

RACE, SELF PRESENTATION AND REVERSE DISCRIMINATION IN JURY DECISIONS

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Self presentation theory proposes that people are concerned about how they are perceived and evaluated. For example, most people want to appear unprejudiced. The present study varied the race of the defendant and plaintiff. The participants (103 students and 94 jury eligible citizens) listened to a taped presentation of a civil case. They evaluated the responsibility of each party individually and next as a jury. Comparisons were made between decisions in juries with a black or white foreperson. As hypothesized, jurors attributed much less responsibility to a black defendant than a white defendant when the foreperson was black; but there was no difference in attributions when the foreperson was white. Differences in attributions by race were not present prior to deliberations. It is proposed that a black foreperson makes race salient, thus, jurors evaluate a black defendant as less responsible in order to appear unprejudiced. These mock juries exhibited reverse discrimination.

Self presentation theory proposes that people are concerned about how others evaluate and perceive them; they, therefore, attempt to control these evaluations and perceptions by impression management (1). The self presentations which people try to convey are affected by their audience and by norms (1). One such norm which influences the impression people want to make on others is the norm involving racist attitudes toward minorities (2). For example, research shows that men tend to change their racial attitudes to reflect the norms of their living area (3).

Norms concerning racial attitudes changed drastically during the latter part of the twentieth century so that people are less likely to express racist views in public. Although racial prejudice and discrimination were acceptable among many subgroups in the earlier part of the twentieth century (see 4, 5), few people would want to be considered racist today. Public opinion polls demonstrate how racist attitudes of white Americans toward minorities decreased significantly in the latter part of the twentieth century (6, 7). For example, support for segregated schools and segregated public conveyances

has all but disappeared (7). It would seem that most Americans are not prejudiced toward minorities, or at least want to appear as if they are not prejudiced. Certainly, most Americans are reluctant to publicly express racist attitudes.

The current study examines individuals' attitudes toward black and white defendants when decided privately and as a group. We manipulated the race of both a female defendant and male plaintiff to examine the impact of race on mock jurors' decisions. We were particularly interested in how deliberations influence decisions based on the race of the defendant. Once mock jurors begin deliberations, they will be concerned about giving the impression of being unprejudiced. However, what are their attitudes prior to deliberations, before they discuss the defendant with other mock jurors? If mock jurors' decisions prior to deliberations could be predicted by racial bias, we would expect differential treatment of the defendant based on race. We would, for example, expect that white mock jurors would attribute more responsibility to the black defendant than the white defendant. In contrast, we would expect black mock jurors to attribute more responsibility to the white defendant than the black defendant.

However, this is not what we would expect to happen based on norms concerning prejudice and recent studies of racial attitudes and discrimination (e.g., 8, 9). Because we assumed that the race of the defendant would not be salient to the mock jurors before discussions with other jurors, we expected no difference in attributions of responsibility based on the race of the defendant. Therefore, we hypothesized that prior to deliberations:

- 1) Both black and white mock jurors would attribute similar amounts of responsibility to the black and white defendant.

In contrast to individual decision making, the situation is completely different when people must come to a consensus on the responsibility of the defendant. The selection of a foreperson and deliberations are expected to have an impact on attributions of responsibility. The foreperson guides the decision making process of the jury. Thus, attorneys and most legal researchers assume the foreperson is quite influential in determining the outcome of deliberations. Deosaran (10), calling the foreperson "first among equals," maintained that this elected leader of the group would influence the

verdict of the jury, and research supports his assumption. Forepersons have significantly more influence on other mock jurors and are more confident in their decisions than nonforepersons (11). In fact, one group of researchers found forepersons to have a “disproportionate impact” on jury decisions (12, p. 538).

When in unfamiliar situations, people become self-conscious and are particularly attuned to the impression they are making (13). Deliberating about the fate of a defendant on a jury is one such unfamiliar situation. Jury decisions are made in groups in which individual jurors express opinions about the litigants, including, of course, the defendant. Because this context is unfamiliar to the jurors, they will be attuned to the impression they are making and it is unlikely they will express overt racist opinions. In fact, jurors, like most people, probably want to appear unprejudiced. The social norm opposing prejudice is quite strong (2) such that people do not condone racist behavior in others. For example, research by Simon and Greenberg (14) found that all participants derogated someone who used a derogatory ethnic label for a black person. It can be assumed, therefore, that overt racial prejudice against a defendant of another race would not be condoned in most jury discussions today.

