

Racialized Self-Defense: Effects of Race Salience on Perceptions of Fear and Reasonableness

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Through a controlled experiment, this Note investigates the hypothesis that implicit references to racial stereotypes, such as subtle racial imagery, trigger mock jurors' implicit biases to a greater degree than explicit invocations of racial stereotypes. Across six conditions, 270 participants read facts resembling those of People v. Goetz, in which a White defendant shot four young men in a subway train, allegedly in self-defense. Half of the participants viewed photos depicting the victims as White; the other half viewed photos depicting the victims as Black. Participants were further randomly assigned to read the defense attorney's statement to the jury layered with implicit, explicit, or no racial cues. Following the experimental manipulation, participants indicated to what degree they believe that the defendant subjectively and reasonably believed that he was faced with a physical threat at the time of the shooting. Contrary to the hypothesis, the experiment found no statistically significant difference between explicit and implicit appeals to race in triggering individuals' racial biases regardless of the race of the victims. This Note contributes to the existing literature by providing experimental data on exactly how powerful the use of implicit racial imagery may be in the courtroom and by probing the mechanism through which racially coded language affects jurors' decision-making. The results further suggest that, since courts cannot easily make people "turn off" their prejudices through the use of race salience, choosing jurors during voir dire who are internally and genuinely motivated to be unprejudiced is all the more important.

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INTRODUCTION

On an early Saturday afternoon in December 1984, four young Black men—Troy Canty, Darryl Cabey, James Ramseur, and Barry Allen—boarded a subway train in the Bronx.¹ Two of the four, Ramseur and Cabey, had screwdrivers inside their coats, which they later said were for breaking into the coin boxes of video game machines.² When the train arrived at the 14th Street Station in Manhattan, Bernhard Goetz, a thirty-seven-year-old White man, boarded.³ Goetz carried an unlicensed .38 caliber pistol loaded with five rounds of ammunition concealed in a waistband holster.⁴

Shortly after the train began moving, the four teenagers approached Goetz. Canty said to Goetz, “Give me five dollars.”⁵ Goetz asked Canty, “What did you say?” Canty responded, “Give me your money.”⁶ At that point, Goetz stood up, drew his gun from his belt holster worn inside the front of his trousers under his jacket, and began shooting at the teenagers.⁷ Goetz wounded all four of the teenagers. One of the teenagers, Cabey, suffered brain damage and paralysis.⁸

At Goetz’s criminal trial, the prosecution, defense, and judge never explicitly discussed race or the potential role it played in the incident.⁹ Barry Slotnick, Goetz’s attorney, however, made extensive use of subtle racial imagery throughout the proceedings. He “regularly portrayed Goetz’s victims in animalistic terms, referring to them as ‘vultures’ and ‘predators,’ while suggesting that Goetz had acted in defense not only of self, but also of civilization, taking aim not at a group of teenagers,

1. *People v. Goetz*, 497 N.E.2d 41, 43 (N.Y. 1986). I capitalize the words “Black” and “White” to acknowledge the fact that Black and White are “concepts created through social, and at least partially through legal, interaction between peoples not initially racially defined in those terms.” See IAN F. HANEY LÓPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE* 8 (10th ed. 1996); see, e.g., Cynthia Lee, *A New Approach to Voir Dire on Racial Bias*, 5 U.C. IRVINE L. REV. 843, 843 n.1 (2015).

2. *Goetz*, 497 N.E.2d at 43.

3. *Id.*

4. *Id.*

5. *Id.* at 44.

6. *Id.*

7. *People v. Goetz*, 497 N.E.2d 41, 44 (N.Y. 1986).

8. *Id.*

9. See Jonathan Markovitz, “A Spectacle of Slavery Unwilling to Die”: *Curbing Reliance on Racial Stereotyping in Self-Defense Cases*, 5 UC IRVINE L. REV. 873, 926–27 (2015).

but at the ‘savages’ whose potential for violence needed no explanation.”¹⁰ Imagery of Black people as savages and brutes exemplifies the racial ideology that has been used to justify violence against Black people since the post-Reconstruction era.¹¹ Ultimately, the jury acquitted Goetz on the four charges of attempted murder.¹² Jonathan Markovitz—a staff attorney at the American Civil Liberties Union and a former lecturer in Sociology at the University of California, San Diego—hypothesized that, ironically, the absence of open discussion of race in the courtroom may have facilitated the verdict:

[I]t is possible that jurors who may have recoiled at explicit verbal invocations of racist stereotypes were instead quietly swayed by more covert and unacknowledged reliance upon the same types of racist imagery that were ubiquitous outside the courtroom walls, in popular culture and even within daily news coverage of the trial.¹³

While overt racism is becoming less acceptable in the courtroom,¹⁴ the practice of evoking animal images or dehumanizing qualities when referring to Black men continues. For instance, in *People v. Duncan*, the prosecution compared a Black defendant’s “modest behavior” in court as being like a Bengal tiger in captivity in a zoo, and warned of the defendant’s potential for “violent conduct under other less structured and controlled circumstances,” much like the dangerousness of the

10. *Id.* at 927.

11. Calvin John Smiley & David Fakunle, *From “Brute” to “Thug:” The Demonization and Criminalization of Unarmed Black Male Victims in America*, 26 J. HUM. BEHAV. SOC. ENV’T, 350, 352–54 (2016).

12. Margot Hornblower, *Jury Exonerates Goetz in 4 Subway Shootings*, WASH. POST (June 17, 1987), <https://www.washingtonpost.com/archive/politics/1987/06/17/jury-exonerates-goetz-in-4-subway-shootings/53973777-a617-4ed5-88ed-e841e0643746/> [perma.cc/L44Q-EPY9].

13. Markovitz, *supra* note 9, at 927.

14. *See, e.g.*, *Batson v. Kentucky*, 476 U.S. 79, 97–98 (1986) (holding that the prosecution must be prepared to offer a race-neutral explanation for their peremptory strikes in jury selection); *Foster v. Chatman*, 578 U.S. 488, 499–513 (2016) (finding purposeful discrimination in violation of *Batson* on the basis of the prosecution’s voir dire notes); *Georgia v. McCollum*, 505 U.S. 42, 59 (extending the *Batson* prohibition to peremptory challenges made by a criminal defendant); *see also* Maurice Chammah, *Can Courtroom Prejudice Be Proved?*, MARSHALL PROJECT (May 23, 2016), <https://www.themarshallproject.org/2015/11/02/can-courtroom-prejudice-be-proved> [https://perma.cc/GDX2-H6PY] (noting that while overt racism in jury selection does occur, discrimination is usually more subtle).

tiger in its natural habitat.¹⁵ In *Duncan*, the California Supreme Court summarily rejected the defendant's argument that this analogy was "a thinly veiled racist allusion" constituting prosecutorial misconduct.¹⁶ Rather, the court held that "[l]ikening a vicious murderer to a wild animal does not invoke racial overtones," noting that "the circumstances of the murder might have justified even more opprobrious epithets."¹⁷ Similarly, in a Black inmate's challenge of a state prosecutor's use of "big ape" and "gorilla" analogies, the Seventh Circuit held that "the error was slight and could not have affected the overall fairness of the trial and did not attain constitutional proportions."¹⁸ The court concluded that the remarks were not "so inflammatory that [the defendant] was denied due process of law under the [F]ifth [A]mendment and the right to a trial by an impartial jury under the [S]ixth [A]mendment."¹⁹

Notwithstanding many courts' refusal to find animalistic language sufficiently prejudicial, implicit bias research shows that the cue of "Black-ape association influences the extent to which people condone and justify violence against Black suspects,"²⁰ and that "the more individuals unconsciously associated [B]lacks with apes, the less innocent they thought [B]lack children suspected of a crime were."²¹

15. *People v. Duncan*, 810 P.2d 131, 142–43 (Cal. 1991). The Bengal tiger analogy has often been used by prosecutors in California, at least since the mid-1990s. Shana Heller, *Dehumanization and Implicit Bias: Why Courts Should Preclude References to Animal Imagery in Criminal Trials*, 51 CRIM. L. BULLETIN 870, 877 (2015).

16. *Duncan*, 810 P.2d at 143.

17. *Id.* See also *People v. Brady*, 236 P.3d 312, 342 (Cal. 2010) (affirming the *Duncan* Court's logic as applied to a defendant of Vietnamese heritage).

18. *Downie v. Burke*, 408 F.2d 343, 344 (7th Cir. 1969).

19. *Id.* at 343.

20. Phillip Atiba Goff et al., *Not Yet Human: Implicit Knowledge, Historical Dehumanization, and Contemporary Consequences*, 94 J. PERSONALITY & SOC. PSYCH. 292, 294 (2008). In a controlled experiment, researchers subliminally primed participants with words associated with apes and big cats, and asked them to watch a two-minute video clip of a group of police officers beating a suspect. *Id.* at 301–02. The video was accompanied by a mug shot photo of either a Black or White suspect. *Id.* at 302. Results showed that participants who viewed a mug shot photo of a White suspect perceived the police as no more justified in using violence when primed with apes than when primed with big cats. *Id.* By contrast, participants who viewed a mug shot photo of a Black suspect perceived the police as more justified in using violence when they had been primed with apes than when they had been primed with big cats. *Id.* Similarly, whereas participants who had been primed with big cats did not think the police were more justified in beating the White or the Black suspect, participants who were primed with apes thought that the police were more justified in beating the Black suspect than the White suspect. *Id.*

21. L. Song Richardson & Phillip Atiba Goff, *Implicit Racial Bias in Public Defender Triage*, 122 YALE L.J. 2626, 2639–40 (2013).

To assess the precise harm of implicit appeals to race in the criminal legal context, the author of this Note conducted a controlled experiment.²² The experiment presented participants with the facts of *Goetz*,²³ exposed them to explicit, implicit, or no linguistic appeals to race, and measured participants' perceptions of reasonableness of violence against Black and White victims. This study focused on Black-White racial dynamics because of the especially pronounced racial disparity in the American criminal justice system between Black and White Americans.²⁴

This study investigated two hypotheses. The first hypothesis predicted that among participants who read about Black victims, implicit appeals to race would more effectively activate participants' racial attitudes than explicit appeals to race. These racial attitudes, then, would shape participants' opinions as to whether the defendant reasonably believed that he was at risk of bodily harm when he shot the victims. This hypothesis is grounded in the aversive racism theory.²⁵ Participants who are exposed to explicit references to race will become aware that race is a relevant issue in the case and be motivated to suppress their own racial views in order to avoid a conflict between their determination of reasonableness and their explicit egalitarian views. By contrast, participants exposed to implicit references to race will fail to consciously recognize the racial cues and will allow their determination of reasonableness to mirror their implicit biases. The second hypothesis predicted that among participants who read about White victims, the experimental conditions will not affect the degree to which participants' racial attitudes shape the opinion that the defendant reasonably believed that he was at risk of bodily harm when he shot the

22. Controlled experiments allow researchers to make a causal attribution between independent and dependent variables. See generally DANIEL F. CHAMBLISS & RUSSELL K. SCHUTT, MAKING SENSE OF THE SOCIAL WORLD 125–28 (6th ed. 2018).

23. The author used the facts of *Goetz* because the case involved a White defendant claiming self-defense against young Black males, a group frequently associated with stereotypes of threat and violence. Kelly Welch, *Black Criminal Stereotypes and Racial Profiling*, 23 J. CONTEMP. CRIM. JUST. 276, 276–77 (2007).

24. See THE SENTENCING PROJECT, REPORT TO THE UNITED NATIONS ON RACIAL DISPARITIES IN THE U.S. CRIMINAL JUSTICE SYSTEM (2018), <https://www.sentencingproject.org/publications/un-report-on-racial-disparities/> [<https://perma.cc/MYT8-3L5N>]. “African American adults are 5.9 times as likely to be incarcerated than whites. . . .” *Id.* “As of 2001, one in every three black boys born in that year could expect to go to prison in his lifetime . . . compared to one in every seventeen white boys.” *Id.*

25. See *infra* Part I.A.

victims. This is because for participants in the White victims condition, the case does not describe interracial violence. Hence, participants' racial biases will not be triggered by either implicit or explicit cues.

The experimental data show no statistically significant difference between explicit and implicit appeals to race in triggering individuals' racial biases regardless of the race of the victim. This is contrary to the first hypothesis but consistent with the second. Together, these findings suggest that race salience does not make individuals any more or less likely to act on their prejudices. This, in turn, hints that parties' appeals to race at trial, whether explicit or implicit, matter less than what happens before trial: juror selection.

The Note proceeds as follows. Part I provides an overview of the relevant legal and empirical literature, and Part II describes this study's experimental methodology, including the sample, procedure, and materials. Part III then presents the results, and Part IV discusses the research outcomes' implications for how to patrol for racial bias in the courtroom, as well as limitations of the experiment.

