drinking at the party, and that at some point during that night, Roman Alvarado got in a fight. When that fight broke out, it was a chaotic situation, but what the evidence is going to show is that Mr. Montgomery didn’t participate in that fight. The evidence is not going to show that there was any weapon recovered from the scene, and the only person that saw a knife that night was Mr. Alvarado. The evidence is also going to show that when Mr. Alvarado identified his alleged attacker, he was shown a photo array of six people. In fact, only one person in that photo array was present at the party, Mr. Montgomery. But he identifies three other people in the photo array. Four out of the six people in the array he thinks were at the party. He’s also going to say that he believes that the person that attacked him has the street name Krims. Mr. Montgomery is not Mr. Krims. When you hear all the evidence in this case, you’ll find that Mr. Alvarado was mistaken in his identification of Eli Montgomery as the perpetrator in this case and that the District Attorney has not proven her case beyond a reasonable doubt. Although it’s unfortunate what happened to Mr. Alvarado, Mr. Montgomery was not responsible for his injuries, and is not guilty. Thank you, ladies and gentlemen.

**TESTIMONIES:**

**Witness - Brenda Ornelas**

**DIRECT EXAMINATION BY MS. PRUITT:**

Question: Good afternoon, ma’am. How long have you known Eli Montgomery?
Answer: About three years.

Question: Okay. I’d like to direct your attention to June 21, 2017. On the night of the 20th, do you remember having a large party at your apartment?
Answer: Yes.

Question: How many people were at the party?
Answer: Maybe about 15 or 16.

Question: Do you know or did you know at that time one of your neighbors, Roman Alvarado?
Answer: I didn’t know him. That was the first night I met him.

Question: Okay. So you met him that night. And do you remember at about 3 o’clock in the morning getting into an argument with Eli?
Answer: Well, yeah, we were just arguing a little.

Question: What were you arguing about?
Answer: I don’t really remember.

Question: Fair enough. Did there come a point in time where you and Eli were out in front of your apartment?
Answer: Yes.

Question: And did he assault you in any way?
Answer: He had pushed me against the tree and I had told him why are we fighting, you know, that’s not nice of him to be pushing me against the tree. He said he’s sorry about that. That he didn’t mean to do it. I said, all right. And he said, all right, well, go ahead and hit me since I did push you. And I punched him in his mouth -- or in his jaw and that’s when he was like, oh, my God, you know, she really did just hit me hard. And at that point that’s when he grabbed me and he just -- I don’t know, he put me on the ground and he was -- he was choking me and his brother was trying to get him off of me. And that’s when I just got up, I ran in my apartment, just to lock all my stuff up. I went back outside. I just seen bottles flying and that’s when I just left.
Question: At some point after the Defendant had thrown you to the ground, do you remember going to Roman’s apartment?
Answer: Yeah.

Question: All right. And at that point, are bottles flying?
Answer: No.

Question: Then where do you go?
Answer: To my apartment.

Question: And how do you know bottles are flying when you’re in your apartment?
Answer: Because I come back outside, there’s bottles flying everywhere, that’s when I run back inside and shut my door. And then I just left.

Question: Do you remember seeing anything after the bottles flying?
Answer: Nope.

Question: And do you remember telling Detective Rainey that you overheard Roman asking Eli “why are you going to hit a female?”
Answer: No.

Ms. Pruitt: May I approach the witness?
THE COURT: You may.

Question: (By Ms. Pruitt) I’m showing you what’s been marked as People’s Exhibit Number 9. Are you familiar with this photocopy?
Answer: Yes. It’s my statement.

Question: So, on page 2 of your statement, you describe a verbal exchange between Eli and Roman, and you say you heard Roman ask Eli, “why are you going to hit a female?” Is that right?
Answer: I don’t remember, but I guess. Yeah. I wrote it.

Question: Do you remember any of the things that you put into this statement?
Answer: I remember the bottles flying and Eli hitting me and the party at my apartment.

Question: Okay. Do you remember telling Detective Rainey prior to writing this statement that you saw this man stab your neighbor?
Answer: No.

Question: Okay. Detective Rainey remembers you saying that Mr. Montgomery stabbed Mr. Alvarado, so does that seem like something you would forget?
Answer: I don’t know. No.

Ms. Pruitt: Okay, nothing further, Judge.

CROSS-EXAMINATION BY MS. DAVIDSON:
Question: Good afternoon, Ms. Ornelas. Now, in terms of the party, there were several guys there, right?
Answer: Uh-huh.

Question: And how do you know Eli?
Answer: I -- that’s my ex-boyfriend’s cousin.

Question: Okay. and you had invited him, right?
Answer: Yes.

Question: Okay. And was everybody drinking?
Answer: I think so.

