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Understanding Bias of Forensic Psychologists who Conduct Competency Evaluations with Minority Defendants

Melissa Arnold
Walden University

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Walden University

College of Social and Behavioral Sciences

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Melissa Arnold

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Walden University
2021

Abstract

Understanding Bias of Forensic Psychologists who Conduct Competency Evaluations

with Minority Defendants

by

Melissa Arnold

MPhil, Walden University, 2021

MS, Edgewood College, 2014

BA, Saint Louis University, 2011

Proposal Submitted in Partial Fulfillment

of the Requirements for the Degree of

Doctor of Philosophy

Forensic Psychology- Legal Issues Specialization

Walden University

August 2021

Abstract

Competency to stand trial (CST) evaluations may be the most common criminal forensic psychology evaluation. Due to the increased diversity of defendants within the legal system, forensic psychologists can be faced with major challenges regarding evaluation practices within various cultural groups. The purpose of this qualitative phenomenological research was to investigate how forensic psychologists' lived experiences help them to understand racial/ethnic bias when conducting CST evaluations on minority defendants. Implicit bias theory founded on the concept that all people have unconscious biases that affect decision-making and actions. The research question explored the lived experiences of forensic psychologists and the impact racial/ethnic bias has when conducting CST evaluations on minority defendants. Each participant had at least one year of experience conducting CST evaluations on minorities, were currently employed at a place where CST evaluations are conducted and were over the age of 18. Data collected from nine forensic psychologists were coded and placed into thematic categories and themes. Results indicated minority defendants were impacted by both negative (e.g., racial profiling, White privilege, making assumptions based off race and/or gender, and engaging in problematic practices/behaviors) and positive (e.g., continuing education and receiving guidance from academic resources and colleagues) effects. This research is significant to psychology professionals, teachers/professors, and persons of all racial/ethnic backgrounds due to creating awareness of racial/ethnic factors that affect CST evaluations, creating educational opportunities, and increasing insight which could hopefully lead to less bias within CST evaluations.

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Dedication

I dedicate this dissertation to my deceased father Army A. Young. My father was born in 1934 in an era that did not support him continuing his education. Growing up he always stressed to me the importance of obtaining a good education and he worked hard so I could obtain one. He passed away a few months before I graduated high school, but not before seeing me get my first acceptance letter for college. I promised him that I would continue in school as long as I am allowed to. I vowed to myself, after his death, that I would obtain the highest degree offered to honor him. In a world that told my father no to furthering his education now says yes to me. I know he would be so proud!

Next, I would like to dedicate this dissertation to mother, Vickie Young, sister, Amy Haymore, and my husband, Jason Arnold. Thank you all for continuing to encourage me throughout this journey, wiping away my tears, and refusing to let me give up. The level of support you have provided me is monumental. I am unsure how I will ever repay all of you. Love you all more than you will ever know. Having all of you as my support system has been a blessing and I will forever be grateful.

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I would like to take the time out to acknowledge Dr. Kristen Beyer for her constant motivation, support, and tireless efforts to help me succeed in completing this dissertation. Though the guidance of my committee members, the process of completing my dissertation was made manageable. I am beyond grateful for their continued support and encouraging words in times when I wanted to give up. Dr. Andrea Goldstein, thank you for your feedback and support with the content of my dissertation. Your insightful recommendations and feedback helped to enhance my dissertation. Again, thank you both for helping me reach my goal.

I would also like to thank my family, close friends, and colleagues for all of their support and patience during my dissertation process I am blessed to have all of you with me during this challenging journey. Furthermore, I am grateful to God for having people in my life who encouraged me and listened when I wanted to quit. Last, I would like to acknowledge all my participants who made this study possible.

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Chapter 1: Introduction to the Study

Introduction

Competency to stand trial (CST) evaluations are one of the most common evaluations forensic psychologists conduct (Mallory & Guyton, 2017). The concept of CST dates back to the 13th century Anglo-Saxon law, where it was found to be unfair and inhumane to have defendants that did not have mental compacity to make decisions regarding their legal proceedings (Mallory & Guyton, 2017). A combination of court rulings (e.g. Dusky v. United States (1960), Wieter v. Settle (1961), Wilson v. United States (1968), Drope v. Missouri (1975)) created what is often referred to as the “three prongs” of CST. The three prongs of CST include: (a) the defendant has a factual and rational understanding of the legal proceedings against them, (b) the defendant is able to assist the attorney, and (c) the defendant is able to participate in the defense (Mallory & Guyton, 2017). In the United States there are approximately 50 to 60 thousand CST evaluations that are conducted each year (Gowensmith et al., 2015). Forensic psychologists are called upon by the court to offer an objective psycho-legal opinion (e.g. written or verbal) regarding a defendant CST (Mulay et al., 2018). Over the recent decades, the cultural landscape within the United States has shifted significantly (Kois & Chauhan, 2016). As this cultural shift continues and the population diversifies, more forensic psychologist will most likely be asked to evaluate someone within a minority ethnic group (Canales et al., 2017).