I. LEGAL AND EMPIRICAL LITERATURE

This Part reviews the legal and empirical literature relevant to the inquiry at hand: whether implicit references to racial stereotypes trigger individuals' implicit biases to a greater degree than explicit invocations of racial stereotypes. It begins in Part I.A with an overview of the aversive racism theory. Part I.B then discusses how implicit biases affect juror decision-making. Part I.C examines an implication of the aversive racism theory: when issues of race are made salient, people's desire to appear non-prejudiced motivates them to suppress expressions of racial bias. Together, the literature provides a theoretical basis for the hypothesis that implicit appeals to race more effectively activate participants' racial attitudes than explicit appeals to race.

A. AVERSIVE RACISM THEORY

Aversive racism is a form of racial prejudice where individuals explicitly reject racial stereotypes but retain implicit negative feelings toward racial and ethnic minorities.²⁶ Individuals exhibiting aversive racism “regard themselves as nonprejudiced and nondiscriminatory; but, [they] almost unavoidably . . . possess negative feelings and beliefs about” Black people.²⁷ In other words, “they are high in implicit racism, yet low in explicit racism. . . .”²⁸ In order to avoid a conflict between their actions and their explicit egalitarian views, aversive racists suppress their prejudice toward Black people when race is made salient and their implicit biases are revealed.²⁹ By contrast, when situations are ambiguous³⁰ or when behaviors can be justified as being unprejudiced,³¹ discrimination occurs. Although aversive racism is subtle and unintentional, its behavioral implications may be just as debilitating for people of color as overt racism.³²

26. Samuel L. Gaertner & John F. Dovidio, *The Aversive Form of Racism*, in PREJUDICE, DISCRIMINATION, AND RACISM 61, 62 (John F. Dovidio & Samuel L. Gaertner eds., 1986).

27. *Id.*

28. Elizabeth Ingriselli, Note, *Mitigating Jurors' Racial Biases: The Effects of Content and Timing of Jury Instructions*, 124 YALE L. J. 1690, 1695 (2015).

29. See Samuel R. Sommers & Phoebe C. Ellsworth, “Race Salience” in *Juror Decision-Making: Misconceptions, Clarifications, and Unanswered Questions*, 27 BEHAV. SCI. & L. 599, 601 (2009).

30. See John F. Dovidio & Samuel L. Gaertner, *Aversive Racism and Selection Decisions: 1989 and 1999*, 11 PSYCH. SCI. 315, 316–18 (2000). In a study, White college students were asked to evaluate a Black or White candidate for a peer counselor job on the basis of a resume and an interview transcript. *Id.* There was no difference in recommendation rates between the candidates when the candidate’s qualifications were either clearly strong or clearly weak. *Id.* However, when the candidate’s qualifications were ambiguous, the White candidate was recommended significantly more than the Black candidate. *Id.*

31. See Donald A. Saucier et al., *Differences in Helping Whites and Blacks: A Meta-Analysis*, 9 PERSONALITY & SOC. PSYCH. 2, 10 (2005). In an experiment, researchers found that generally, White participants were equally willing to help Black and White people who needed assistance. *Id.* However, they helped Black people less often when they could justify not helping on race-neutral grounds, such as not having enough time. *Id.*

32. See Samuel L. Gaertner & John F. Dovidio, *Understanding and Addressing Contemporary Racism: From Aversive Racism to the Common Ingroup Identity Model*, 61 J. SOC. ISSUES, 615, 626 (2005).

B. IMPLICIT BIASES IN THE COURTROOM

The high level of implicit bias that characterizes aversive racism can materialize in the courtroom in many ways. In particular, implicit biases can affect how jurors render verdicts.

Although the Sixth Amendment to the United States Constitution guarantees criminal defendants “the right to a . . . trial, by an impartial jury,”³³ numerous empirical studies show that external factors at trial can cause jurors to act in biased ways.³⁴ For example, priming jurors with images of individuals with darker skin tones can affect how they interpret ambiguous evidence.³⁵ In one experiment, participants read about an armed robbery and viewed several photographs of the crime and the crime scene.³⁶ Half of the participants saw a security camera image of a perpetrator, where the only racially revealing element was a lighter-skinned forearm; the other half saw an identical photo, but with a darker-skinned forearm.³⁷ Then, participants evaluated how indicative of guilt they perceived twenty pieces of evidence to be. The pieces of evidence were designed to allow multiple interpretations, with some tending to suggest guilt (e.g., the store owner identified the defendant’s voice in an audio lineup) and others innocence (e.g., the defendant had a movie ticket stub for a show that started twenty minutes before the crime occurred).³⁸ Finally, participants indicated, on a scale of 0 (definitely not guilty) to 100 (definitely guilty), whether the defendant was guilty or not guilty.³⁹ Researchers found that mock jurors who viewed the darker-skinned perpetrator interpreted ambiguous evidence as being significantly more indicative of guilt than participants who viewed the lighter-skinned perpetrator.⁴⁰ Participants who viewed the darker-skinned perpetrator were also more likely than those who viewed

33. U.S. CONST. amend. VI.

34. Michael B. Hyman, *Implicit Bias in the Courts*, 102 ILL. B.J. 40, 43 (2014).

35. Justin D. Levinson & Danielle Young, *Different Shades of Bias: Skin Tone, Implicit Racial Bias, and Judgments of Ambiguous Evidence*, 112 W. VA. L. REV. 307, 337 (2010).

36. *Id.* at 331–34.

37. *Id.*

38. *Id.*

39. *Id.* at 334.

40. *Id.* at 336–37 n.144. In order to view racial priming’s effect on a trend of judging evidence as opposed to its effect on individual pieces of evidence, the researchers summed participants’ judgments of evidence. *Id.*

the lighter-skinned perpetrator to believe that the defendant was guilty.⁴¹

Jurors' implicit racial biases can also affect their recall from memory.⁴² In another experiment, participants read two unrelated stories: one described the circumstances surrounding a fistfight, and the other described circumstances surrounding an employee's termination.⁴³ Depending on the experimental condition, the stories' protagonists were White, Black, or Hawaiian.⁴⁴ After ten to fifteen minutes of distraction, participants took a quiz on their recollection of facts.⁴⁵ Researchers found that participants had an easier time recalling aggressive facts of the fistfight story when the protagonist was Black, compared to when the protagonist was White.⁴⁶ Participants who read about a Black or Hawaiian protagonist were also more likely to falsely recall aggressive actions by the protagonist.⁴⁷ This implicit memory bias did not correlate with the participants' explicit racial preferences.⁴⁸

The implication of widespread implicit biases among jurors is particularly apparent in self-defense cases involving Black victims, such as *Goetz*. In most American jurisdictions, defendants claiming self-defense in the use of deadly force need only show that their beliefs in using deadly force in self-defense were honest and reasonable—it need not be true that they, in fact, faced an imminent, unlawful attack threatening death or serious bodily injury.⁴⁹ Therefore, if most Americans implicitly believe that young Black males are threatening and dangerous, then in a cross-racial self-defense case involving a Black victim,

41. Levinson & Young, *supra* note 35, at 337. As described above, there were two dependent variables in this study: participants' evaluations of individual pieces of evidence and overall judgment of how guilty the defendant was. "More indicative of guilt" refers to participants' evidence evaluations; "more guilty" refers to how guilty the participants perceived the suspect to be.

42. Justin D. Levinson, *Forgotten Racial Equality: Implicit Bias, Decision-making, Misremembering*, 57 DUKE L.J. 345, 390 (2007).

43. *Id.* at 391–93.

44. *Id.*

45. *Id.* at 393.

46. *Id.* at 398–401.

47. The result was statistically significant ($p < .05$) when responses for the White protagonist were compared to combined responses for Black and Hawaiian protagonists. It was marginally significant when responses for the Black protagonist were compared directly to responses for the White protagonist ($p = .062$). *Id.* at 401 n.265.

48. Levinson, *supra* note 42, at 404–06.

49. See JOSHUA DRESSLER, UNDERSTANDING CRIMINAL LAW § 18.01[E] (7th ed. 2015).

judges and jurors may be more likely to conclude that the defendant was reasonable in killing the victim.⁵⁰ Indeed, a congressional review of the Federal Bureau of Investigation (FBI)'s Supplementary Homicide Reports (SHR)⁵¹ from 2001 to 2010 showed that the police ruled killings of Black people by White people justified⁵² 35% of the time, while it ruled killings of White people by Black people justified in 3% of cases.⁵³ Further, a 2017 study by the Marshall Project revealed that the police found killings of Black men by non-Hispanic White civilians justified in 17% of cases, in contrast to how the police categorize fewer than 2% of all homicides committed by civilians as justifiable.⁵⁴ Together, contemporary aversive racism—characterized by high implicit and low explicit prejudice—may contribute to disparate representation of Black Americans in the criminal justice system and help to justify violence against Black victims.

C. RACE SALIENCE

Another implication of the aversive racism theory is that when issues of race are made salient, people's desire to appear non-prejudiced (i.e., to exhibit low explicit racism) motivates them to

50. See Cynthia Lee, *Making Race Salient: Trayvon Martin and Implicit Bias in a Not Yet Post-Racial Society*, 91 N.C. L. REV. 1555, 1562–63 (2013).

51. As part of the FBI's Uniform Crime Report (UCR) program, local law enforcement agencies record and report monthly the total number of murders, rapes, robberies, aggravated assaults, burglaries, larcenies, motor vehicle thefts, and arsons in their jurisdictions. Through the SHR program, which is a part of the UCR program, states collect and report to the FBI additional information on homicide with regard to victim-offender relationships and event circumstances. Wendy C. Regoeczi & John P. Jarvis, *FBI Supplementary Homicide Reports*, in THE ENCYCLOPEDIA OF RESEARCH METHODS IN CRIMINOLOGY AND CRIMINAL JUSTICE 43 (J.C. Barnes & David R. Forde eds., 2021).

52. In the context of the UCR, justifiable homicides refer to the killing of a felon by a peace officer in the line of duty and the killing of a felon, during commission of a felony, by a private citizen. This is a classification based solely on law enforcement investigation, as opposed to the determination of a court, jury, or other judicial body. FED. BUREAU OF INVESTIGATION, UNIFORM CRIME REPORT: CRIME IN THE UNITED STATES, 2018 (2018).

53. Memorandum from William J. Krouse & Matt Deaton, Cong. Research Serv., to Senate Comm. on the Judiciary, on Supplementary Homicide Report Data on Black and White Inter-Racial Justifiable Homicides in Comparison (2001–2010) (Sept. 16, 2013), <https://www.scribd.com/document/179956006/Inter-Racial-Justifiable-Homicides-Memo-9-16-2013-pdf> [<https://perma.cc/AC2P-GQA7>]. The data reflect only stranger-on-stranger homicides by private citizens involving firearms.

54. Daniel Lathrop & Anna Flag, *Killings of Black Men by Whites are Far More Likely to be Ruled "Justifiable,"* MARSHALL PROJECT (Aug. 14, 2017), <https://www.themarshallproject.org/2017/08/14/killings-of-black-men-by-whites-are-far-more-likely-to-be-ruled-justifiable> [<https://perma.cc/2QRL-ZBSL>].

suppress manifestations of racial biases.⁵⁵ For instance, when parties' races are discussed explicitly at trial, White mock jurors often suppress their negative attitudes toward Black defendants in order to reaffirm their egalitarian convictions.⁵⁶ By contrast, when racial factors are not made salient, White jurors' implicit biases against Black defendants are reflected in their behaviors and decision-making, albeit unintentionally and unconsciously.⁵⁷

1. *Racial Priming with Implicit and Explicit Linguistic Cues*

A body of experimental political science literature shows that linguistic cues can be used to manipulate the level of race salience. As opposed to explicit messages that “use racial nouns or adjectives to endorse [W]hite prerogatives, to express anti-[B]lack sentiment, to represent racial stereotypes, or to portray a threat from African Americans,” implicit messages indirectly appeal to race.⁵⁸ Research on racial priming in political advertisements and campaigns suggest that subtle race cues are effective in activating racial attitudes because audience members do not consciously perceive the implicit message as violating strong societal norms of racial equality.⁵⁹ In contrast, explicit appeals to racial stereotypes have traditionally been understood as ineffective political tools because many racially resentful Whites are unwilling to publicly support a candidate who is

55. See *supra* Part I.A.

56. See, e.g., Samuel R. Sommers & Phoebe C. Ellsworth, *Race in the Courtroom: Perceptions of Guilt and Dispositional Attributions*, 26 PERSONALITY & SOC. PSYCH. BULL. 1367, 1371 (2000) [hereinafter Sommers & Ellsworth, *Race in the Courtroom*]; Samuel R. Sommers & Phoebe C. Ellsworth, *How Much Do We Really Know About Race and Juries?: A Review of Social Science Theory and Research*, 78 CHI.-KENT L. REV. 997, 1027 (2003) [hereinafter Sommers & Ellsworth, *Race and Juries*]; Ellen S. Cohn et al., *Reducing White Juror Bias: The Role of Race Salience and Racial Attitudes*, 39 J. APPLIED SOC. PSYCH. 1953, 1959, 1964 (2009); Donald O. Bucolo & Ellen S. Cohn, *Playing the Race Card: Making Race Salient in Defence Opening and Closing Statements*, 15 LEGAL & CRIMINOLOGICAL PSYCH., 293, 297, 299 (2010).