Question: In regards to Mr. Alvarado, he was your neighbor, right?
Answer: Yes. But I didn’t know him before my party.
Question: Okay. And did Mr. Alvarado ever come into your apartment that night?
Answer: Yes.
Question: What was he doing there?
Answer: I don’t know. I seen him drinking so --
Question: Okay. How long was he at the party?
Answer: Just for about like five minutes maybe, ten minutes.
Question: Was there anything going on inside your apartment during that time?
Answer No.
Question: At some point was part of the party spilling out into the sidewalk and the front area ever?
Answer: There was a few people standing outside.
Question: Other than Mr. Montgomery and his brother, can you identify anybody else that was at that party?
Answer: No. I didn’t know most of them.
Question: Okay. Now, at some point did you and Eli, you guys were both outside, right?
Answer: Yes.
Question: And what were you doing outside?
Answer: Just talking.
Question: And then what happened?
Answer: We just started arguing and I guess he was hitting me.
Question: Okay. And that -- did that make you mad?
Answer: Well, kind of. I was drunk. So it was kind of funny, but at the same time I was like he just hit me, you know, so yeah.
Question: Okay. So was it accidental that he hit you?
Answer: Well, he apologized, so --
Question: Okay. And then he, in fact, told you go ahead and hit me, right?
Answer: Yeah.
Question: So it sounds like at that point in time that the two of you were kind of playing, he accidentally hit you and then he told you to hit him back, right?
Answer: Yeah.
Question: And then he got mad and he ended up sitting on top of you, choking you?
Answer: Yeah.
Question: Okay. At that point in time, did anybody come out, did you see Mr. Alvarado or anybody else come out?
Answer: No.
Question: Okay. So, then what did you do?
Answer: I was just laying there still. I was drunk so I was just laying there and then I finally got up. I went and called my friend Veronica and told her Eli hit me and then we left.
Question: Okay. Where was Veronica at that point in time?
Answer: Talking to Roman at his apartment.
Question: Okay. What did you do next?
Answer: I had told Veronica that me and Eli started arguing and then I went to my apartment, looked outside, seen it -- some bottles flying and that’s when I just shut my door and we left.
Question: Okay. Let’s take a step back here. Veronica was talking to Mr. Alvarado at his apartment, correct?
Answer: Yes.
Question: Okay. Now, where was Eli at this point in time?
Answer: I don’t know.
Question: Okay. Do you recall him saying “I guess I’m a woman beater then”?
Answer: I don’t remember. I just remember telling Veronica and then we went back to my apartment. And then I seen bottles flying everywhere, so --
Question: Okay. Do you know who was fighting?
Answer: No.
Question: Did you ever see anybody with a knife?
Answer: No.
Question: Did you ever look outside the door and see Mr. Alvarado engaged in a fight?
Answer: No. Well, I don’t know. Like I said I just seen bottles flying, so he could have been in it, too.
Question: Okay. But did you ever go inside his -- your neighbor’s security door?
Answer: No.
Question: Did Mr. Alvarado ever make a statement that he was protecting you?
Answer: No.
Question: Did Mr. Montgomery ever attack you to the point that you needed protection from any anybody there that night?
Answer: No.
Question: Okay. you stated in your statement to the police department on July 2nd that your neighbors were both drinking with you. When you say that they were both drinking with us, who are you talking about?
Answer: Mr. Alvarado and his cousin.
Question: Okay. Were they both in your apartment?
Answer: Yes.
Question: And were they both drinking?
Answer: I seen Mr. Alvarado drink, but I’m not sure if the other guy was drinking.
Question: Okay. So let’s jump forward again, to when you were at Mr. Alvarado’s apartment. You were on the steps talking to Veronica, correct?
Answer: Yes.
Question: And at that point in time the fight had not broken out yet?
Answer: No.
Question: Okay. Did you ever request from Mr. Alvarado or his friend that they assist you in any manner?
Answer No.
Question: Were you, or your friend, Veronica, ever screaming?
Answer: No.
Question: So, you left with Veronica; and was there anybody in your apartment at that point in time?
Answer: No.
Question: After you locked your apartment and left, and the bottles are flying, did you ever hear anyone mention go get a gun?
Answer: No.
Question: Okay. Did you ever see anyone with a gun?
Answer: No.
Question: Okay. Thank you, Ms. Ornelas. Your honor, I have no further questions.
Alleged Victim – Roman Alvarado:

DIRECT EXAMINATION BY MS. PRUITT:

Question: Good afternoon, Mr. Alvarado. What is it that you do for a living?
Answer: I’m a construction worker.

Question: I’d like to direct your attention back to June 21st of 2017, in the early morning hours, 3:00, 3:30 a.m. Do you remember that date and time, sir?
Answer: Yes, ma’am. I lost my eye that night.

Question: What were you doing for a living at that time?
Answer: I was a bus driver -- operator for First Transit.

Question: And relative to your job, did anything significant happen to you that day before you lost your eye?
Answer: Oh, I got a raise that day for supervisor.

Question: And after leaving work that day, what did you, where did you go?
Answer: I came home. Regular routine. I washed some dishes, washed my uniforms for the next day and I went over to a friend’s apartment and hung out with him for a while. And probably went to my mom’s apartment, then back to my apartment.

Question: Were you living with anybody at that time?
Answer: Yeah. I had a lady friend, and she had two children.

Question: And did you have anything with you as you made your way home that night?
Answer: I had some two liters of Coke from the grocery store.

Question: As you were approaching your apartment, what happened?
Answer: I seen a bunch of people in front of Brenda’s apartment. And one of the guys out on the porch asked me for one of my two liters to mix with their alcohol that they had.

Question: So what did you do then when he asked you for some pop?
Answer: I gave him the two liter and I asked him for a cigarette, and he said, “My pack’s in the apartment. Why don’t you come in and I’ll fix you a drink, too.” And I followed him up in the apartment.

Question: How long had you known Brenda?
Answer: I didn’t know her at all to tell you the truth. Just knew her name. Yeah.