In 2015, 86% of psychologists in the U.S. workforce were White, 5% were Asian, 5% were Hispanic, 4% were African American/Black, and 1% were multiracial or from

other racial/ethnic groups (Lin & Christidis, 2018, February). However, a cultural shift is also happening among professionals within the psychology field. Efforts to recruit diverse students into psychology continues to look promising. The percentage of racial/ethnic minority psychology graduate students grew from 27% in the 2006–2007 academic year to 35% in 2016–2017, with increases for every ethnic-minority (e.g., American Indian/Alaska Native, Multiethnic, Asian/Pacific Islander, African American/Black, and Hispanic/Latinx) (Bailey, 2020, January). However, while diversity continues to increase overall, the APA data also reveal some gaps. For example, although Blacks make up 13% of the U.S. population, they account for only about 5% of the psychology workforce and 10% of psychology students. In addition, Hispanics make up 18% of the population, and only represent only 4% of the psychology workforce and 12% of psychology students (Bailey, 2020, January).

Forensic psychologists must be sensitive to deliberate and automatic prejudices race/ethnicity could have within the forensic evaluation process, as their psycho-legal opinions can impact a defendant's legal outcome (McCallum et al., 2015; Weiss & Rosenfeld, 2012). It is a forensic evaluators' responsibility to seek, develop, and maintain cultural competence. Unfortunately, forensic psychologists' report they do not always engage in culturally competent evaluation practices (Kois & Chauhan, 2016; Mulay et al., 2018). Even areas of relative strength in forensic cultural competency (e.g. the development and availability of culturally informed forensic assessment instruments (FAIs)), most elements of the forensic evaluation process show limited cultural sensitivity (McCallum et al., 2015). For example, using the MacArthur Competence

Assessment Tool—Criminal Adjudication (MacCAT-CA) on minorities where English is their second language. The MacCAT-CA was developed with a theoretical basis in Bonnie's (1992) legal theory of competence (e.g. foundational and decisional competence), with some items modeled from the assessment of competence to consent to treatment (Wood et al., 2017). First, establishing clear communication with the person who is being evaluated is important. Understanding how language abilities may impact evaluations is critical for forensic evaluators (Kois & Chauhan, 2016). Evaluators should consider cultural norms and comfort level when making observations of an evaluatee's verbal and nonverbal communication habits. To avoid making errors, evaluators can ask for clarification or use an interpreter who is fluent in the preferred language to obtain a greater understanding of these evaluatees'.

There has been a lot of research exploring the impact of ethnicity on clinicians' decisions making, but there continues to be limited research examining the impact of a criminal defendant's ethnicity upon forensic mental health experts (McCallum et al., 2015). A forensic psychologist may hold negative beliefs that affect their attitude towards a minority defendant, but they may also hold other attitudes that influence their perception of a minority defendant (Ajoku, 2015). Research suggests that implicit biases can affect the way individuals perceive and interact with different group members, affect people's understanding from an early age, and could be consistently reinforced through societal messages (Lee, 2018). According to Hehman et al. (2019), implicit biases can change throughout a person's lifetime due to exposure to various life experiences (e.g. increased education and exposure of different cultures). Researchers argue the internal

reaction of the forensic psychologists lived experiences may provide valuable information to the evaluation process, as well as how these lived experiences may either enhance or negatively influence the evaluation process (Mulay et al. 2018).

Understanding forensic psychologists' lived experiences can offer insight into their "lifeworld" and potential influences within their CST evaluations of minority defendants (Hörberg, 2018).

The need for a study on the lived experiences of forensic psychologists who conduct CST evaluations on minority defendants is substantial given the limited amount of research examining the impact of race/ethnic bias upon forensic psychologists who conduct CST evaluations on minorities. The positive social change implications include creating awareness of racial/ethnic factors that affect CST evaluations and creating education opportunities for psychology professionals, teachers/professors, and persons of all racial/ethnic backgrounds. The following chapter will provide background to the present study, including the problem statement and purpose of study, research questions, theoretical framework, significance, nature of study, definition of key terms, assumptions, and limitations.

Background of the Study

CST evaluations may be the most common criminal forensic psychology evaluation (Mallory & Guyton, 2017). The concept of CST dates back to the 13th century Anglo-Saxon law, where it was found to be unfair and inhumane to have defendants that did not have mental compacity to make decisions regarding their legal proceedings (Mallory & Guyton, 2017). Forensic psychologists are called upon by the court to offer

an objective psycho-legal opinion (e.g. written or verbal) regarding a defendant CST (Mulay et al., 2018). Approximately 50,000 to 60,000 CST evaluations are conducted every year (Gowensmith et al., 2015). Due to the increased diversity of defendants within the legal system, forensic psychologists can be faced conducting CST evaluations on various cultural groups (Hays, 2016). Forensic psychologists must be sensitive to deliberate and automatic prejudices race/ethnicity could have within the forensic evaluation process, as their psycho-legal opinions can impact a defendant's legal outcome (McCallum et al., 2015; Weiss & Rosenfeld, 2012).