57. See, e.g., Sommers & Ellsworth, *Race in the Courtroom*, *supra* note 56; Sommers & Ellsworth, *Race and Juries*, *supra* note 56; Cohn et al., *supra* note 56; Bucolo & Cohn, *supra* note 56.

58. Tali Mendelberg, *Racial Priming Revived*, 6 PERSP. ON POL. 109, 110 (2008).

59. See Jon Hurwitz & Mark Peffley, *Playing the Race Card in the Post-Willie Horton Era: The Impact of Racialized Code Words on Support for Punitive Crime Policy*, 69 PUB. OPINION Q. 99 (2005); TALI MENDELBERG, *THE RACE CARD* 20–21 (2001); Nicholas A. Valentino et al., *Cues that Matter: How Political Ads Prime Racial Attitudes During Campaigns*, 96 AM. POL. SCI. REV. 75 (2002); NICHOLAS WINTER, *DANGEROUS FRAMES: HOW IDEAS ABOUT RACE AND GENDER SHAPE PUBLIC OPINION* 64–68 (2008).

openly racist.⁶⁰ Experiments comparing implicit and explicit racial verbal cues in the context of political messages show that implicit appeals to race more effectively activate White racial attitudes than explicit racial cues.⁶¹

A number of studies show that in certain situations, however, explicit appeals to racial stereotypes can prime White racial attitudes as effectively as implicitly race-coded language. These situations include explicitly connecting Black individuals to the death penalty,⁶² and asking participants to evaluate former President Barack Obama and his policies.⁶³ Further, research shows that explicit messages that target audiences who reject the norm of racial equality are effective in eliciting discriminatory political beliefs.⁶⁴

60. TALI MENDELBERG, *THE RACE CARD* 229 (2001). *Contra* Nicholas A. Valentino et al., *The Changing Norms of Racial Political Rhetoric and the End of Racial Priming*, 80 J. POL. 757, 758 (2018). A group of political scientists suspect that two related trends have altered the public acceptability of racially hostile rhetoric in modern American politics. *Id.* First, since the turn of the twenty-first century, most racially conservative Whites have been sorted into the Republican Party. *Id.* As the parties' proponents became less diverse in their views on race-related issues, it became less risky for candidates to overtly signal their positions on matters of race. *Id.* Second, especially since the election of President Barack Obama in 2008, White Americans' perceptions of their racial in-group's distinctiveness and disadvantage have risen. *Id.* Research shows that the belief that America has transitioned to a "post-racial" society has led to a decrease in White Americans' perceptions of discrimination against Black Americans, and a decrease in support for affirmative action and other racially redistributive policies. *See id.*

61. *See* Tali Mendelberg, *Executing Hortons: Racial Crime in the 1988 Presidential Campaign*, 61 PUB. OPINION Q. 134, 151 (1997) (finding that, compared to a political advertisement unrelated to race, an advertisement discussing the furlough issue and William Horton's case without explicit mentions of race led to a statistically significant connection between racial prejudice, as measured by the modern racism scale, and race-related policy preferences and perceptions of racial conflict); Ismail White, *When Race Matters and When It Doesn't: Racial Group Differences in Racial Cues*, 101 AM. POL. SCI. REV. 339, 343–46, 347–51 (2007) (finding that compared to explicitly racial frames, implicitly racial frames of the Iraq War and social welfare led to a statistically significant connection between White participants' support for the use of military action in Iraq and increased spending on food stamps, respectively, and out-group resentment).

62. Mark Peffley & Jon Hurwitz, *Persuasion and Resistance: Race and the Death Penalty in America*, 51 J. POL. SCI. 996, 999–1001 (2007). In a random experiment, researchers examined interracial differences in how participants respond to the framing of arguments against the death penalty. *Id.* Results revealed that White participants show *greater* support for the death penalty when it is presented as a racial issue (e.g., "The death penalty is unfair because most of the people who are executed are [B]lack."), compared to when it is presented as a non-racial issue (e.g., "Too many innocent people are being executed."). *Id.* at 1001–06.

63. Nicholas A. Valentino et al., *Obama and the End of Racial Priming* 22 (2013) (unpublished manuscript), <https://sil0.tips/download/obama-and-the-end-of-racial-priming-nicholas-a-valentino-university-of-michigan> [<https://perma.cc/N3FH-TT3Z>].

64. *See* Michael Tesler, *Racial Priming with Implicit and Explicit Messages*, OXFORD RES. ENCYC. 7 (May 2017); Vincent L. Hutchings et al., *The Impact of Explicit Racial Cues*

2. *Application to the Courtroom*

The effect of linguistic cues on expressions of racial biases has a ready application to the courtroom.⁶⁵ For instance, in a controlled experiment, researchers presented participants with a description of a case in which the defendant was charged with assault and battery of his girlfriend.⁶⁶ Race of the defendant and the victim varied between two experimental conditions, but the pair was always interracial (i.e., either White defendant and Black victim, or Black defendant and White victim).⁶⁷ Race salience was manipulated in one section of the case: the defendant said to the victim either, “You know better than to talk that way about a White (or Black) man in front of his friends,” or “You know better than to talk that way about a man in front of his friends.”⁶⁸ Participants were asked to indicate the extent to which they believed the defendant was an aggressive and a violent person, as well as to choose a recommended sentence for the defendant.⁶⁹ In other words, researchers compared the effect of explicit and no racial cue on participants’ judgment of the defendant’s guilt. Results showed that in the explicit racial cue condition, White mock jurors’ guilt ratings of the White and Black defendant were not significantly different, while Black mock jurors gave the White defendant a significantly higher guilt rating than the Black defendant.⁷⁰ In contrast, in the no racial cue condition, both White and Black mock jurors demonstrated bias.⁷¹ White mock jurors gave the Black defendant a higher guilt rating than the White defendant, and Black mock jurors gave the White defendant a higher guilt rating than the Black defendant.⁷²

on *Gender Differences in Support for Confederate Symbols and Partisanship*, 72 J. POL. 1175, 1185 (2010); Gregory A. Huber & John S. Lapinski, *The “Race Card” Revisited: Assessing Racial Priming in Policy Contests*, 50 AM. J. POL. SCI. 421, 431–36 (2006).

65. Sommers & Ellsworth, *Race in the Courtroom*, *supra* note 56, at 1372–73.

66. *Id.*

67. *Id.*

68. *Id.* at 1373.

69. *Id.*

70. *Id.* at 1373–74.

71. Sommers & Ellsworth, *Race in the Courtroom*, *supra* note 56, at 1374–75.

72. *Id.* The experiment conducted in this Note differs meaningfully from this study in two ways. First, this Note directly compares the effects of explicit and implicit racial cues on jurors’ decision-making. Second, this Note examines the effect of linguistic cues on mock jurors’ judgments in the context of self-defense, an area of the law in which implicit biases have a particularly apparent relevance. See *supra* Part I.B.2.

A frequent way in which implicit appeals to racial stereotypes appear in the courtroom is through racial imagery.⁷³ Racial imagery takes many forms, including portraying Black people as evil and White people as good; portraying Black people as more violent and criminal than White people; portraying persons of color as animal-like or otherwise subhuman; playing on the supposed sexual appetite of, or the supposed sexual threat posed by, Black men; portraying Black people as more dishonest and less trustworthy than White people; portraying Black-on-White violence as more reprehensible than other violence; highlighting how different Black people are from White people; and mentioning the race of various parties without any apparent reason for doing so.⁷⁴ For example, in *People v. Traylor*, the prosecutor argued that police officers arresting the defendant perceived that particular caution was necessary because they were “[W]hite policemen in a [B]lack neighborhood.”⁷⁵ Further, in *People v. Nightengale*, the prosecutor characterized the defendant as “scum” who committed a crime in “our streets” and “not in some ghetto.”⁷⁶

Many dangers stem from the use of racial imagery in the courtroom. It threatens accuracy, renders minorities’ experiences in court humiliating, and increases the possibility of convicting the factually innocent.⁷⁷ Further, the prospect of in-court humiliation may discourage complaints, and awareness that violence against people of color could go unpunished may encourage interracial violence.⁷⁸ Together, the use of dehumanizing coded language leads to longer and harsher sentences for defendants of color, and perpetuates preexisting racial disparities in the criminal legal system.⁷⁹

Procedural safeguards against such dangers of racial imagery already exist. These include venue change and voir dire in the pre-trial phase,⁸⁰ rules barring admission of irrelevant and unfairly prejudicial evidence during trial,⁸¹ and the protections of

73. See *supra* Introduction.

74. Sheri Lynn Johnson, *Racial Imagery in Criminal Cases*, 67 TUL. L. REV. 1739, 1750–60 (1993).

75. *People v. Traylor*, 487 N.E.2d 1040, 1042 (Ill. App. Ct. 1985).

76. *People v. Nightengale*, 523 N.E.2d 136, 141 (Ill. App. Ct. 1988).

77. See Johnson, *supra* note 74, at 1797.

78. *Id.*

79. See Heller, *supra* note 15, at 870.

80. See Johnson, *supra* note 74, at 1768–70.

81. *Id.* at 1770–76.

the Due Process Clause.⁸² Courts, however, do not always find reversible error even in light of the use of blatant racial imagery at trial.⁸³ Further, remedies for defense counsels' prejudicial remarks are practically unavailable given the prohibition against appeals from acquittals.⁸⁴ Thus, some legal scholars propose adopting racial imagery shield laws that parallel rape shield laws.⁸⁵ For example, Professor Sheri Lynn Johnson proposes presumptively excluding racially charged testimony and argument, with some specific exceptions where generalization is possible and a catch-all provision for admitting the evidence on the basis of particularized need.⁸⁶

The aforementioned literature on racial priming through implicit and explicit linguistic cues suggest another possible avenue through which to minimize racial bias at trial: by replacing implicit appeals to race with explicit discussions of race. To reduce the impact of racial biases in the courtroom, scholars have suggested reminding the jury that they may not rely on racial stereotypes in their decision-making,⁸⁷ explicitly naming the stereotypes that may be at play in the courtroom,⁸⁸ and reminding jurors of their non-prejudiced personal beliefs.⁸⁹ This Note examines the effectiveness of such explicit discussions of race on limiting the role of racial prejudice in criminal cases.

82. *Id.* at 1776.

83. *Id.* at 1762. *See e.g.*, *People v. Powell*, 425 P.3d 1006, 1047 (Cal. 2018) (rejecting defendant's argument that prosecutor's comments comparing defendant to a Bengal tiger constituted a "thinly-veiled racist allusion" because prosecutor was using the analogy only to "caution the jury against judging defendant solely based upon his calm demeanor in the courtroom"); *see also* *People v. Brady*, 236 P.3d 312, 342 (Cal. 2010). *Contra* *Commonwealth v. Terrell*, 2014 WL 10558251, at *7 (Pa. Super. Ct. Nov. 26, 2014) (vacating sentence based on trial court's characterization of defendant as an "animal" and a "crime wave").

84. Johnson, *supra* note 74, at 1776.

85. *See, e.g., id.* at 1797 n.291.

86. *Id.* at 1799.

87. Cynthia Kwei Yung Lee, *Race and Self-Defense: Toward a Normative Conception of Reasonableness*, 81 MINN. L. REV. 367, 468 (1996).

88. Mikah K. Thompson, *Bias on Trial: Toward an Open Discussion of Racial Stereotypes in the Courtroom*, 2018 MICH. ST. L. REV. 1243, 1297–1306 (2018).

89. Jody Armour, *Stereotypes and Prejudice: Helping Legal Decisionmakers Break the Prejudice Habit*, 83 CALIF. L. REV. 733, 759–60 (1995).

II. METHODS

This Part details the experimental methodology used in this study. Part II.A describes the sample, and Part II.B presents the study design. Part II.C introduces the materials, and Part II.D outlines the procedure.

A. SAMPLE

Two hundred seventy participants from Amazon Mechanical Turk⁹⁰ completed the study. Of these participants, five subjects incorrectly answered all three comprehension questions testing their understanding of experimental stimulus, ten subjects answered two questions incorrectly, and ten subjects answered one question incorrectly. Three additional subjects failed one or more attention check items. These twenty-eight subjects were excluded from the analysis.