Question: So you get into Brenda’s apartment. What did you see inside?
Answer: Some people – Brenda and maybe 15 or 20 guys drinking.

Question: And how long did you stay?
Answer: I had one drink, maybe 5 minutes. I was tired.

Question: While you were inside, did you see anybody fighting?
Answer: No.

Question: Did anybody threaten you or try to fight you?
Answer: No.

Question: All right. So you’re back at your apartment. And then you see Brenda again; is that right?
Answer: Yes. That’s correct.
Question: And what is she doing?
Answer: Some dudes were chasing her. She hit the glass door and she was screaming help, help. Her hair was standing all up because you could see the hands behind her head hitting her in the head with bottles. She was crying. And she was like, let me in, let me in. So I, you know, I just tried to react and -- and pull her inside the security door, and I -- I came outside to deal with the guys. I thought maybe I could talk to them, but they just started throwing bottles at me.
Question: Okay. Were you able to get Brenda into your apartment or get her out of harm’s way?
Answer: Yeah. I was -- I pulled her inside the security door and I went out and I had to kind of like rip their arms off of her and when -- when I was ripping their arms off of her, they was -- started trying to pull me, so I just came on outside. You know?
Question: Why?
Answer: ‘Cause it was -- it was fucked up what they were doing, you know, don’t nobody deserve that shit, you know. I apologize for my language but, you know, don’t nobody deserve that.
Question: So you’re standing where?
Answer: I -- when they -- the guys were trying to come in and I gave them like a -- a football hit. I rammed them. They all fall down my stairs on top of each other. And more was coming out from Brenda’s apartment.
Question: The guys that are there when you do the football move, was the Defendant there on your porch at that time?
Answer: Yes. He was the -- he was standing right here on my left side.
Question: And so did you push him down off your porch then?
Answer: Yes. That’s correct.
Question: And what did you then do?
Answer: When I asked them, I was like, you know, what’s the problem? And they started yelling. And Eli started spinning around a knife like he was Jackie Chan or something. And the other ones start throwing bottles, and I started ducking and dodging the bottles. One of them charged me with a bottle and then Eli cut me in the eye.
Question: All right. Let’s slow it down a little bit. You’re standing out on your porch and the Defendant’s twirling the knife?
Answer: That’s correct.
Question: And when he’s twirling the knife, have the bottles started coming at you yet?
Answer: Yes.
Question: How close were you to the Defendant at this point in time?
Answer: I could have almost kissed him. He was right there.
Question: So, you’re dodging bottles, what’s the Defendant doing?
Answer: When I dodged the first bottle, I kind of turned to the right and Eli came from the side and that’s when he slashed me. He had the knife and I remember it went through the top part of my eye, I got hit by a bottle and then I kind of pulled away. And when I pulled away the knife ripped my face open like right there and it was on. I couldn’t do nothing but try to fight, you know.
Question: Now, you indicated with your left eye; is that correct?
Answer: That’s correct. I got a glass eye now.
Question: The person who was wielding the knife that slashed your face and eye, who was that?
Answer: That was Eli Montgomery.
Question: Are you certain of that?
Answer: Yes.
Question: After you get your eye slashed, what do you do?
Answer: I was just doing the best I could to defend myself from -- It was so many of them I was worried about them going upstairs and hurting my girlfriend. And you know, Brenda was there too.
Question: Okay. So you’re fighting for your life. What happens?
Answer: It went on for like 15 minutes. People’s lights in the apartment complex started coming on. And a guy yells out his window, he said, “Roman, hang in there, I’m going to call the cops.” And then Eli comes up. He’s standing behind another guy and he says, “He won’t fall, go get the strap out the alley, let’s smoke him.” And the other guy just takes off towards the alley. So I didn’t want to get shot. So I chased after him. The rest of them was chasing after me while I’m chasing after him.
Question: You heard the Defendant say, Get a strap?
Answer: Yeah. That’s a street term for gun.
Question: So you’re chasing this unknown guy who’s going to get the gun and what happens?
Answer: I chase him up to Brenda’s apartment, and just as he was turning I tripped him, he fell, I fell on top of him, a couple of guys fell on top of me and we were out there fighting.
Question: What happens next?
Answer: Brenda’s on my porch standing out there looking over at what was happening and her friend runs up and grabs Brenda and says “Come on, girl, let’s run, they’re going to kill him.”
Question: What happens next?
Answer: Grace of God the paramedics and the police came and they came from both sides of the street Brenda and the other girl ran down the alley. And they all just split.
Question: Okay, so that night as you’re battling the Defendant and he stabs you, did you know his name?
Answer: No.
Question: Do you recall on June 26th meeting with Detective Rainey?
Answer: Yes.
Question: What was the condition of your eye when you met with the Detective?
Answer: My retina was detached.
Question: Still under a considerable amount of pain at that point in time?
Answer: Tremendous. I ain’t never felt nothing like that. I don’t wish that pain on anybody.
Question: You met with Detective Rainey that day despite all the pain and you provided him with an interview that was videotaped; is that right?
Answer: That’s correct.
Question: Were you able to identify at that time for Detective Rainey who had done this to you?
Answer: Yes.
Question: All right. I’m going to hand you what’s marked as People's Exhibit 5. Is this the document that you completed with Detective Rainey relative to his investigation into who attacked you?
Answer: Yes.
Question: And after Detective Rainey read these instructions to you, you were then shown a group of photographs; is that right?
Answer: That’s correct.
Question: I’m now handing you what’s marked as People’s Exhibit 6. Does this look like the photo lineup that was presented to you?
Answer: Yes.
Question: After looking at these photographs, were you able to make an identification of the person that stabbed you in the eye?
Answer: Yes.
Question: And who did you select as the person that did that?
Answer: Number four. Eli.
Question: Now, Mr. Alvarado, you also told Detective Rainey that you recognized some other folks in that lineup; is that right?
Answer: Yes.
Question: Were you able to positively identify those people as the ones that were in this fight?
Answer: No.
Question: Why is that?
Answer: I just -- I couldn’t when I seen the guy who stabbed me I --I was just upset, you know.
Question: When you made this identification of this photograph number four of the Defendant how certain were you that that was the man that stabbed your eye?
Answer: I was for sure.
Question: Now, in your report to Detective Rainey you also said that the person in slot number two tried to stab you. Do you remember that?
Answer: Yes.
Question: When you say, and I quote, “number two tried to stab me first”, what is it that you’re saying there?
Answer: They had-- he charged me.
Question: And then you go on to say “he was behind me”; is that right?
Answer: Yes.
Question: So you didn’t get a very good look at number two, or did you?
Answer: I did.
Question: Then you went on to say that number four looks like the one with the knife, but his name is Krims.
Answer: Yes.
Question: Where did you come up with the name Krims?
Answer: A couple weeks after -- after it happened I ran into Brenda and I just asked her about-- you know, who was there.
Question: And was it Brenda who gave you the street name Krims?
Answer: Yes.
Question: Then you went on to tell the Detective, Krims is the one that stabbed me?
Answer: Yes.
Question: Now, that identification, that statement, Krims, number four, is the one that stabbed me, is that based on your recollection or what Brenda told you?
Answer: When I ID’d him that was because I remembered his face.
Question: Mr. Alvarado, do you remember what you told Detective Rainey why you got involved in the first place?
Answer: I told him that I got sisters and if the same thing was happening to my little sister or something I would want somebody to help them.
Question: Is that why you lost your eye?
Answer: Yes.