In fact, most people in current society want to present themselves as strongly pro-minority (e.g., 15). Current norms lead people to want to appear non-prejudiced (e.g., 2). Indeed, if anything, there is a tendency for people to exhibit reverse discrimination and reverse prejudice (8, 16, 17). For example, participants reported more liking for black partners and a greater preference for blacks despite physiological evidence of a bias against blacks (9). Likewise, people who thought they displayed physiological evidence of prejudice gave more money to a black panhandler (16). Other research found participants rated black authors higher than authors whose race was not indicated (8) and provide more positive feedback to black than white fellow students (17). These studies indicate that people in modern society are concerned that they do not give the impression of being prejudiced.

Because societal norms lead most people to want to appear unprejudiced, they will usually behave in a manner which makes them appear unprejudiced when there is a situation in which race is salient (18). Social situations can

make race salient (15, 19). "Social cues may also create a normative environment that can encourage or discourage expressions of prejudice. Research suggests that perceptions of this normative structure can apparently be altered very readily" (14, p. 1196). One instance in which race would become salient to the jurors is in a jury in which the foreperson is black and the defendant is black. Racial salience is not expected to occur in a jury in which the foreperson is white because there is no long-term history of racial prejudice toward whites in our society. In addition, a white foreperson of a jury is typical, thus, race would not become salient to the members of the jury. Finally, because the majority of members of most mock juries are white, jurors would not feel a need to appear unprejudiced toward a white defendant. In addition, race is not expected to be salient when the plaintiff is black. Deliberations in a jury primarily focus on the behavior of the defendant; it is the race of the defendant in combination with the race of the foreperson which makes race salient.

It is unlikely that the foreperson of a jury would try to convince the other jurors to decide the verdict in a racist manner. In fact, it is highly unlikely that a foreperson or, for that matter, any member of the jury would bring up the race of the defendant as an issue during deliberations unless it were an issue in the case (e.g., the Rodney King trial). However, because forepersons are leaders of the juries and direct their proceedings, we predicted that, if the foreperson were black, then race would become salient, particularly for the white jurors and in situations when the defendant was black. The primary purpose of the present study was to determine the impact of the race of the foreperson on the decision-making process in a case which varied the race of the defendant and plaintiff within the context of a civil lawsuit. Because white people want to appear unprejudiced, we predicted they would want to appear more positive toward the black defendant when they were in a jury with a black foreperson. Therefore, we hypothesized that:

2) When the foreperson was black, less responsibility would be attributed to the black defendant than the white defendant.

3) When the foreperson was white, there would be no difference in the responsibility attributed to the white defendant and the black defendant.

However, we believe it is the race of the foreperson, not his or her attitude toward the defendant, which will influence the deliberations. In order to establish that the foreperson does not influence the deliberations in a particular direction because of pre-existing attitudes toward the defendant, we evaluated the foreperson's attitudes prior to deliberations. We assumed that both black and white forepersons would attribute the same amount of responsibility to the black and white defendants prior to deliberations.

We were also interested in whether mock jurors would internalize the decisions made by the group. Cues in the environment can create a situation which discourages prejudiced comments (14). Therefore, we expected that people in a jury where race is salient will express nonracist attitudes. Leary (1) maintains that people behave in a manner which is consistent with their attitudes and beliefs. Thus, if people believe themselves to be unprejudiced and want to convey an image of themselves as being unprejudiced, they will express more positive attitudes toward the black defendant in the jury with a black foreperson. Once an attitude has been expressed publicly, it is typically internalized and less subject to change (20). Therefore, we believe that participants will internalize the lower amount of responsibility of the black defendant agreed upon in deliberations and continue to espouse that view even when privately reporting their individual attributions of responsibility after deliberations. For this reason, we hypothesized that:

4) Individual jurors who were in a jury which had a black foreperson will attribute less responsibility to the black defendant after deliberations.

METHOD

Participants

Mock jurors who participated in the study were from two distinct populations: university students and jury eligible citizens. The student participants, who volunteered for the study as one option for obtaining course credit, were enrolled in introductory psychology courses at a mid-sized university in the southeast. The 103 student participants ranged in age from 19 to 48 with a mean age of 26.3. Most of the student mock jurors were white (n=71), while some were black (n=16), Hispanic (n=4), Asian (n=3) and other (n=9). The jury eligible citizens were paid for their participation as

mock jurors. The 94 jury eligible citizen participants ranged in age from 19 to 84 with a mean age of 46.2. Most of these mock jurors were white (n=62), while some were black (n=28), Hispanic (n=1). Native American (n=1), and other (n=2).