This left 242 participants (mean age 38.24y, SD = 11.45), among whom 98 were females, 143 males, and 1 gender non-binary. There were 184 White/non-Hispanic Americans, 19 Asian Americans, 16 Black/African Americans, 11 Hispanic Americans, 11 mixed-race individuals, and 1 American Indian/Alaskan Native. The sample included only individuals living in the United States, and participants were paid five dollars for about twenty minutes of their time (mean duration 20.38 minutes; SD = 8.02).

B. PROCEDURE

The experiment employed a 2 x 3 between-subjects design. The independent variables were race of victims (Black, White) and racial cues (Implicit, Explicit, Control).

90. Amazon Mechanical Turk is “a crowdsourcing marketplace that makes it easier for individuals and businesses to outsource their processes and jobs to a distributed workforce who can perform these tasks virtually.” Amazon Mechanical Turk, <https://www.mturk.com/> [<https://perma.cc/3UHE-5WYA>]. The platform is frequently used as a data source in social science research due to its convenience and cost-effectiveness. See Kyle A. Thomas & Scott Clifford, *Validity and Mechanical Turk: An Assessment of Exclusion Methods and Interactive Experiments*, 77 *COMPUTS. HUM. BEHAV.* 184 (2017) (reviewing literature and concluding that concerns regarding internal and external validity of MTurk samples can be managed through credible experimental design and rigorous participant exclusion).

After providing consent and committing to provide their best answers to each question in the survey, all participants were told that they were jurors in a criminal case, in which the defendant s indicted for the attempted murder of four young men.⁹¹ Half of the participants viewed photos of a White defendant and four Black victims; the other half viewed photos of a White defendant and four White victims. All participants read the facts of *Goetz*.⁹²

Then, participants were randomly assigned to read one of three variations of the defense attorney’s statement to the jury: Implicit, Explicit, or Control. In the implicit racial cues condition, participants read a statement by the defense attorney layered with subtle racial imagery, but no express discussion of race.⁹³ For instance, the statement likened the victims to “four young wolves in a cage” and referred to the defendant as “prey.” In the explicit racial cues condition, participants read the identical statement, but with express discussion of race and racial stereotypes.⁹⁴ It used the words “Black” and “White,” and referenced the stereotype that Black men are violent and threatening. Lastly, participants in the control condition read the same statement, but with no implicit or explicit references to race.⁹⁵ It referred to the victims as “young men” and “kids.” All participants answered three comprehension questions, none of which discussed race.

Following the manipulation, all participants answered two questions: (i) “At the time of the shooting, to what extent do you think the defendant subjectively believed that he was faced with a physical threat?”; and (ii) “At the time of the shooting, to what degree do you think the defendant could reasonably believe that he was faced with a physical threat?” Explanations of the subjective⁹⁶ and objective⁹⁷ standards accompanied the two questions. The questions were also presented in a randomized order and on the same page of the survey, so participants could

91. See *infra* Appendix A.1.

92. See *infra* Appendix A.2.

93. See *infra* Appendix A.3.a.

94. See *infra* Appendix A.3.b.

95. See *infra* Appendix A.3.c.

96. “In the law, a subjective belief means a belief that the actor actually and honestly held at the time of his or her action.” See *Subjective*, Black’s Law Dictionary (11th ed. 2019).

97. In the law, a reasonable belief means “[a] belief that would be held by an ordinary and prudent person in the same circumstances as the actor.” 37 TEX. ADMIN. CODE § 343.100(58).

adjust their response to the first question after viewing the second if they so wished. Both questions were measured on a hundred-point sliding scale (0 = *not at all*, 20 = *to a small extent*, 40 = *to some extent*, 60 = *to a moderate extent*, 80 = *to a great extent*, 100 = *to a very great extent*).

Then, participants provided demographic information, including age, gender, occupation or academic major, race and ethnicity, education level, state of residence, characteristic of neighborhood (e.g., urban, suburban, rural), and combined annual household income. They also responded to twelve items that measure political ideology and thirteen items that assess whether respondents are concerned with social approval.⁹⁸

Next, participants completed various measures of implicit and explicit racial biases. These included: the Implicit Association Test, Attitudes Toward Blacks Scale, Racial Resentment Scale, and Internal and External Motivation to Respond Without Prejudice Scales.⁹⁹

Finally, participants were debriefed¹⁰⁰ and received compensation for participation in the study.

C. MATERIALS

1. *Stimulus*

Participants were told that they were jurors in a criminal case, in which the defendant is charged with attempted murder of four young men: Troy Canty, Darryl Cabey, James Ramseur, and Barry Allen. Images of the defendant (White male) and four victims (either Black males or White males) accompanied the instruction.¹⁰¹ The images were artificial intelligence-generated photos obtained via Generated Photos.¹⁰²

All participants read an identical description of the facts of *Goetz*.¹⁰³ The facts did not contain any reference to the victims' or the defendant's race. Participants were then randomly assigned to one of three versions of the defense attorney's statement to the jury: Implicit, Explicit, Control. Identical statements were

98. See *infra* Part II.C.2–3.

99. See *infra* Part II.C.4–5.

100. See *infra* Appendix G.

101. See *infra* Appendix A.1.

102. Generated Photos, <https://generated.photos> [<https://perma.cc/WC2U-RX5K>].

103. See *infra* Appendix A.2.

presented to participants in Black victim and White victim conditions. Three comprehension questions followed the experimental stimuli.¹⁰⁴

2. *Cultural Cognition Worldview Scales*

The Cultural Cognition Worldview Scales—composed of Individualism-Communitarianism scale and Hierarchy-Egalitarianism scale—are a two-dimensional scheme designed to measure group values that are hypothesized to influence individuals' risk perception.¹⁰⁵ The dimensions create four cultural worldview quadrants: Hierarchy-individualism, Hierarchy-communitarianism, Egalitarian-individualism, and Egalitarian-communitarianism.¹⁰⁶ Together, the scales have been shown to capture greater nuances of divisions of belief than one-dimensional measures of liberal-conservative ideology or of Republican-Democrat party identity.¹⁰⁷

Here, a short-form of the Cultural Cognition Worldview Scales was used to measure participants' political ideology.¹⁰⁸ The Individualism-Communitarianism scale assessed participants' beliefs on how far to let individuals go in making decisions for themselves. Participants indicated how much they agree or disagree with six statements (e.g., “The government interferes far too much in our everyday lives.”) on a hundred-point sliding scale (0 = *strongly disagree*, 20 = *moderately disagree*, 40 = *slightly disagree*, 60 = *slightly agree*, 80 = *moderately agree*, 100 = *strongly agree*). The scale was coded and scored such that the higher the composite score, the greater one's endorsement of individualism. The Hierarchy-Egalitarianism scale assessed participants' beliefs on “a social order that features differentiation and stratification of social roles based on observable and largely fixed characteristics,” including race and

104. See *infra* Appendix A.4.

105. See Dan M. Kahan, *Cultural Cognition as a Conception of the Cultural Theory of Risk*, in HANDBOOK OF RISK THEORY 725, 730–33 (Sabine Roeser et. al. eds., 2012).

106. *Id.* at 733.

107. See, e.g., Dan M. Kahan et al., *Cultural Cognition and Public Policy: The Case of Outpatient Commitment Laws*, 34 L. & HUM. BEHAV. 118 (2010); see also Dan M. Kahan et al., “They Saw a Protest”: *Cognitive Illiberalism and the Speech-Conduct Distinction*, 64 STAN. L. REV. 851, 864–80 (2012).

108. See *infra* Appendix B.

gender.¹⁰⁹ Participants indicated how much they agree or disagree with six statements (e.g., “We have gone too far in pushing equal rights in this country.”) on a hundred-point sliding scale (0 = *strongly disagree*, 100 = *strongly agree*). The scale was coded and scored such that the higher the composite score, the greater one’s endorsement of traditional societal hierarchy.

3. *Social Desirability Scale*

A short-form of the Marlowe-Crowne Social Desirability Scale¹¹⁰—composed of “true-false items describing culturally approved behaviors with a low probability of occurrence”¹¹¹—was used to measure socially desirable responding. The scale contained thirteen items (e.g., “I’m always courteous, even to people who are disagreeable.”) and participants indicated how much they agree or disagree with each item on a hundred-point sliding scale (0 = *strongly disagree*, 100 = *strongly agree*). One item assessing participants’ attention level (“If you are paying attention, adjust the slider to a value of 40.”) was also included. The scale was coded and scored such that the higher the composite score, the more likely one is to respond to test items in such a way as to avoid disapproval of people who may read their responses.

4. *Implicit Association Test*

A modified version of the race Implicit Association Test (IAT) was employed to measure participants’ implicit racial biases.¹¹²

109. Dan M. Kahan, *Culture, Cognition, and Consent: Who Perceives What, and Why*, in *Acquaintance-Rape Cases*, 158 U. PA. L. REV. 729, 770 (2010).

110. See William M. Reynolds, *Development of Reliable and Valid Short Forms of the Marlowe-Crowne Social Desirability Scale*, 38 J. CLINICAL PSYCH. 119, 124 (1982) (introducing a thirteen-item short-form Marlowe-Crowne Social Desirability Scale); see *infra* Appendix C.

111. Donald G. Fischer & Carol Fick, *Measuring Social Desirability: Short Forms of the Marlowe-Crowne Social Desirability Scale*, 53 EDUC. & PSYCH. MEASUREMENT 417, 417 (1993) (comparing six short forms of the original thirty-three-item Social Desirability Scale for effectiveness in measuring social desirability).

112. See generally Anthony G. Greenwald et al., *Measuring Individual Differences in Implicit Cognition: The Implicit Association Test*, 74 J. PERSONALITY & SOC. PSYCH. 1464 (1998) (introducing the Implicit Association Test). The test is available at: <https://implicit.harvard.edu/implicit/user/agg/blindspot/indexrk.htm> [https://perma.cc/DH2D-XFMR]. This experiment included the IAT solely for exploratory purposes as the test has been criticized as lacking in reliability and validity. See, e.g., Bertram Gawronski et al., *Temporal Stability of Implicit and Explicit Measures: A Longitudinal Analysis*, 43

In the IAT, participants were presented with items that represent African American children, European American children, pleasant words (e.g., smile, honest), and unpleasant words (e.g., disaster, agony). As each item appeared, participants were asked to categorize them into either right or left columns. Of a total of seven blocks, three were meant to acclimate participants to the task. The remaining four blocks were of interest. Two blocks tested participants' reaction time to stereotype-congruent pairings (African American/Unpleasant words; European American/Pleasant words). Another two blocks tested participants' reaction time to stereotype-incongruent pairings (African American/Pleasant words; European American/Unpleasant words). Block order and placement of columns (right versus left) were randomized. Based on accuracy and speed, participants were provided an IAT "score" at the end of the test. A total of eight scores were possible: No preference; Slight automatic preference for African American children; Slight automatic preference for European American children; Moderate automatic preference for African American children; Moderate automatic preference for European American children; Strong automatic preference for African American children; Strong automatic preference for European American children.

5. *Express Measures of Racial Attitudes*

Three scales measured participants' explicit racial biases. First, a short-form of the Attitude Toward Blacks (ATB) scale assessed participants' explicit anti-Black biases.¹¹³ Participants viewed a series of ten statements (e.g., "I favor open housing laws that allow more racial integration of neighborhoods.") and indicated how much they agree or disagree with each item on a hundred-point sliding scale (0 = *strongly disagree*, 100 = *strongly agree*). The scale was coded and scored such that the higher the

PERSONALITY & SOC. PSYCH. BULL. 300, 304 (2017) (finding that an implicit measure of racial attitudes was less stable over time than explicit measures); Frederick L. Oswald et al., *Predicting Ethnic and Racial Discrimination: A Meta-Analysis of IAT Criterion Studies*, 105 J. PERSONALITY & SOC. PSYCH. 171, 178–79 (2013) (concluding that race and ethnicity IATs are weak predictors of discriminatory behavior, judgments, and decisions).

113. See John C. Brigham, *College Students' Racial Attitudes*, 23 J. APPLIED SOC. PSYCH. 1933, 1946 (1993) (short-form "Attitude Toward Blacks (ATB)" scale); see *infra* Appendix D.

composite score, the less prejudiced attitude one holds toward Black people.

Second, the Racial Resentment Scale assessed whether participants believe that African Americans do not live up to American values, such as Protestant morality and work ethic.¹¹⁴ Participants viewed a series of five statements (e.g., “Irish, Italians, Jewish and many other minorities overcame prejudice and worked their way up. Blacks should do the same without any special favors.”) and indicated how much they agree or disagree with each item on a hundred-point sliding scale (0 = *strongly disagree*, 100 = *strongly agree*). One item assessing participants’ attention level (“If you are paying attention, adjust the slider to a value of 80.”) was also included. The scale was coded and scored such that the higher the composite score, the greater one’s level of racial resentment.