MS. PRUITT: I have no other questions of Mr. Alvarado at this time. Thank you, Judge.
CROSS-EXAMINATION BY MS. DAVIDSON:
Question: Good afternoon, Mr. Alvarado. Do you remember what time you got off work on June 20th?
Answer: I can’t recall.
Question: Okay. Where were you right before heading home?
Answer: I went to Safeway, up the street.
Question: Okay. And then someone stopped you outside Brenda's apartment and asked you for a liter of pop?
Answer: Yeah. You know, Safeway bags, you can see through them.
Question: And at that point did you recognize that there was a party going on?
Answer: Yeah.
Question: And do you recall about what time that was that you went into Ms. Ornelas’s apartment?
Answer: It was close to 3 a.m.
Question: Okay. And how many people did you see when the person approached you for your pop?
Answer: It was three or four guys outside. I can’t recall exactly.
Question: And did you recognize any of those guys that you saw standing on the porch?
Answer: No.
Question: So you went in the apartment -- they invited you in for a drink?
Answer: Yeah. He was going to give me a cigarette.
Question: Okay. And you were going to give them one of your two liters of coke?
Answer: Yeah.
Question: Okay. So you walked in, and how many other people were in that apartment?
Answer: It was more than 15 in the party.
Question: Did you have any alcohol?
Answer: I had one drink.
Question: Okay. Had you had any alcohol earlier that evening?
Answer: Yes.
Question: Okay. Where had you been drinking?
Answer: At my friend Adrian’s around the corner. I had a shot of tequila.
Question: Okay. So getting back to Brenda’s party, you had one drink and then you started walking back to your door right?
Answer: Yeah.
Question: And then at some point you described that Ms. Ornelas came running over to your apartment?
Answer: Yeah. She came back I was on the staircase behind the security door and she hit the door like all hysterical and behind the glass it was all them guys that was chasing her.
Question: And you said there were ten guys chasing her, right?
Answer: Yeah. At the minimum.
Question: Okay. Now, at that point you pulled Brenda in and you stepped outside the door correct?
Answer: That’s correct.
Question: And why did you do that?
Answer: Because I was going to try to, you know, diffuse the situation.
Question: Did Brenda eventually go back into her apartment?
Answer: I wasn’t paying attention.
Question: So you didn’t see how Brenda got from your apartment over to the alley?
Answer: She ran holding the other girl’s hand. The girl that came out of Brenda’s bedroom ran over to my porch as I was fighting these guys and she said come on, girl, they’re going to kill him, let’s run.
Question: Okay. Now, you said that what you basically did is when these 10 to 20 guys rushed up the stairs, you gave them a football block and they all fell down the stairs.
Answer: I rammed them.
Question: Okay. And when that was happening were they throwing bottles?
Answer: No. Not when I rammed them they weren’t. They were -- hitting Brenda in the head with the bottles.
Question: Okay. More than one? Was there a lot of people hitting her?
Answer: Hell, yeah.
Question: Okay. And then you stepped off and gave these guys a football move and they all fell down the stairs? Nobody was left on your porch at that point, right?
Answer: No.
Question: At which point then they started throwing bottles at you, right?
Answer: Yeah.
Question: Okay. I’m going to show the photographic line-up again. On that you circled photographs two and four, correct?
Answer: That’s correct.
Question: Okay. And you said that number two tried to stab me first, he was behind me; is that correct?
Answer: That’s correct.
Question: And then you said number four looks like the one with the knife, but his name is Krims. Is that what you wrote?
Answer: That’s what I wrote.
Question: Okay. And you said Krims is the one that stabbed me. Number two cut me on the back. Is that what you said?
Answer: That’s correct.
Question: And then number one and number five look familiar, especially number one, correct?
Answer: That’s correct.
Question: So you believe that out of the six people in that array that four of them could have been there that night, right?
Answer: That’s correct.
Question: Okay. There was -- you saw at least one knife. Was there more than one knife?
Answer: After I got cut, I couldn’t tell.
Question: Okay. And after you were fighting all these guys the fight then progressed to where you ended up chasing somebody, because you thought they were going to go get a gun, correct?
Answer: That’s correct.
Question: Okay. So you ended up taking off after the guy down the alley and you caught him?
Answer: I tripped him.
Question: Okay. Did you jump on top of him?
Answer: I fell over.
Question: Do you recall if any of the people were attempting to help you, trying to get people off of you?
Answer: No. Hell, no.