Design

The study was a 2 (race of plaintiff: black or white) by 2 (race of individual defendant: black or white) between-subjects factorial design. Individual dependent measures were percentage of responsibility attributed to: the plaintiff, the individual defendant, and the corporate defendant. Individual measures were taken before and after group deliberations. Group dependent measures were the same responsibility variables assessed by individuals.

Procedure

Participants came to a conference room in groups of five to ten, were informed about the study, and asked to read and sign a consent form. All participants then completed a demographic questionnaire and questionnaires for another study. When all participants had completed the questionnaires, they were shown photographs of the plaintiff and defendant, then they heard the civil case facts and jury instructions on audiotape. The case involved a male plaintiff who claimed to have been sexually harassed, through coerced sexual intercourse, by his female supervisor while at work. The plaintiff sued both his supervisor (the individual defendant) and the employer (the corporate defendant). The case description was identical for all mock juries, however, each jury was randomly assigned to view one photograph of the plaintiff and one photograph of the individual defendant.

The mock jurors were asked to indicate, on an individual basis, the percentage of responsibility attributable to each of the parties involved in the incident. It was explained that the total amount of responsibility among the plaintiff, individual defendant, and corporate defendant had to equal 100%.

Following individual decisions, participants were asked to form a jury, select a foreperson, and deliberate until a unanimous verdict was reached on the responsibility. The group verdict was recorded by the foreperson on a

verdict form. After a verdict was reached, mock jurors were asked, once again, to indicate their individual opinions on responsibility.

Stimulus Photos

The original stimulus photographs depicted a young, white woman and a man. Photographs were altered by a graphic artist via a computer program. Computer-generated images yielded four photographs: a young white woman, a young black woman, a young white man, and a young black man. The photographs within gender were identical except for minor adjustments in the lips and nose of the black stimulus photos to make them more authentic.

RESULTS

Decisions Made Prior to Selection of Foreperson

The data file was split into black (n=44) and white participants (n=133). All other ethnic groups were eliminated from these analyses. An ANOVA was run with the race of the defendant and race of the plaintiff as the independent variables and the predeliberations decisions concerning the responsibility of the defendant as the dependent variable. There were no significant main effects or interaction effects for either black or white participants concerning the responsibility of the defendant.

Decisions of Forepersons

The data file was split into two groups: participants who would later become forepersons and those who would not become forepersons. An ANOVA was run on the forepersons with the race of the forepersons, race of the defendant, and the race of the plaintiff as the independent variables and responsibility of the defendant as the dependent variable. There were no significant interaction effects for the race of the forepersons and the race of the defendant or plaintiff.

Group Decisions

There were 12 juries of university students and 14 juries of jury eligible participants. An ANOVA with the race of the defendant, race of the plaintiff, and the race of the foreperson as the independent variables and the group

decision on the responsibility of the defendant as the dependent variable was significant for the interaction of the race of the defendant and the race of the foreperson ($F[1,26]=4.88, p=.040$). When the foreperson was black, much less responsibility was attributed to the black defendant ($M=31.0\%$) than the white defendant ($M=55.0\%$). There was no significant difference in responsibility for the black ($M=55.4\%$) and white ($M=50.0\%$) defendants when the foreperson was white. There were no main effects or other interaction effects. See Table 1.

Table 1. Mean Evaluations of Responsibility of Defendant

Pre-Deliberations Decisions on Responsibility of Defendant				
	Black Foreperson		White Foreperson	
	Blacks	Whites	Blacks	Whites
Black Defendant	37.6%	26.9%	50.0%	55.6%
White Defendant	68.0%	52.1%	46.9%	51.2%

Jury Decisions in Deliberations on Responsibility of Defendant		
	Black Foreperson	White Foreperson
Black Defendant	31.0%	55.4%
White Defendant	55.0%	50.0%

Post- Deliberations Decisions on Responsibility of Defendant		
	Black Foreperson	White Foreperson
Black Defendant	31.6%	55.6%
White Defendant	58.8%	50.4%

Individual Postdeliberations Decisions

An ANOVA was run with the race of the defendant and the race of the foreperson as the independent variables and the post deliberations decisions concerning the responsibility of the defendant as the dependent variable. There was a significant effect for: the race of the defendant ($F[1,194]=12.97, p=.0001$), the race of the foreperson ($F[1,194]=6.54, n=.011$), and the interaction between the race of the defendant and the race of the foreperson ($F[1, 194]=27.8, p=.0001$). Because both of the main effects are found in the interaction effect, only the interaction effect will be reported.