Lastly, a short-form of the Internal and External Motivation to Respond Without Prejudice Scales assessed why participants sought to appear unprejudiced: due to personal belief that being unprejudiced is important (internal motivation), and/or societal norm that prejudice is undesirable (external motivation).¹¹⁵ Participants viewed a total of six statements. Three items assessed internal motivation to respond without prejudice (e.g., “I attempt to act in non-prejudiced ways toward Black people because it is personally important to me.”); three items assessed external motivation to respond without prejudice (e.g., “I attempt to appear non-prejudiced toward Black people in order to avoid disapproval from others.”). Internal motivation and external motivation items were presented in alternating order, and participants indicated how much they agree or disagree with each item on a hundred-point sliding scale (0 = *strongly disagree*, 100 = *strongly agree*). Each scale was coded and scored such that the higher the composite score, the greater one’s internal and

114. See DONALD R. KINDER & LYNN M. SANDERS, *DIVIDED BY COLOR* 106–08 (1996) (introducing the scale); see *infra* Appendix E. The standard form of the scale contains four items; the expanded form contains two additional items. Katherine Cramer, *Understanding the Role of Racism in Contemporary U.S. Public Opinion*, 23 ANN. REV. POL. SCI. 153, 154–55, 155 n.1 (2020). This Note’s experiment omitted one of the two additional items in the expanded version and replaced it with an attention check in the interest of survey length.

115. See Ashby Plant & Patricia G. Devine, *Internal and External Motivation to Respond Without Prejudice*, 75 J. PERSONALITY & SOC. PSYCH. 811, 813 (1998) (introducing the scales); see *infra* Appendix F.

external motivations to respond without prejudice toward Black people.

III. RESULTS

Part III discusses the findings of the experiment. Part III.A introduces descriptive statistics for the dependent variables and Part III.B presents the main results. Part III.C analyzes correlational relationships between the dependent variables and various measures of bias. In sum, the data show no statistically significant difference between explicit and implicit appeals to race in triggering individuals' racial biases.

A. DESCRIPTIVE STATISTICS FOR DEPENDENT VARIABLES

TABLE 1: DESCRIPTIVE STATISTICS

<i>Dependent Variables</i>	<i>Mean</i>	<i>Std. Dev.</i>
Actual Belief	80.95	19.91
Black / Control	82.95	18.91
Black / Explicit	79.90	19.25
Black / Implicit	79.63	24.61
White / Control	84.16	15.84
White / Explicit	79.88	18.95
White / Implicit	78.95	22.01
Reasonable Belief	77.07	20.35
Black / Control	75.03	23.70
Black / Explicit	74.29	19.37
Black / Implicit	79.15	20.22
White / Control	78.68	19.61
White / Explicit	76.33	18.80
White / Implicit	78.97	21.26

Participants who answered any of the three comprehension questions incorrectly were excluded from the analysis. This is because these participants likely lacked an adequate understanding of the stimulus in order for the independent variables to have a meaningful impact on the dependent variables. Further, participants who failed either of the two

attention check items were excluded from the analysis. This is because it is likely that measures of these participants' racial attitudes are not accurate (e.g., they were not reading the questions and rather, inputting random values). In total, twenty-eight participants were excluded from the analysis, leaving 242 participants.

B. MAIN RESULTS

To examine the hypotheses, the author regressed participants' responses to the reasonable belief dependent variable (i.e., whether the defendant held a reasonable belief that he was under a physical threat at the time of the shooting) on racial attitudes, the experimental conditions, and the interactions between the two. The general form of the statistical model is as follows:

$$Y = b_0 + b_1 (\text{Racial attitude}) + b_2 (\text{Implicit cue}) + b_3 (\text{No race cue}) + b_4 (\text{Racial attitude} * \text{Implicit cue}) + b_5 (\text{Racial attitude} * \text{No race cue}) + e.$$

The excluded group is the explicit racial cue, such that the coefficient b_1 signifies the effect of racial attitudes on the dependent variable for participants in the explicit racial cues condition. The coefficient b_4 signifies the effect of racial attitudes on the dependent variable for participants in the implicit racial cues condition. The coefficient b_5 signifies the effect of racial attitudes on the dependent variable for participants in the control condition.

TABLE 2: THE EFFECT OF RACIAL ATTITUDES ON PARTICIPANTS' BELIEF THAT THE DEFENDANT HELD A REASONABLE BELIEF OF THREAT AT TIME OF SHOOTING — BLACK VICTIMS CONDITION

<i>Measures of Racial Attitude</i>	<i>Attitude Toward Blacks (ATB)</i>	<i>Racial Resentment Scale (RRS)</i>	<i>Implicit Association Test (IAT)</i>
Racial Attitude	.094 (.19)	0.12 (.12)	4.92 (9.25)
Implicit	34.32 (18.65)	.70 (6.79)	5.42 (10.35)
Control	43.84* (20.03)	-5.83 (6.80)	5.5 (10.65)
Racial Attitude x Implicit	-.38 (.23)	.10 (.16)	-2.15 (11.65)
Racial Attitude x Control	-.54* (.25)	.22 (.17)	-7.85 (11.94)
Constant	66.89*** (14.93)	70.64*** (4.86)	73.58*** (3.50)
<i>N</i>	119	119	119

* $p < .05$

** $p < 0.01$

*** $p < .001$ ¹¹⁶

Contrary to the first hypothesis, there was no statistically significant difference between explicit and implicit racial cues conditions, with respect to the effect of participants' racial attitudes on their belief that the defendant held a reasonable belief of threat at the time of the shooting. While the coefficient for the interaction between ATB and implicit racial cues condition is negative, as hypothesized, the size of the effect is statistically insignificant ($p = 0.11$). This suggests that implicit references to race do not amplify the impact of racial attitudes relative to explicit references to race.

The only statistically significant coefficients in this analysis are those in relation to the control condition. The negative, statistically significant value of the coefficient of the interaction

116. Figures in parentheses indicate standard error.

between ATB and control condition suggests that the absence of any linguistic cues of race led participants to suppress their racial thinking to a lesser degree, compared to explicit references to race.

TABLE 3: THE EFFECT OF RACIAL ATTITUDES ON PARTICIPANTS' BELIEF THAT THE DEFENDANT HELD A REASONABLE BELIEF OF THREAT AT TIME OF SHOOTING — WHITE VICTIMS CONDITION

<i>Measures of Racial Attitude</i>	<i>Attitude Toward Blacks (ATB)</i>	<i>Racial Resentment Scale (RRS)</i>	<i>Implicit Association Test (IAT)</i>
Racial Attitude	-.064 (.13)	.18 (.10)	7.82 (6.82)
Implicit	-1.12 (18.04)	5.16 (6.72)	-5.04 (9.11)
Control	-6.15 (16.08)	12.76 (6.47)	-.99 (7.99)
Racial Attitude x Implicit	.052 (.22)	-.053 (.16)	10.49 (10.49)
Racial Attitude x Control	.11 (.20)	-.30* (.14)	4.64 (9.49)
Constant	81.12*** (10.04)	70.19*** (4.72)	74.1*** (3.64)
<i>N</i>	123	123	123

* $p < .05$

** $p < 0.01$

*** $p < .001$

All but one of the coefficients in the model for the White victims condition is statistically insignificant. This is largely consistent with the second hypothesis that neither explicit nor implicit references to race will be meaningful for participants in the White victims condition because to them, the case is not one of interracial violence.

C. CORRELATIONAL ANALYSES

TABLE 4: CORRELATIONAL RELATIONSHIPS BETWEEN DEPENDENT VARIABLES AND VARIOUS SCALES — ALL PARTICIPANTS

	<i>Indiv idual ism</i>	<i>Hiera rchy</i>	<i>IAT</i>	<i>ATB</i>	<i>RRS</i>	<i>IMS</i>	<i>EMS</i>
Reasonable Belief	.22***	.23***	.12	-.13	0.20 **	-.06	.11
Actual Belief	.15*	0.08	.09	-.004	0.08	-.09	.12

* $p < .05$ ** $p < 0.01$ *** $p < .001$

Among all participants, those who scored higher on hierarchy and individualism measures of the Cultural Cognition Worldview Scales were significantly more likely to respond that the defendant had a reasonable belief that he was faced with a threat, compared to participants who scored lower on the measures. Additionally, participants who exhibited greater levels of racial resentment tended to more strongly believe that the defendant had a reasonable belief that he was faced with a threat when he shot the four victims.

TABLE 5: CORRELATIONAL RELATIONSHIPS BETWEEN
DEPENDENT VARIABLES AND VARIOUS SCALE — BLACK VICTIMS
CONDITION

	<i>Indivi dual ism</i>	<i>Hiera rchy</i>	<i>IAT</i>	<i>ATB</i>	<i>RRS</i>	<i>IMS</i>	<i>EMS</i>
Reasonable Belief	.28***	.33***	.19*	-.24**	0.33 ***	-.13	.041
Actual Belief	.24**	0.16	.10	-.063	.14	-.04	.058

* $p < .05$

** $p < 0.01$

*** $p < .001$

An analysis of only the responses of Black victims condition participants reveals that correlations between the Cultural Cognition Worldview Scales and reasonableness judgments are significant. Notably, the correlations between measures of explicit racial bias (i.e., Attitudes Toward Blacks and Racial Resentment Scales) and reasonableness judgments were greater in magnitude and more statistically significant among those in the Black victims condition compared to all participants. Results also show a statistically significant relationship between Black victims condition participants' IAT scores and reasonableness judgments.

IV. DISCUSSION

Part IV offers potential explanations for the experiment's findings and ponders their implications. It begins in Part IV.A by discussing possible reasons for which the data reject the first hypothesis. Part IV.B then discusses how to apply the research outcomes to the courtroom. Importantly, since the data suggest that it is difficult to make people "turn off" their prejudices through the use of race salience, it is critical to choose jurors who are internally and genuinely motivated to be unprejudiced. Finally, Part IV.C reflects on the limitations of this study and presents directions for future research.

A. LACK OF SUPPORT FOR A DIFFERENCE BETWEEN EXPLICIT
AND IMPLICIT RACIAL CUES

The results suggest that implicit racial cues do not amplify the effect of racial attitudes on the perception of reasonableness of violence against Black victims compared to explicit racial cues. A potential explanation for this rejection of the first hypothesis is that the manipulations employed in this experiment were ineffective. For participants in the implicit racial cue condition, it is possible that the faces of victims presented at the beginning of the experiment served as an explicit racial cue, mooted the effect of implicit linguistic cues that followed. An experiment testing the effect of a fictional gubernatorial candidate's skin tone on White participants' endorsement of the candidate showed that an image of a light-skinned Black candidate served as an implicit racial cue, whereas an image of a dark-skinned Black candidate led participants to completely suppress the effect of their negative racial predispositions.¹¹⁷ Accordingly, the author selected images of lighter-skinned Black men for use in the experiment, but it is still possible that the faces served as an explicit racial cue.¹¹⁸

Additionally, it is possible that the implicit linguistic cues of race were too subtle. Despite the media's widespread use of the word "wolfpack" to refer to the Central Park Five,¹¹⁹ it is possible that this analogy did not readily trigger participants' implicit biases against Black men, especially among participants who are not from New York City. Alternatively, it is possible that the implicit cues were excessive. Perhaps the numerous analogies to wild animals made the implicit racial cue participants consciously aware that race was a pertinent issue in the case, and thus motivated them to suppress racial thinking.¹²⁰

117. Nayda Terkildsen, *When White Voters Evaluate Black Candidates: The Processing Implications of Candidate Skin Color, Prejudice, and Self-Monitoring*, 37 AM. J. POL. SCI. 1032, 1045–47 (1993).

118. Although the photographs of victims' faces may have polluted the effect of implicit linguistic cues on participants' reasonableness judgments, it is possible that this is parallel to a real trial setting where jurors may see the victims in the courtroom.

119. Lynn S. Chancer, *HIGH-PROFILE CRIMES: WHEN LEGAL CASES BECOME SOCIAL CAUSES* 41–42 (2010).

120. The stimulus in this experiment contained more than a dozen implicit racial cues. See *infra* Appendix A.3.a. In contrast, previous studies that found a significant difference between the effects of explicit versus implicit racial cues on expressions of racial biases used less than a handful implicit racial cues. See *e.g.*, Sommers & Ellsworth, *supra* note

Another potential explanation of a statistically insignificant difference between explicit and implicit conditions is that race relations in the United States are rapidly evolving.¹²¹ As discussed in Part I, some studies show that explicit racial messages are ineffective in limiting the effect of racial attitudes when recipients of those messages reject the norm of racial equality.¹²² Given the increasing use and public acceptance of racially hostile rhetoric in national political discourse,¹²³ it is possible that this experiment's sample, in general, more readily rejected the norm of racial equality compared to samples of studies in which implicit racial cues were found to trigger greater levels of racialized decision-making than explicit racial cues. In other words, racial dynamics may have changed so significantly in the past decade that the distinction between implicit and explicit racial cues may be less meaningful today.¹²⁴

Lastly, the fact that controlled experiments, by nature, simplify real-world circumstances may partially explain the insignificant finding. Here, participants were presented with a single set of facts, which is unlike a typical trial setting in which jurors encounter the defendant's "facts" and the prosecution or plaintiff's "facts." As such, it is possible that the presentation of facts in this experimental design overrode the defense attorney's statement regardless of treatment group.