Question: Okay. And you don’t recall what happened to the person that you had chased?
Answer: I don’t know. I wasn’t taking notes.

Question: Okay. And you don’t know the person that you saw with a gun, you don’t really know where he came from, right?
Answer: No.

Question: Okay. Other than Mr. Montgomery have you been able to identify anybody else that was at the party that night?
Answer: No.

Question: And how many times in the last three months have you seen that photo array?
Answer: Once or twice.

MS. DAVIDSON: Okay. Thank you, Mr. Alvarado. I have no further questions.
THE COURT: Ms. Pruitt, any further questions?
MS. PRUITT: None, your honor.
THE COURT: Thank you, Mr. Alvarado. You may step down.

**Defendant – Eli Montgomery**

**DIRECT EXAMINATION BY MS. DAVIDSON:**

Question: Good afternoon, Mr. Montgomery. Back in June 20, 2017, can you tell me what you were doing that night?
Answer: Yes. Me and my friends Willy and Beano attended Brenda’s birthday party. We were gonna meet my older brother there too, Isaiah.

Question: Okay. What time did you get to the party?
Answer: I got there right around 11:30.

Question: Okay. Did you know Mr. Alvarado at that time?
Answer: No, I didn’t, ma’am.

Question: Okay. And did you drink that night?
Answer: Yes. I had a couple beers and a couple shots.

Question: Okay. How long were you at this party?
Answer: I was at the party until about 3:00 -- 2:30.

Question: So what happened between 12:00 and 2:30 that night?
Answer: We were all having her birthday party. Having a good time. The neighbors, Roman Alvarado, and his cousin were over for drinks. Everybody was having a good time. That’s when out of nowhere me and Brenda had a -- had an argument outside. I can’t remember what the reason was for, but we had words, we were playing around and it began to escalate into a fight -- a little argument more than playing around.

Question: Okay. So tell me about that. What did you guys do?
Answer: She was outside. She was being loud. And I told her -- ‘cause it’s in east Denver, I was like, Brenda, come inside, quit being loud. The cops are around here. But she was drunk, and she didn’t listen to me and we ended up having an argument and then that’s when we were play fighting and she accidentally hit me on my mouth. That’s when I pushed her into the tree. I pushed her kind of hard, and I -- I told her I was sorry. And that’s when after that I told her sorry and I was like you can hit me back. And I didn’t think she was gonna sock me in my mouth. So when she hits me, I just grab her, and I -- I sit her down and I’m like just sitting on top
of her – so she won’t hit me because I’m thinking she’s gonna hit me again. So I just get off and I cool down and my brother says, leave her alone, because my brother comes outside. So I get off of her and we just begin to have a good time again.

Question: Okay. And then what happened?
Answer: And then about five, ten minutes later, that’s when I believe Brenda went to the neighbor’s apartment to go get her friend -- I went back into Brenda’s apartment, and we just started drinking again, listening to music, that’s it.

Question: Okay. And then what happened?
Answer: I thought everything was cool and then like ten-- five to ten minutes later that’s when Roman Alvarado comes over asking about who’s hitting this female. And I -- before Roman comes to the porch, I stop him, ‘cause I see this guy coming to the party angry. So I ask him, What’s going on? And he’s like, Who’s hitting this female? Getting loud. I was like, no one hit no female. I just told him, you need to leave or whatever. He continued being loud and I seen other gentlemen coming outside approaching Roman Alvarado. I see other people just approaching and they began to be a big argument where it wasn’t supposed to be. I was trying to calm it down. And once they started fighting, I didn’t -- I didn’t see my brother nowhere around and I went in the apartment. I was looking for my friends and my brother so we could leave.

Question: Okay. So when you went back inside had the fight started yet?
Answer: When I started walking inside that was when they were starting to fight.

Question: Okay. When you saw the fight breaking out, what were people doing?
Answer: A lot of people were just scattering around. ‘Cause it was a big fight. And there was like ten guys fighting. So it was kind of hectic. And everybody just started leaving, just like let’s go. Everybody just was going their own way.

Question: Okay. Now, did you ever -- did you ever pull out a knife?
Answer: No.