When the foreperson was black, the white defendant was seen as significantly more responsible ($M=58.75\%$) than the black defendant ($M=31.57\%$). When the foreperson was white, there was no significant differences in perceptions of the responsibility of the white defendant ($M=50.43\%$) and the black defendant ($M=55.55\%$). See Table 1.

Race of Participants

The data file was split into black ($n=44$) and white participants ($n=133$). All other ethnic groups were eliminated from these analyses. An ANOVA was run with the race of the defendant and the race of the foreperson as the independent variables and the postdeliberations decisions concerning the responsibility of the defendant as the dependent variable.

Black participants. There was a significant effect for the race of the defendant ($F[1,43]=10.1, p=.003$) and a significant interaction effect for the race of the defendant by the race of the foreperson ($F[1,43]=15.1, p=.0001$). Because the main effect is found in the interaction effect, only the interaction effect will be reported. When the foreperson was black, the black defendant ($M=37.6\%$) was perceived as much less responsible than the white defendant ($M=68.0\%$). When the foreperson was white, there was no significant difference in attributions of responsibility for the black defendant ($M=50.0\%$) and the white defendant ($M=46.9\%$).

White participants. There were significant main effects for the race of the defendant ($F[1,132]=6.54, p=.012$), the race of the foreperson ($F[1,132]=11.51, n=.001$), and a significant interaction effect for the race of the foreperson by the race of the defendant ($F[1,132]=13.15, n=.0001$). Be-

cause both of the main effects are found in the interaction effect, only the interaction effect will be reported. When the foreperson was black, the black defendant ($M=26.9\%$) was perceived as much less responsible than the white defendant ($M=52.1\%$). When the foreperson was white, there was no significant difference in attributions of responsibility for the black defendant ($M=55.6\%$) and the white defendant ($M=51.2\%$). See Table 1.

DISCUSSION

As hypothesized, differences in attributions of responsibility by race occurred only after the selection of a foreperson and deliberations. In addition, the differences in attributions of responsibility occurred only injuries in which the foreperson was black. In juries with white forepersons, there was no significant difference in attributions of responsibility for black and white defendants. In pre-deliberations decisions, the black and white defendants were perceived as equally responsible by both black and white participants. That is to say, coming into deliberations, participants did not differentiate responsibility based on the race of the defendant.

It was only after the selection of a black foreperson and deliberations that differences in attributions of responsibility by race were manifested. There is the possibility that black people who are outspoken and have stronger opinions were chosen as jury forepersons. In other words, it is conceivable that black forepersons with preconceived opinions influenced the other jurors. In order to eliminate the possibility that forepersons who attributed responsibility differently to black and white defendants imposed these opinions on the other jurors, an analysis was conducted to determine forepersons' attitudes prior to deliberations. There was no difference in attributions of responsibility based on race for either black or white forepersons prior to deliberations. In other words, it was the race, not the attitudes, of the black foreperson which determined the differential attributions of responsibility to the defendant. First we will examine the group decisions then discuss, in more detail, the individual postdeliberations decisions.

Jury Decisions

As hypothesized, the race of the foreperson had a significant effect on the decisions of the juries. When the foreperson was black, juries attributed

much less responsibility to the black defendant than the white defendant. No parallel effect was found for white defendants judged by juries with white forepersons. Apparently, the race of the black foreperson made the race of the defendant salient to the jurors. This difference could not be accounted for by black participants convincing the predominately white juries that the black defendant was less guilty, because black participants did not report differences in attributions of responsibility based on the race of the defendant prior to the group interaction. White participants also did not report differences in attributions of responsibility based on race prior to deliberations. This differential attribution of responsibility effect also could not be accounted for by black forepersons convincing the juries that the black defendant was less guilty. Again, neither black nor white forepersons made differential attributions of responsibility based on the race of the defendant prior to deliberations. Yet, despite having only 26 juries in the analysis, the juries with black forepersons attributed significantly less responsibility to the black defendant than to the white defendant. Therefore, we believe that when the foreperson was black, the race of the defendant became salient to the mock jurors.

Presumably, the predominately white mock jurors were concerned about how they were perceived and evaluated by other mock jurors. These white jury members wanted to present favorable impressions of themselves. These self presentations were affected by current norms, which maintain that people should not be prejudiced. Therefore, the mock jurors wanted to convey that they were not prejudiced to the other members of the jury. They accomplished this end by attributing less responsibility to the black defendant. In fact, the amount of responsibility attributed to the black defendant in the juries in which the foreperson was black was not only significantly less than the responsibility attributed to the white defendant, but also significantly less than the amount of responsibility attributed to the black or white defendant in the juries in which the foreperson was white. It would appear that these decisions demonstrated reverse discrimination. Instead of attributing more responsibility to a black defendant as mock jurors have in the past (21-23), juries in which race had become salient attributed much less responsibility to the black defendant.