B. APPLICATION OF FINDINGS

The data show no statistically significant difference between explicit and implicit appeals to race in triggering individuals' racial biases. Further, while there is a significant effect of racial attitudes on the dependent variable for participants in the control

56, at 1372–73 (using one cue); White, *supra* note 61, at 342–43, 346–47 (using one cue in the first experiment and two cues in the second experiment).

121. See Nicholas A. Valentino et al., *The Changing Norms of Racial Political Rhetoric and the End of Racial Priming*, 80 J. POL. 757, 758 (2018).

122. See *supra* Part I.C.1.

123. Valentino et al., *supra* note 121, at 758.

124. An experiment in which over 2000 subjects were exposed to vignettes containing implicit (e.g., "inner city" versus "suburban"), explicit (e.g., "Black" versus "White"), or no racial cues found that subjects' racial attitudes (measured via the Racial Resentment Scale) were significantly predictive of the subjects' endorsement of race-related policies regardless of whether political messages are racially explicit or implicit. *Id.* at 764–69. These findings suggest that many racial conservatives are no longer angered or disgusted by explicit appeals to racial stereotypes. *Id.*

condition, this effect is limited to just one measure of racial attitudes. Together, the findings suggest that race salience does not make individuals any more or less likely to act on their prejudices. This, in turn, suggests that parties' appeals to race at trial, whether that be explicit or implicit, matters less than what happens before trial: juror selection. Since the data indicate that it is difficult to make people "turn off" their prejudices through the use of race consciousness, it is important to choose jurors who are internally and genuinely motivated to be unprejudiced. This is further supported by the statistically significant correlation between greater levels of explicit racial biases (i.e., lower score on Attitude Toward Blacks scale; higher score on Racial Resentment Scale) and greater endorsement of the statement that the defendant in *Goetz* held a reasonable belief that he was faced with a threat when he shot the four victims, especially among participants in the Black victims condition.¹²⁵ Additionally, the statistically significant correlation between the hierarchy scale and reasonableness judgments¹²⁶ suggests that courts and attorneys should also strive to select jurors who show weaker endorsement of traditional societal hierarchy.

In recent years, efforts to address racial bias prior to trial have taken the form of implicit bias training of prospective jurors. For example, during the jury selection process for both criminal and civil cases, recently retired Judge Mark W. Bennett of the United States District Court in the Northern District of Iowa personally educates jurors on implicit bias.¹²⁷ For criminal trials with a minority defendant, Judge Bennett begins by showing potential jurors the presumption of innocence instruction and by asking them whether or not the defendant in the case is innocent.¹²⁸ When potential jurors respond that they do not know whether the defendant is innocent because they are yet to hear anything about the case, Judge Bennett gets off the bench, walks over to the defendant, shakes their hand, and announces to the jurors that he believes that the defendant is innocent.¹²⁹ He then tells potential jurors that if they do not believe that the defendant

125. *See infra* Part IV.C.

126. *Id.*

127. Anona Su, *A Proposal to Properly Address Implicit Bias in the Jury*, 31 HASTINGS WOMEN'S L.J. 79, 95 (2020).

128. *Id.*

129. *Id.* at 95–96.

is innocent, they may be excused.¹³⁰ Judge Bennett, then, shows potential jurors one or more videos about implicit bias and how it affects peoples' decision-making, and also discusses the Implicit Association Test (IAT).¹³¹ He even shares his own IAT results and how implicit biases linger, despite his desire to be unprejudiced.¹³² Another example is the United States District Court for the Western District of Washington, which has produced an eleven-minute video on unconscious bias to be shown to potential jurors prior to trial.¹³³ The video begins with the Honorable Judge John C. Coughenour reminding jurors of the court's goal to find jurors "who will decide cases without prejudice or bias" and discussing how "researchers have found that unconscious bias is part of how we all think and process information."¹³⁴ Then, two attorneys each share examples of implicit biases and how they affect our day-to-day decision-making.¹³⁵ The video concludes by reminding jurors to "check" their unconscious bias.¹³⁶

While many social psychologists agree that "tuning jurors into their biases" is an important first step, there is limited scholarship on its effectiveness in practice.¹³⁷ In fact, some studies suggest that interventions designed to motivate individuals to behave in non-discriminatory ways can backfire. For instance, Professors Ashby Plant and Patricia Devine found that those who are primarily externally motivated to respond without prejudice felt constrained and bothered by politically correct pressure, and responded with angry and threatened affect when pressured to comply with a request to respond favorably toward Black people.¹³⁸ Additionally, Professor Lisa Legault and

130. *Id.* at 96.

131. *Id.*

132. *Id.*

133. Marella Gayla, *A Federal Court Asks Jurors to Confront Their Hidden Biases*, MARSHALL PROJECT (June 21, 2017), <https://www.themarshallproject.org/2017/06/21/a-federal-court-asks-jurors-to-confront-their-hidden-biases> [<https://perma.cc/5LXY-2MRJ>].

134. Western Wash. Dist. Ct., *Unconscious Bias*, YOUTUBE (Mar. 31, 2017), <https://www.youtube.com/watch?v=hdjBbfdRLkA> [<https://perma.cc/CEN6-GDQR>].

135. *Id.*

136. *Id.*

137. Gayla, *supra* note 133. The American Society for Trial Consultants is currently conducting a study on the effectiveness of the Western District of Washington's educational intervention. *ASTC Implicit Bias Research Project*, AM. SOC'Y OF TRIAL CONSULTANTS, <https://www.astcweb.org/page-1857948> [<https://perma.cc/6CZS-X5H8>].

138. E. Ashby Plant & Patricia G. Devine, *Responses to Other-Imposed Pro-Black Pressure: Acceptance or Backlash?*, 37 J. EXPERIMENTAL SOC. PSYCH. 486, 499 (2001).

colleagues found that motivating individuals to reduce prejudice by emphasizing external norms of non-prejudice produced more explicit and implicit prejudice than not intervening at all.¹³⁹ By contrast, appealing to participants' internal goal of combating prejudice led to less explicit and implicit prejudice compared with no-treatment control participants.¹⁴⁰ Together, the literature suggests that at the jury selection and orientation phase, information about prejudice and implicit biases must be accompanied by appeals to prospective jurors' internal goal to behave non-discriminatorily and by attempts to eliminate those who are primarily externally motivated to respond without prejudice.

One way of searching for prospective jurors who are particularly motivated to act in egalitarian ways is through an active voir dire in which both the judge and counsel can probe prospective jurors. In most federal courts, the presiding judge conducts voir dire and asks only a few questions orally unlike in state courts where attorneys have more control over voir dire.¹⁴¹ Generally, federal district courts have wide discretion over how voir dire is conducted and the substance of the questions asked.¹⁴² In certain situations, however, the trial judge must ask prospective jurors if they will prejudge the defendant because of his race.¹⁴³ The Sixth Amendment right to an impartial jury requires a trial judge to inquire into racial bias on voir dire when the defendant requests the inquiry and there are "substantial indications" that racial or ethnic prejudice will likely affect the jurors.¹⁴⁴ The mere fact that the defendant and victim are of different races is not sufficient to trigger the constitutional right.¹⁴⁵ Apart from the Sixth Amendment's requirements, the Supreme Court has acknowledged that a federal district court

139. Lisa Legault et al., *Ironic Effects of Antiprejudice Messages: How Motivational Interventions Can Reduce (but Also Increase) Prejudice*, 22 PSYCH. SCI. 1472, 1474–76 (2011).

140. *Id.*

141. See Lewis O. Unglesby, "Speaking the Truth" About Attorney Voir Dire, 62 LA. B.J. 90, 91–92 (2014) (noting that in Louisiana state courts, voir dire by attorneys is a matter of constitutional right, whereas in federal courts, attorneys may examine prospective jurors at the discretion of the court).

142. See *Aldridge v. United States*, 283 U.S. 308, 310 (1931); see generally FED. R. CRIM. P. 24(a) (court may permit additional voir dire questions it deems proper).

143. See *Rosales-Lopez v. United States*, 451 U.S. 182, 190 (1981) (plurality opinion).

144. *Id.*

145. *Id.* (citing *Ristaino v. Ross*, 424 U.S. 589, 596–97 (1976)).

should usually grant a criminal defendant's request to inquire into racial bias in order to dispel any appearance of injustice.¹⁴⁶ However, refusal to honor the defendant's request is not reversible error unless "the circumstances of the case indicate that there is a reasonable possibility that racial or ethnic prejudice might have influenced the jury."¹⁴⁷ Such "reasonable possibility" exists when the defendant is "accused of a violent crime and where the defendant and the victim are members of different racial or ethnic groups."¹⁴⁸

Accordingly, in the first instance, attorneys representing minority defendants in interracial criminal cases should argue that voir dire into racial bias is constitutionally mandated, pointing to "substantial indications" that racial or ethnic prejudice will likely affect the jurors.¹⁴⁹ Subsequently, attorneys should appeal to the district court's wide discretion in conducting voir dire and the Supreme Court's prudential advice that defendants' requests for questioning into racial bias usually be permitted.¹⁵⁰ In terms of the questions themselves, they should be open-ended¹⁵¹ and aimed at finding jurors who are intrinsically motivated to behave in non-discriminatory ways. The inquiry may take the form of jury questionnaires that incorporate the Cultural Cognition Worldview Scales, which correlated strongly with participants' reasonableness judgments in this study.¹⁵² Jury questionnaires can streamline the jury selection process by

146. *Ristaino*, 424 U.S. at 598 n.9 ("[T]he wiser course generally is to propound appropriate questions designed to identify racial prejudice if requested by the defendant.").

147. *Rosales-Lopez*, 451 U.S. at 191.

148. *Id.* at 192; *see also* *Mu'Min v. Virginia*, 500 U.S. 415, 424 (1991) ("[T]he possibility of racial prejudice against a [B]lack defendant charged with a violent crime against a [W]hite person is sufficiently real" to require that the district court inquire into racial bias on voir dire.).

149. *Rosales-Lopez v. United States*, 451 U.S. 182, 190 (1981) (plurality opinion).

150. The Supreme Court has not addressed whether the prosecution has a corresponding right to have prospective jurors questioned on racial bias in cases involving a White defendant and a Black victim, such as *Goetz*. *See Lee, supra* note 1, at 859. Professors Cynthia Lee and Tania Tetlow argue that "as a prudential matter, courts should permit prosecutors as well as defense attorneys to conduct voir dire into racial bias in any case in which racial stereotypes may influence the jury." *Id.* (citing Tania Tetlow, *Granting Prosecutors Constitutional Rights to Combat Discrimination*, 14 U. PA. J. CONST. L. 1117 (2012)).

151. *See Lee, supra* note 1, at 868 ("Open-ended questions on racial bias in particular can give the attorney much more valuable information about which prospective jurors are likely to try to overcome their implicit biases than close-ended questions in which the juror is prompted to give a short 'yes' or 'no' response.").

152. *See supra* Part III.C.

eliminating the need to ask basic questions and allowing the court (or, if permitted, the attorneys) to ask more useful follow-up questions.¹⁵³ The questionnaires can also allow prospective jurors to answer sensitive questions more privately and can “guard against the risk of a prospective juror making statements in open court that could taint the rest of the jury pool.”¹⁵⁴ Typically, courts distribute substantive questionnaires when prospective jurors report for duty. But some courts, such as those presiding over complex products liability cases, send case-specific questionnaires to prospective jurors several weeks before trial.¹⁵⁵ This approach “affords both sides ample time to analyze and explore the nuances of prospective jurors’ answers and consult with jury consultants.”¹⁵⁶ Accordingly, counsels should ask the court about the use of advance jury questionnaires and offer to help with certain logistics to facilitate the request.¹⁵⁷

C. LIMITATIONS AND DIRECTIONS FOR FUTURE RESEARCH

This study was limited in scope in that its subjects were not nationally representative and that it focused exclusively on Black-White race relations. Future studies should explore the relationship between linguistic cues and reasonableness judgements in a more representative sample and expand the inquiry beyond Black-White racial dynamics.