Question: Did you ever instruct anyone to go get a gun?
Answer: No. No.

Question: Did you ever have a weapon that night?
Answer: No, I didn’t.

Question: Did you ever throw a bottle?
Answer: No.

Question: Did you see bottles being thrown that night?
Answer: Yes, I did.

Question: Okay. What kind of bottles were they?
Answer: Beer bottles, I believe.

Question: Now, you also talked to Detective Rainey, right?
Answer: Yes.

Question: And when he -- you had been arrested at that point in time, correct?
Answer: Yes.

Question: All right. And he advised you of your rights and said, you can remain silent, you don’t have to talk to anybody. Do you remember him telling you that?
Answer: Yes, I do remember.

Question: But then you had a lengthy conversation with Detective Rainey?
Answer: Yes.

Question: And did you tell him what happened that night?
Answer: Yes, I did. I told Detective Mark Rainey why I don’t have nothing to hide. Yeah, I was like is there anything you need to know I could help you out with? I just wanna know why this is falling on me, that’s what I told him.

Question: Okay. Did you ever physically attack Mr. Alvarado in anyway?
Answer: No.

Question: Did you want any part of the fight that was happening?
Answer: No. Why would I wanna fight with anybody?

MS. DAVIDSON: Nothing further, Judge.

CROSS-EXAMINATION BY MS. PRUITT:

Question: Mr. Montgomery, you’ve been in custody for about 8 months; isn’t that right?
Answer: Yeah.

Question: All the police reports. Have you had a chance to look at those?
Answer: Yes.

Question: How many times would you estimate that you’ve read that transcript?
Answer: I read it a few times since I been in jail.

Question: And would you agree that this was a fair and accurate account of what you told Detective Rainey?
Answer: From what I remember, yes.

Question: Fair enough. Now, before you gave that statement to Detective Rainey, he read you your rights?
Answer: Yes.

Question: And you agreed to voluntarily talk to him? ‘cause I don’t have nothing to hide.
Answer: Yes.

Question: Okay. Let’s talk a little bit about the transcript. Your testimony here today is that you only had a couple of shots and a couple of beers that night; is that right?
Answer: Yes.

Question: Do you remember telling Detective Rainey that everybody including yourself was drunk?
Answer: I don’t believe I was drunk, but I was getting there.

Question: Okay. Let’s talk about the argument that you had with Brenda. It was more than just words, wasn’t it, Mr. Montgomery?
Answer: Yes, I did grab her.

Question: Did you ever get on top of her and choke her?
Answer: No. I sat on top of her and grabbed her arms though.

Question: You didn’t tell that to Detective Rainey though, did you? Do you remember what you told him?
Answer: That we went -- I went outside with Brenda. I forgot what the argument was about. We started playing around what led to something serious.

Question: It was so serious, in fact, that you felt that you had to get on top of this woman; is that right?
Answer: Yes, so I wouldn’t get hit or she wouldn’t kick me or anything.

Question: And it was at that point while you’re on top of Brenda Ornelas, your testimony is that your brother came over?
Answer: Not while I was on her, no.
Question: Okay. Where were you when he came over to you?
Answer: I was getting off of Brenda and he said, What are you doing?
Question: Were you upset at this point in time?
Answer: I’m not -- I’m not really that upset no more when I get off of her.
Question: And after your brother pulls you off of Brenda Ornelas, where did you go from there?
Answer: My brother didn’t pull me off of Brenda. When I was getting off of her, that’s when he told me what are you doing.
Question: My mistake. So where did you then go?
Answer: We went back -- I went back into Brenda’s apartment.
Question: Okay. As you’re going back into Brenda’s apartment do you see Roman?
Answer: I wasn’t paying attention.
Question: So your answer is you didn’t see him?
Answer: I didn’t see him nowhere ‘cause I wasn’t looking for him.
Question: Now, your testimony on direct is that when everything started escalating you were inside.
Answer: Yeah.
Question: Okay. Where is Brenda?
Answer: I don’t know.
Question: After you’re on top of her, she disappears and soon after that is when Roman Alvarado shows up, right?
Answer: Yes.
Question: And when you next see Roman Alvarado where is he?
Answer: He’s in front of Brenda’s porch.
Question: And you heard him ask who’s harming this female?
Answer: Yes. That’s when I -- I said like I said, I came outside, I seen Roman coming up. Before he got to the porch I approached him.
Question: So when he asks that question, who hit this female, you knew he was talking about you?
Answer: I knew what he was talking about, and I was gonna let him know that it isn’t even like that.
Question: You were not upset?
Answer: No. I wouldn’t have no reason.
Question: Okay. So you told that to Detective Rainey that you’re right out there and then Roman tries to grab you; is that right?
Answer: Well, yeah, once they started fighting he was trying to grab somebody --
Question: Who’s they? Who started fighting?
Answer: I don’t know who they is. I know they were at the party though --
Question: Well, let me have you take a look again at the transcript. Page 6, line 22. Did you not say to Detective Rainey “just my friends hopped out of nowhere and they just started -- they just started fighting with the guy.” Is that what you said?
Answer: That’s what I said. It wasn’t my friends, though, ma'am. It’s just people I met at the party.
Question: Okay. So you’re right there when the fight starts?
Answer: Yes, when the argument starts.
Question: You’re standing closest to Roman because you’re telling him, Hey, you know, it’s not like that or whatever, right?
Answer: I’m standing between a few people and telling him just leave this alone.
Question: Right. And the argument starts escalating, right?
Answer: Yes.
Question: My question is rather than join the fight, you decide to just walk away. Is that your testimony?
Answer: I don’t walk away, but I stay out of the trouble.
Question: And then these people behind you, they then attack the guy; is that your testimony?
Answer: Yes.
Question: So were you inside or outside when the fight started?
Answer: I was inside looking for my brother.
Question: So you never saw any of the fight?
Answer: I did. When we left they were still fighting.
Question: Oh, okay. And when you stepped out of the apartment where was your brother?
Answer: He was -- I see him going towards his car.
Question: Would you agree or disagree with me that this entire fight started over what you did to Brenda Ornelas?
Answer: I disagree.
Question: Okay. Take a look at page 8, line 1, it says you see Roman Alvarado get attacked, right?
Answer: Well, yeah. Everybody was fighting. He hit someone else too probably.
Question: Were you there when the fight started then?
Answer: No, but I seen them fighting still when I came outside from looking for my brother.
Question: Okay, just one more question, Mr. Montgomery. you just said in your statement to Ms. Davidson “why would I wanna fight with anybody?” Is that correct?
Answer: Yeah, I don’t-- I mean, I’m not trying to fight anybody.
Question: So you’ve never been in a fight before?
Answer: I been in fights but not like all the time.
Question: Have any of those fights ever led to an arrest?