Postdeliberations Decisions

Although neither black nor white participants attributed responsibility differently for the defendant based on race prior to deliberations, there were significant differences after deliberations. Mock jurors who deliberated in a jury in which the foreperson was black attributed significantly less responsibility to the black defendant than the white defendant. This same result was obtained separately for both the black and white participants. It would appear that, when the foreperson was black, the race of the defendant became salient, leading participants as a group and later individually to attribute less responsibility to the black defendant. It seems that participants, concerned with impression management, wanted to appear unprejudiced during deliberations. Because people behave in a manner which is consistent with their attitudes and beliefs (e.g., see 1), they want to convey an image of themselves as being unprejudiced because they believe themselves to be unprejudiced. Therefore, in the current scenario, mock jurors apparently internalized the lower amount of responsibility of the black defendant agreed upon in deliberations and continued to espouse that view even when privately reporting their individual attributions of responsibility after deliberations.

When the participants were divided by racial groups there was no support for prior research findings that jurors are more sympathetic to defendants of their own race (e.g., 21-23). Both black and white participants followed the same pattern of attributions: less responsibility was attributed to the defendant when the defendant was black, but only when the foreperson was black. The discrepancy between the findings in the current study and previous research could be due to the different case types under study: the current study was a civil case involving money damages as a means of righting a wrong whereas most previous studies were of criminal cases involving possible incarceration for the defendant. The consequences of being found responsible are, of course, less serious in a civil case.

We hypothesized that the race of the foreperson would influence the perceptions of the members of the jury in a way such that when the foreperson was black, more responsibility would be attributed to the white defendant than the black defendant. In contrast, when the foreperson was white, we hypothesized that there would be no difference in the responsibility attrib-

uted to the white defendant and the black defendant. Both hypotheses were strongly supported. When in a jury with a black foreperson, jurors attributed almost twice as much responsibility to the white defendant as to the black defendant. However, this was not the case for jurors when the foreperson was white. There was virtually no difference in attributions of black or white defendants injuries with white forepersons. Apparently, the race of a white foreperson does not make the race of the defendant salient. Or, more likely, jurors do not feel a need to demonstrate that they are not prejudiced toward the white defendant.

There has been considerable attention focused on white prejudice toward black defendants. Most members of society have been exposed to discussions centered on prejudice and do not consider themselves prejudiced. In fact, most people would be likely to try very hard to appear not to be prejudiced. It might be this reaction of the predominately white participants which explains both the differential treatment of black and white defendants when the foreperson was black and the lack of differential treatment when the foreperson was white. White members of a jury led by a black foreperson might be eager to demonstrate that they are not prejudiced toward blacks. The way that they could demonstrate their lack of prejudice would be to attribute less responsibility to the black defendant. The amount of responsibility attributed to the defendant was significantly less only for the black defendant in a jury with a black foreperson. The amount of responsibility attributed to all the other defendants was significantly higher. We believe that the dynamics involving both a black defendant and a black foreperson are different from the dynamics of other juries. In a jury with a white foreperson, members of the jury would not feel the necessity to demonstrate their non-prejudice and therefore, attribute the same amount of responsibility to the black defendant as the white defendant. The involvement of two blacks in prominent roles in a trial appears to account for the difference in the jury's decision making.

Attorneys and forensic psychologists who are involved in the jury selection process are advised to consider the group dynamics inherent within the jury that is ultimately selected. Given that only jurors who indicate that they can be fair to both sides are impaneled to decide a particular case, it does not appear an easy task to identify the types of jurors who are likely to exhibit

reverse discrimination. Indeed, the present research revealed an absence of reverse discrimination on the part of individual jurors before they heard about the case. Reverse discrimination was exhibited only among the jury as a group, once racial issues became salient. Judges typically instruct juries to decide cases without bias or prejudice; however, it is unlikely that juries would recognize reverse discrimination as a form of bias. The effect of judges' instructions, thus, is expected to be minimal. The practitioner, therefore, should be aware of the factors likely to cause reverse discrimination and, when involved in jury selection, attempt to select a jury as a group, as opposed to selecting individual jurors, in a way that minimizes these factors.

This research extends research findings concerning reverse discrimination. In prior research, individuals who either were found to demonstrate bias through physiological measures (9) or thought they demonstrated bias (16), were likely to display reverse discrimination. The current research indicates that people in groups exhibit reverse discrimination even if there is no prior evidence of their having any bias.

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