1. *Representativeness of Sample*

Consistent with the disproportionately White demographic of Amazon Mechanical Turk (MTurk) workers,¹⁵⁸ the sample was approximately 76% White/non-Hispanic, 7.85% Asian, 6.6% Black or African American, 4.55% Hispanic, 4.55% multiracial, and

153. Jonathan S. Tam, *Jury Selection (Federal)*, PRACTICAL LAW (2021), (to access this article, log in to Westlaw Next; follow “Practical Law”; follow “Litigation”; search for “jury selection” in search bar; follow hyperlink for appropriate article) (last visited May 23, 2022).

154. *Id.*

155. *Id.* at 5.

156. *Id.*

157. *Id.*

158. Connor Huff & Dustin Tingley, “Who Are These People?” *Evaluating the Demographic Characteristics and Political Preferences of MTurk Survey Respondents*, 2 RES. & POL. 1, 3 (2015); Kevin E. Levay et al., *The Demographic and Political Composition of Mechanical Turk Samples*, 6 SAGE OPEN 1, 5 (2016).

0.41% American Indian/Alaskan Native.¹⁵⁹ Based on previous research examining the effect of implicit and explicit racial cues on endorsement of political candidates,¹⁶⁰ the independent variables in this experiment may have a different effect on Black participants compared to White participants. Due to the small number of Black or African American participants in the sample, however, the author was not able to meaningfully analyze an interaction between participants' race and two categories of independent variables. A future study should aim to recruit a more racially and ethnically diverse sample in order to better understand how implicit and explicit references to race affect non-White jurors.¹⁶¹

Further, MTurk samples tend to be more politically liberal than national samples.¹⁶² In this study, participants' responses to the hierarchy scale were strongly skewed to the right.¹⁶³ A future study should aim to recruit a sample that is more balanced in political ideology and further analyze the relationship between political ideology and reasonableness judgments.

2. *Restriction of Study to Black-White Racial Dynamics*

As noted in the Introduction, the present research focused on Black-White racial dynamics. Notwithstanding the fact that there exists an especially pronounced racial disparity in the

159. Ironically, this demographic may be consistent with the makeup of jury pools in many jurisdictions. Sommers posits that the following factors contribute to such discrepancies: "the underrepresentation of particular groups from the public records on which source lists are based, increased geographic mobility and other obstacles that prevent summonses from being delivered to individuals of particular demographics, and the disproportionately high rate of disqualifying characteristics found among low socioeconomic status and racial minority individuals." Samuel R. Sommers, *Determinants and Consequences of Jury Racial Diversity: Empirical Findings, Implications, and Directions for Future Research*, 2 SOC. ISSUES & POL'Y REV. 65, 71 (2008).

160. See, e.g., White, *supra* note 61; see also Sommers & Ellsworth, *Race in the Courtroom*, *supra* note 56.

161. Future studies may also wish to account for the fact that MTurk samples differ from U.S. population-based samples with respect to income, education level, age, and political identity. Levay et al., *supra* note 158, at 3.

162. See Huff & Tingley, *supra* note 158, at 3–5; Adam J. Berinsky et al., *Evaluating Online Labor Markets for Experimental Research: Amazon.com's Mechanical Turk*, 20 POL. ANALYSIS 351, 359 tbl.4 (2012).

163. The Shapiro-Wilk test showed that the distribution of participants' responses to the hierarchy scale departed significantly from normality ($W = 0.89$, $p < 0.001$). The Shapiro-Wilk test did not show evidence of non-normality for the individualism scale ($W = 0.98$, $p = 0.08$). See *Shapiro-Wilk and Shapiro-Francia Tests for Normality*, STATA, <https://www.stata.com/manuals13/rswwilk.pdf> [<https://perma.cc/2UCV-RNZK>].

American criminal justice system between Black and White Americans,¹⁶⁴ Black Americans are not the only subjects of dehumanization in the courtroom.¹⁶⁵ Therefore, future research should also explore the effects of implicit and explicit references to race on adverse legal outcomes for non-Black minority groups.¹⁶⁶

CONCLUSION

Through a controlled experiment, this Note tested the hypothesis that implicit appeals to race, such as subtle racial imagery, evoke individuals' racial biases more powerfully compared to explicit references to racial stereotypes. Although the use of racial imagery in criminal cases has been a topic of discussion in legal academia, this Note is the first to take an experimental look at the distinction between implicit and explicit appeals to race in the courtroom. The data suggest that, contrary to the hypothesis and contrary to the predictions of aversive racism theory, race salience does not make individuals any more or less likely to act on their prejudices. This, in turn, suggests that parties' appeals to race at trial, whether explicit or implicit,

164. See SENT'G PROJECT, REPORT TO THE UNITED NATIONS ON RACIAL DISPARITIES IN THE U.S. CRIMINAL JUSTICE SYSTEM, 1 (2018), <https://www.sentencingproject.org/wp-content/uploads/2018/04/UN-Report-on-Racial-Disparities.pdf> [https://perma.cc/2NR9-5B9C]. African American adults are 5.9 times more likely to be incarcerated than Whites. *Id.* As of 2001, one in every three Black boys born in that year can expect to go to prison in his lifetime, compared to one in every seventeen White boys. *Id.*

165. See, e.g., Jack Lipton, *Racism in the Jury Box: The Hispanic Defendant*, 5 HISPANIC J. BEHAVIORAL SCI. 275, 286 (1983); Rhoda J. Yen, *Racial Stereotyping of Asians and Asian Americans and Its Effect on Criminal Justice: A Reflection on the Wayne Lo Case*, 7 ASIAN L.J. 1, 13–15 (2000); see also OTTO SANTA ANA, BROWN TIDE RISING: METAPHORS OF LATINOS IN CONTEMPORARY AMERICAN PUBLIC DISCOURSE 87 (2002) (arguing that newspapers implicitly compare immigrants to animals through the use of words such as “hungered over, preyed upon, hunted out, targeted, herded, devoured[,] a menace, animal, dog, rat, rabbit, coyote, and . . . scapegoat”).

166. See Evelyn M. Maeder et al., *Racial Salience in Canada: Testing Multiple Manipulations and Target Races*, 21 PSYCH. PUB. POL'Y & L. 442, 448–49 (2015) (testing the effect of explicit reference to race on mock jurors' verdict outcomes for Black and Aboriginal Canadian defendants); Evelyn M. Maeder, *The Combined Effect of Defendant Race and Alleged Gang Affiliation on Mock Juror Decision-Making*, 20 PSYCHIATRY, PSYCH. & L. 188, 193–96 (2013) (testing the effect of defendant's alleged gang membership on mock jurors' verdict outcomes for White, Black, and Aboriginal Canadian defendants); Jennifer J. Ratcliff et al., *The Hidden Consequences of Racial Salience in Videotaped Interrogations and Confessions*, 16 PSYCH. PUB. POL'Y & L. 200, 207 (2010) (testing the effect of equal-focus videotaped confessions on mock jurors' judgments of African American, Chinese American, and Caucasian suspects' guilt and voluntariness of confessions).

matters less than what happens before trial: juror selection. Since the data indicate that it is difficult to make people “turn off” their prejudices through the use of race consciousness, it is important to choose jurors who are internally and genuinely motivated to be unprejudiced. In order to better understand the effects of racial appeals on jurors, victims, and defendants of color, future studies should seek to recruit a more diverse sample and to investigate racial dynamics beyond Black-White relations explored in this Note.

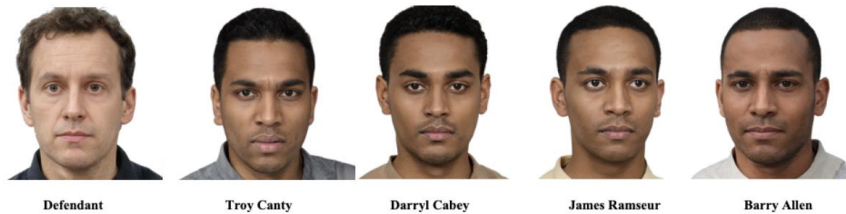
APPENDIX

A. STIMULUS

1. *Introduction*

You are a juror in a criminal case. Defendant is charged with attempted murder of four young men: Troy Canty, Darryl Cabey, James Ramseur, and Barry Allen.

Black Victims Condition



White Victims Condition



You will first be presented with the facts of the case. Then, you will read a statement by the defendant’s attorney.

Please read carefully as you will be asked to answer questions related to the content of the text.

2. *Facts*

On Saturday afternoon, Troy Canty, Darryl Cabey, James Ramseur, and Barry Allen boarded a subway train in a major metropolitan area. The four youths rode together in the rear portion of the seventh car of the train. Two of the four, Ramseur and Cabey, had screwdrivers inside their coats, which they said were to be used to break into the coin boxes of video game machines.

About 30 minutes later, defendant boarded this subway train and sat down on a bench toward the rear section of the same car occupied by the four youths. The defendant was carrying an unlicensed .38 caliber pistol loaded with five rounds of ammunition concealed in a waistband holster.

Shortly after the train took off, Canty, who had been leaning or lying on the long bench next to the door, turned to the defendant and asked, "How are you?" The defendant responded, "Fine," and looked down to avoid eye contact. Then, Canty and Allen, who were sitting on the defendant's right, got up, sauntered over, and positioned themselves on the defendant's left, between him and the other passengers sitting in the center and the far end of the car.

Canty said to the defendant, "Give me five dollars." Almost simultaneously, the defendant noticed one of the other two, Ramseur, putting his hand in his coat pocket and saw that the pocket was bulging out. The defendant noticed that Canty was smiling at him and that his eyes were shining. Although the defendant was certain that none of the youths had a gun, he had a fear, based on prior experiences, of being maimed.

Then, the defendant asked Canty, "What did you say?" Canty responded, "Give me your money." At that point, the defendant stood up, drew his gun from his belt holster worn inside the front of his trousers, under his jacket, and began shooting from left to right, first Canty and Allen, then Ramseur and Cabey, both now standing on his right. Then, the defendant ran back to check out the first two, found them out of commission, then spun around and noticed that Cabey was now sitting. Unsure whether he had hit him, the defendant said, "You seem to be doing all right; here's another." Cabey jerked his right arm and the defendant shot at him a second time. Ramseur and Canty, initially listed in

critical condition, fully recovered. Cabey remains paralyzed, and has suffered some degree of brain damage.

3. *Defense Attorney's Statement to the Jury*

a. Implicit Racial Cues Condition

Well, we're in court today and we're looking at four young wolves in a cage. They are, at this point, under the control of the legal rules of law. The rules of evidence limits what they can say or do in court. They are under the control of the judge who determines what happens in a court of law. They are like predators in the cage who have no purpose in life but to lay there, to look docile, to eat when they are fed and to not create any ruckus. You take those kids out of this setting and put them back on the street, and they become the real wolves, the ones that attack their prey viciously, who will use violence to keep everybody else away from their attack, from their prey that they have caught. That is the kind of kids we are dealing with here.

That afternoon when the pack of four approached the defendant, they had the demeanor of wild animals. They were blood-crazed, howling in search of a prey. Prosecution would have you believe that these are calm, cool, and collected individuals, and that the defendant shot them for no good reason. That could not be more wrong. The defendant shot in self-defense. He shot because he felt threatened and feared for his life. He feared the kids and their blazing eyes. This wasn't the defendant's first time being mugged on the subway. The last time, he was left with a damaged knee. He wasn't going to let that happen again, or something worse. The defendant gave back to these predators of society what they deserved, just what the law allowed.

Imagine that *you* were the prey that Saturday afternoon. You are sitting alone, minding your own business. A youth of a beastly nature approaches and asks, "How are you?" You say, "Fine" and avoid eye contact. Soon, you've got a pack of wolves hovering over your shoulders, getting ready to pounce. The defendant didn't care about the five dollars. But it does not follow that he should be treated as having forfeited his personal autonomy, the right to be free of aggressive intrusions, including attempts to rob him.

Yes, the defendant shot at the pack intentionally. He wanted to hurt them and make them suffer as much as possible. But if he was acting in reasonable self-defense, there is nothing wrong with his intending to kill as a means to ward off the attack. Had *you* been the prey that afternoon, wouldn't you have wanted to hurt those wolves as well?

b. Explicit Racial Cues Condition

Well, we're in court today and we're looking at four young [Blacks/Whites] in a cell. They are, at this point, under the control of the legal rules of law. The rules of evidence limit what they can say or do in court. They are under the control of the judge who determines what happens in a court of law. They are like school children who have no purpose in life but to sit there, to look disciplined, and to not create any trouble. You take those kids out of this setting and put them back on the street, and they become the real [Black/White] men, the ones that attack their victim viciously, who will use violence to keep everybody else away from their attack, from their victim that they have picked. That is the kind of kids we are dealing with here.