**NPRK:**

Answer: No, never. And that was all back when I was in high school.
Question: But fighting isn't exactly new for you, is it?
Answer: I don't do that kinda kid stuff no more.

**PRK:**

Answer: Only one of them.
Question: And were you actually charged with a crime?
Answer: Yes.
Question: What was the nature of the charge?
Answer: Second degree assault.
Question: And when was that?
Answer: Last year. January.
Q: Did you have a trial for that charge?
A: No, I pled guilty.
Q: Why did you do that? Isn’t that basically acknowledging that you committed an assault?
A: I dunno. They said I could get 6 months probation if I pled guilty, so I -- you know it seemed like a good deal and I didn’t have no priors before that. And they let me off early for good behavior.

Question: So you pled guilty to second-degree assault last January?
Answer: Yes.

Question: And in June, you celebrated the end of your probation by attacking and maiming Roman Alvarado?
Answer: Nah, it’s not like that. I wasn’t even in that fight.

Q: But there’s a pattern here, with you assaulting people, isn’t there? Sometimes you get arrested and sometimes you just assault people without getting arrested.
A: I don’t think there’s a pattern.

MS. PRUITT: I have no further questions, judge.
THE COURT: Ms. Davidson?
MS DAVIDSON: Nothing further, judge.
THE COURT: Thank you, Mr. Montgomery. You may step down.

Page Break

JURY INSTRUCTIONS

Presumption Of Innocence, Burden Of Proof, And Reasonable Doubt

Every person charged with a crime is presumed innocent. This presumption of innocence remains with the defendant throughout the trial and should be given effect by you unless, after considering all the evidence, you are convinced that the defendant is guilty beyond a reasonable doubt.

The burden of proof is upon the prosecution to prove to the satisfaction of the jury beyond a reasonable doubt the existence of all the elements necessary to constitute the crime charged. Reasonable doubt means a doubt based upon reason and common sense which arises from a fair and rational consideration of all of the evidence, or the lack of evidence, in the case. It is a doubt which is not a vague, speculative or imaginary doubt, but such a doubt as would cause reasonable people to hesitate to act in matters of importance to themselves.

If you find from the evidence that each and every element of a crime has been proven beyond a reasonable doubt, you should find the defendant guilty of that crime. If you find from the evidence that the prosecution has failed to prove any one or more of the elements of a crime beyond a reasonable doubt, you should find the defendant not guilty of that crime.

Credibility of Witnesses
You are the sole judges of the credibility of each witness and the weight to be given to the witness’s testimony. You should carefully consider all of the testimonies given and the circumstances under which each witness has testified. For each witness, consider that person’s knowledge, motive, state of mind, demeanor, and manner while testifying. Consider the witness’s ability to observe, the strength of that person’s memory, and how that person obtained his or her knowledge. Consider any relationship the witness may have to either side of the case, and how each witness might be affected by the verdict. Consider how the testimony of the witness is supported or contradicted by other evidence in the case. You should consider all facts and circumstances shown by the evidence when you evaluate each witness's testimony. You may believe all of the testimony of a witness, part of it, or none of it.

**Limiting Instructions – Prior Conviction of Defendant (PRK Only)**

You have heard evidence that the defendant has previously been convicted of a crime. You may consider that evidence only as it may affect the defendant’s believability as a witness. You may not consider a prior conviction as evidence of guilt of the crime for which the defendant is now on trial.

**Assault in the First Degree**

*(Deadly Weapon)*

The elements of the crime of assault in the first degree (deadly weapon) are:
1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. with intent,
4. to cause serious bodily injury to another person,
5. caused serious bodily injury to any person,
6. by means of a deadly weapon.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of assault in the first degree (deadly weapon).