That afternoon when the four thugs approached the defendant, they had a menacing demeanor. They were tough inner city kids looking for trouble. Prosecution would have you believe that these are calm, cool, and collected individuals, and that the defendant shot them for no good reason. That could not be more wrong. The defendant shot in self-defense. He shot because he felt threatened and feared for his life. He feared the kids and their blazing eyes. This wasn't the defendant's first time being mugged on the subway. The last time, he was left with a damaged knee. He wasn't going to let that happen again, or something worse. The defendant gave back to these Blacks what they deserved, just what the law allowed.

Imagine that *you* were the victim that Saturday afternoon. You are sitting alone, minding your own business. A youth of a shady nature approaches and asks, "How are you?" You say, "Fine" and avoid eye contact. Soon, you've got four young [Blacks/Whites] hovering over your shoulders. Doesn't that tell you? Doesn't a light bulb go off in your head and say, a crime is about to happen? The defendant didn't care about the five dollars. But it does not follow that he should be treated as having

forfeited his personal autonomy, the right to be free of aggressive intrusions, including attempts to rob him.

Yes, the defendant shot at the violent [Black/White] kids intentionally. He wanted to hurt them and make them suffer as much as possible. But if he was acting in reasonable self-defense, there is nothing wrong with his intending to kill as a means to ward off the attack. Had *you* been the victim that afternoon, wouldn't you have wanted to hurt those thugs as well?

c. Control Condition

Well, we're in court today and we're looking at four young men in a cell. They are, at this point, under the control of the legal rules of law. The rules of evidence limit what they can say or do in court. They are under the control of the judge who determines what happens in a court of law. They are like school children who have no purpose in life but to sit there, to look disciplined, and to not create any trouble. You take those kids out of this setting and put them back on the street, and they become the real men, the ones that attack their victim viciously, who will use violence to keep everybody else away from their attack, from their victim that they have picked. That is the kind of kids we are dealing with here.

That afternoon when the four young men approached the defendant, they had a menacing demeanor. They were kids looking for trouble. Prosecution would have you believe that these are calm, cool, and collected individuals, and that the defendant shot them for no good reason. That could not be more wrong. The defendant shot in self-defense. He shot because he felt threatened and feared for his life. He feared the kids and their blazing eyes. This wasn't the defendant's first time being mugged on the subway. The last time, he was left with a damaged knee. He wasn't going to let that happen again, or something worse. The defendant gave back to these young men what they deserved, just what the law allowed.

Imagine that *you* were the victim that Saturday afternoon. You are sitting alone, minding your own business. A youth of an unruly nature approaches and asks, "How are you?" You say, "Fine" and avoid eye contact. Soon, you've got four young men hovering over your shoulders. The defendant didn't care about the five dollars. But it does not follow that he should be treated

as having forfeited his personal autonomy, the right to be free of aggressive intrusions, including attempts to rob him.

Yes, the defendant shot at the kids intentionally. He wanted to hurt them and make them suffer as much as possible. But if he was acting in reasonable self-defense, there is nothing wrong with his intending to kill as a means to ward off the attack. Had *you* been the victim that afternoon, wouldn't you have wanted to hurt those young men as well?

4. *Comprehension Questions*

1. Where did the incident occur?
 - o *Subway train*
 - o *Street*
 - o *Parking lot*
2. What was the weapon used by the defendant?
 - o *Knife*
 - o *Stick*
 - o *Gun*
3. What is the defendant's defense to the charge of attempted murder?
 - o *Insanity*
 - o *Statute of limitations*
 - o *Self-defense*

5. *Dependent Variables*

1. At the time of the shooting, to what extent do you think the defendant **subjectively** believed that he was faced with a physical threat?

In the law, a subjective belief means a belief that the actor *actually* and *honestly* held at the time of his or her action.

[Responses were recorded on a scale of 1 (*Not at all*) to 100 (*To a very great extent*).]

2. At the time of the shooting, to what extent do you think the defendant could **reasonably** believe that he was faced with a physical threat?

In the law, a reasonable belief means a belief that would be held by an *ordinary* and *prudent* person in the same circumstances as the actor.

[Responses were recorded on a scale of 1 (*Not at all*) to 100 (*To a very great extent*).]

B. CULTURAL COGNITION WORLDVIEW SCALES

1. *Individualism-Communitarianism*

People in our society often disagree about how far to let individuals go in making decisions for themselves. How strongly do you agree or disagree with each of these statements? [Possible responses: strongly disagree, moderately disagree, slightly disagree, slightly agree, moderately agree, strongly agree]

1. The government interferes far too much in our everyday lives.
2. Sometimes government needs to make laws that keep people from hurting themselves.*¹⁶⁷
3. It's not the government's business to try to protect people from themselves.
4. The government should stop telling people how to live their lives.
5. The government should do more to advance society's goals, even if that means limiting the freedom and choices of individuals.*
6. Government should put limits on the choices individuals make so they don't get in the way of what's good for society.*

2. *Hierarchy-Egalitarianism*

People in our society often disagree about issues of equality and discrimination. How strongly do you agree or disagree with each of these statements? [Possible responses: strongly disagree, moderately disagree, slightly disagree, slightly agree, moderately agree, strongly agree]

1. We have gone too far in pushing equal rights in this country.
2. Our society would be better off if the distribution of wealth was more equal.*

167. Items followed by an asterisk were reverse-coded, meaning participants' responses to these questions were subtracted from 100 when computing the composite score.

3. We need to dramatically reduce inequalities between the rich and the poor, whites and people of color, and men and women.*

4. Discrimination against minorities is still a very serious problem in our society.*

5. It seems like blacks, women, homosexuals and other groups don't want equal rights, they want special rights just for them.

6. Society as a whole has become too soft and feminine.

C. SOCIAL DESIRABILITY SCALE

Please indicate to what degree you agree with the following statements. [Possible responses: strongly disagree, moderately disagree, slightly disagree, slightly agree, moderately agree, strongly agree]

1. It is sometimes hard for me to go on with my work if I am not encouraged.

2. I sometimes feel resentful when I don't get my way.

3. On a few occasions, I have given up doing something because I thought too little of my ability.

4. There have been times when I felt like rebelling against people in authority even though I knew they were right.

5. No matter who I'm talking to, I'm always a good listener.

6. There have been occasions when I took advantage of someone.

7. I'm always willing to admit it when I make a mistake.

8. When I don't know something I don't at all mind admitting it.

9. I am always courteous, even to people who are disagreeable.

10. I have never been irked when people expressed ideas very different from my own.

11. There have been times when I was quite jealous of the good fortune of others.

12. I am sometimes irritated by people who ask favors of me.

13. I have never deliberately said something that hurt someone's feelings.

D. ATTITUDE TOWARD BLACKS SCALE

Please indicate to what degree you agree with the following statements. [Possible responses: strongly disagree, moderately disagree, slightly disagree, slightly agree, moderately agree, strongly agree]

1. If I had a chance to introduce black visitors to my friends and neighbors, I would be pleased to do so.

2. Interracial marriage should be discouraged to avoid the "who-am-I?" confusion which the children feel.*

3. I favor open housing laws that allow more racial integration of neighborhoods.

4. I would probably feel somewhat self-conscious dancing with a black person in a public place.*

5. It is likely that blacks will bring violence to neighborhoods when they move in.*

6. Black people are demanding too much too fast in their push for equal rights.*

7. I would rather not have blacks live in the same apartment building I live in.*

8. I enjoy a funny racial joke, even if some people might find it offensive.*

9. Whites should support blacks in their struggle against discrimination and segregation.

10. I worry that in the next few years I may be denied my application for a job or a promotion because of preferential treatment given to minority group members.*

E. RACIAL RESENTMENT SCALE

Please indicate to what degree you agree with the following statements. [Possible responses: strongly disagree, moderately disagree, slightly disagree, slightly agree, moderately agree, strongly agree]

1. Irish, Italians, Jewish and many other minorities overcame prejudice and worked their way up. Blacks should do the same without any special favors.

2. Over the past few years, Blacks have gotten less than they deserve.*

3. It's really a matter of some people not trying hard enough; if Blacks would only try harder they could be just as well off as Whites.

4. Generations of slavery and discrimination have created conditions that make it difficult for Blacks to work their way out of the lower class.*

5. Government officials usually pay less attention to a request or complaint from a Black person than from a White person.*

F. INTERNAL/EXTERNAL MOTIVATION TO RESPOND WITHOUT PREJUDICE SCALES (IMS/EMS)

Please indicate to what degree you agree with the following statements. [Possible responses: strongly disagree, moderately disagree, slightly disagree, slightly agree, moderately agree, strongly agree]¹⁶⁸

1. I attempt to appear non-prejudiced toward Black people in order to avoid disapproval from others.

2. I attempt to act in non-prejudiced ways toward Black people because it is personally important to me.

3. I try to hide any negative thoughts about Black people in order to avoid negative reactions from others.

4. I am personally motivated by my beliefs to be non-prejudiced toward Black people.

5. I try to act non-prejudiced toward Black people because of pressure from others.

6. Because of my personal values, I believe that using stereotypes about Black people is wrong.

G. DEBRIEFING

You have completed the survey.

At the beginning of the study, you were presented with a description of a criminal case. This was a modified version of a

168. Questions 1, 3, and 5 measure external motivation to respond without prejudice; questions 2, 4, and 6 measure internal motivation to respond without prejudice. Two separate scores, IMS and EMS, were computed to create four quadrants: low IMS/low EMS, low IMS/high EMS, high IMS/low EMS, high IMS/high EMS.

real case intended to suppress in some participants, but not in others, implicit racial biases against African Americans.

Moreover, some information (such as assignment to a particular condition and specific purpose of the study) was withheld at the beginning of the study. This was in order to prevent knowledge about the manipulation from creating bias in performance.

The goal of this study is to investigate how variations of racially coded language affect mock jurors' perceptions of fear and reasonableness determinations in self-defense cases. Findings from this study will help extend existing research on how implicit biases influence jurors' and judges' decision-making processes, with important implications for reducing the role of racial biases in the American legal system, particularly in criminal trials.

If due to the potentially sensitive nature of the study's content, you feel—now or at a later time—angry, emotionally upset, scared, or otherwise disturbed, you can call 1-800-273-TALK (2355) for a free, confidential chat with a trained counselor 24/7. If you have any questions or concerns regarding your rights as a participant in this study, feel free to contact the Institutional Review Board (IRB) at (212) 305-5883 or access their website at research.columbia.edu/information-research-participants.

Lastly, this is a reminder that your participation in this study is voluntary. If you wish to withdraw your data at this time, you may contact [author] at [email address].

H. ADDITIONAL DATA ANALYSES

TABLE 1: THE EFFECT OF RACIAL ATTITUDES ON PARTICIPANTS' BELIEF THAT THE DEFENDANT HELD A REASONABLE BELIEF OF THREAT AT TIME OF SHOOTING — BLACK VICTIMS CONDITION; CONTROL BASELINE

<i>Measures of Racial Attitude</i>	<i>Attitude Toward Blacks (ATB)</i>	<i>Racial Resentment Scale (RRS)</i>	<i>Implicit Association Test (IAT)</i>
Racial Attitude	-.45** (.16)	.34** (.11)	12.77 (7.55)
Implicit	-9.52 (17.41)	6.53 (6.72)	-.077 (8.59)
Explicit	-43.84* (20.03)	5.83 (6.80)	-5.5 (10.65)
Racial Attitude x Implicit	.16 (.21)	-.12 (.15)	5.70 (10.35)
Racial Attitude x Explicit	.54* (.25)	-.22 (.17)	7.85 (11.94)
Constant	110.73*** (13.35)	64.81*** (4.76)	71.23*** (4.11)
<i>N</i>	119	119	119

* $p < .05$

** $p < 0.01$

*** $p < .001$

TABLE 2: THE EFFECT OF RACIAL ATTITUDES ON PARTICIPANTS' BELIEF THAT THE DEFENDANT HELD A REASONABLE BELIEF OF THREAT AT TIME OF SHOOTING — WHITE VICTIMS CONDITION; CONTROL BASELINE

<i>Measures of Racial Attitude</i>	<i>Attitude Toward Blacks (ATB)</i>	<i>Racial Resentment Scale (RRS)</i>	<i>Implicit Association Test (IAT)</i>
Racial Attitude	-.046 (.15)	-.13 (.099)	3.18 (6.60)
Implicit	5.03 (19.56)	-7.60 (6.53)	-4.05 (8.97)
Explicit	6.15 (16.08)	-12.76 (6.47)	.99 (7.99)
Racial Attitude x Implicit	-.059 (.24)	.25 (.16)	5.86 (10.35)
Racial Attitude x Explicit	-.11 (.20)	.30* (.14)	-4.64 (9.49)
Constant	74.97*** (12.56)	82.94*** (4.43)	77.74*** (3.59)
<i>N</i>	123	123	123

* $p < .05$

** $p < 0.01$

*** $p < .001$