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of assault in the first degree (deadly weapon).
1). Please answer the following questions about the trial.

   a) What is your individual verdict? (Check one) _____ Guilty _____ Not Guilty

   b) Please indicate how confident you are in your individual verdict (Circle the most appropriate number on the scale below):

<table>
<thead>
<tr>
<th>Not at all confident</th>
<th>Slightly confident</th>
<th>Moderately confident</th>
<th>Quite confident</th>
<th>Very confident</th>
<th>Extremely confident</th>
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<td>4</td>
<td>5</td>
<td>6</td>
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</table>

2). Please indicate how strong or convincing you found the following statements/testimonies to be (Choose a number from 1-4 for each statement or testimony using the scale below):

<table>
<thead>
<tr>
<th>Very weak/unconvincing</th>
<th>Somewhat weak/unconvincing</th>
<th>Somewhat strong/convincing</th>
<th>Very strong/convincing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
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</table>

   a) Defense (Ms. Davidson) Opening Statement ______

   b) Prosecution (Ms. Pruitt) Opening Statement ______

   c) Witness – Brenda Ornelas ______

   d) Alleged Victim – Roman Alvarado ______

   e) Defendant – Eli Montgomery ______

3). Please indicate what kind of impact the defendant’s prior record had on your verdict decision (Circle the most appropriate number on the scale below):

<table>
<thead>
<tr>
<th>No impact at all</th>
<th>Slight impact</th>
<th>Moderate impact</th>
<th>Significant impact</th>
<th>Strong impact</th>
<th>Very strong impact</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>2</td>
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<td>4</td>
<td>5</td>
<td>6</td>
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</table>

4). Please indicate how closely you followed the judge’s instructions about how to use your knowledge of the defendant’s prior record (Circle the most appropriate number on the scale below):

<table>
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<tr>
<th>Completely disregarded</th>
<th>Mostly disregarded</th>
<th>Mostly followed</th>
<th>Strictly followed</th>
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<tbody>
<tr>
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<td>2</td>
<td>3</td>
<td>4</td>
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</table>
3). Please indicate the one statement or testimony that was most influential to your verdict decision (circle ONLY ONE letter):
   a) Defense (Ms. Davidson) Opening Statement
   b) Prosecution (Ms. Pruitt) Opening Statement
   c) Witness – Brenda Ornelas
   d) Alleged Victim – Roman Alvarado
   e) Defendant – Eli Montgomery

4). Please answer the following questions about the defendant:
   a) How objectively attractive is the defendant (Circle the most appropriate number on the scale below):
      | Not at all attractive | Slightly attractive | Moderately attractive | Quite attractive | Very attractive | Extremely attractive |
      | 1 | 2 | 3 | 4 | 5 | 6 |

   b) How credible was the defendant’s testimony? (Circle the most appropriate number on the scale below):
      | Not at all credible | Slightly credible | Moderately credible | Quite credible | Very credible | Extremely credible |
      | 1 | 2 | 3 | 4 | 5 | 6 |

   c) How likeable is the defendant? (Circle the most appropriate number on the scale below):
      | Not at all likeable | Slightly likeable | Moderately likeable | Quite likeable | Very likeable | Extremely likeable |
      | 1 | 2 | 3 | 4 | 5 | 6 |

   d) To what extent do you agree with this statement: “The defendant fits my image of a typical criminal”? (Circle the most appropriate number on the scale below):
      | Not at all | Not Very well | Somewhat | Fairly well | Very well | Extremely well |
      | 1 | 2 | 3 | 4 | 5 | 6 |
Demographic Questionnaire

Age: _____

Gender (circle one):  Female    Male    Other (please specify): _______________________

Highest degree obtained (circle one):
  a. Did not complete high school
  b. High school diploma or GED
  c. Associate Degree
  d. Bachelor Degree
  e. Master Degree
  f. Doctoral Degree
  g. Trade/other professional certification

Race/Ethnicity (check all that apply):
- Black/African American
- Hispanic/Latinx
- East Asian
- Native Hawaiian/Pacific Islander
- Middle Eastern
- Native American
- White/European American
- Other (please specify): _______________________

Political Leanings (circle one):
  a. Conservative/Traditional
  b. Moderate
  c. Liberal/Progressive
  d. Other/None

Have you ever served on a jury before? (circle one)  Yes    No

Do you now or have you ever worked in the criminal justice or legal system? (circle one)
  Yes    No
  If yes, please list your occupation(s):
  ____________________________________________________________________________

Have you ever been a victim or perpetrator of physical assault? (check all that apply)
- No
- Yes, I have been a victim
- Yes, I have been a perpetrator
- I am unsure if I have been a victim
- I am unsure if I have been a perpetrator

Please indicate how much you agree with this statement: "The American legal system is fair and just" (circle the most appropriate number on the scale below):

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<thead>
<tr>
<th>Completely Disagree</th>
<th>Mostly Disagree</th>
<th>Somewhat Disagree</th>
<th>Somewhat Agree</th>
<th>Mostly Agree</th>
<th>Completely Agree</th>
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DISTRICT COURT
DENVER COUNTY
COLORADO
1437 Bannock Street
Denver, CO 80202

PEOPLE OF THE STATE
OF COLORADO,
Plaintiff,
v.
ELI MONTGOMERY,
Defendant.

Case No. 07 CR 4872
Division: 12

VERDICT FORM

COUNT 1
ASSAULT IN THE FIRST DEGREE

I. We, the jury, find the defendant, Eli Montgomery
   [  ] GUILTY of Assault in the First Degree

   OR

   [  ] NOT GUILTY of Assault in the First Degree

FOREPERSON