A general lack of research emerges from the review of literature on how forensic psychologists understand racial/ethnic bias when conducting CST evaluations. Only a few studies focused on potential racial discrepancies in CST evaluations and whether they are exacerbated by professional experience. Previous research suggest that the CST process may be impacted by irrelevant factors (e.g. defendant's race and cultural background) (Harris & Weiss, 2018). Bias against minorities continues to remain an important issue which calls for an impartial stance and culturally competent practices of forensic psychologists (Mulay et al., 2018). Evidence of biases can be found through self-examination, looking at data from our own practices, using standardized tests of social biases (e.g. implicit association test), and thoughtful peer review (Parker, 2016). Research suggests that many forms of bias, such as racial and implicit bias influence observable behavior, and likely impact decision making within a forensic evaluation (Mulay et al., 2018).

In the 1970s implicit bias arose when researchers found that most people have biases of prejudicial thoughts towards certain groups of people and subjects without them being aware of them (Ungvarsky, 2019). These attitudes were assumed to have developed over time from personal experiences and are displayed automatically when a person is exposed to a representation of it. The premise of implicit bias theory, in forensic psychology, is that forensic psychologists' have unconscious biases that cause them to make prejudicial decisions against individuals processed in the mental health system (Woods, 2018). Racial bias is a general label for any psychological process or behavior that disadvantages members of a particular race or ethnic group (Hunt, 2015). Only a few studies focused on potential racial discrepancies in CST evaluations and whether they are exacerbated by professional experience. The fact that racial biases are often implicit and expressed in subtle ways poses several challenges for the justice system and forensic psychologists alike. Although researchers have studied many forms of bias, there is limited research conducted on the impact of racial/ethnic bias when conducting CST evaluations of minority defendants. Therefore, this study focused on the lived experiences of forensic psychologists' and the impact racial/ethnic bias has when conducting CST evaluations on minority defendants.

Problem Statement

Forensic psychologists' play an important role in the American criminal and civil justice system by performing psychological evaluations of people involved in the legal system (McClure, 2020). CST evaluations may be the most common criminal forensic psychology evaluation (Mallory & Guyton, 2017). Due to the increased diversity of

defendants within the legal system, forensic psychologists can be faced with major challenges regarding evaluation practices within various cultural groups (Hays, 2016). Research suggests that many forms of bias, such as racial and implicit bias influence observable behavior, and likely impact decision making within a forensic evaluation (Mulay et al., 2018). Similarly, common measures used in standardized evaluations are not equally developed or validated for individuals who come from minority ethnic and cultural backgrounds (Hays, 2016; Weiss & Rosenfeld, 2012). For example, marginalized groups may score higher on risk evaluation tools due to their increased exposure to risk and social inequality, rather than a higher propensity for perpetrating crime (Perrault et al., 2017). Bias against minorities continues to remain an important issue which calls for an impartial stance and culturally competent practices of forensic psychologists (Mulay et al., 2018).

Forensic psychologists must be sensitive to deliberate and automatic prejudices race/ethnicity could have within the forensic evaluation process, as their psycho-legal opinions can impact a defendant's legal outcome (McCallum et al., 2015; Weiss & Rosenfeld, 2012). Unfortunately, forensic psychologists' report they do not always engage in culturally competent evaluation practices (Kois & Chauhan, 2016; Mulay et al., 2018). Culturally competent evaluation practices may include using restandardized instruments to help the collections of norms from samples that are most representative of the population at large, establishing separate norms for specific racial, ethnic, and language groups, and creating new tests that emanate from underrepresented cultures themselves and assess the skills and knowledge that are valued by those cultures (Hays,

2016). A lack of cultural competence from a forensic psychologist adds to the minority group member's belief that he or she is being mistreated within the criminal justice system. Despite this information, there continues to be limited research examining the impact of a criminal defendant's ethnicity among forensic psychologists' (McCallum et al., 2015).

Even areas of relative strength in forensic cultural competency (e.g. the development and availability of culturally informed forensic assessment instruments (FAIs)), most elements of the forensic evaluation process show limited cultural sensitivity (McCallum et al., 2015). For example, minorities are found to be more dangerous or violent than Caucasian counterparts (Mulay et al., 2018). Other research found minority defendants were 1.5 times more likely to be found not competent to stand trial if they have been diagnosed with a psychotic disorder, are unemployed, and have a history of psychiatric hospitalization (Mulay et al., 2018; Pirelli et al., 2011). According to McCallum et al. (2015), forensic evaluators should be more aware of how minorities treatment history can impact their CST evaluations. A review of forensic reports found that Asian populations were found incompetent to stand trial significantly more than other ethnic groups in cases involving nonviolent charges and misdemeanors but no difference among ethnic groups in cases involving more serious charges (McCallum et al., 2015). The results from this study suggest that the Asian population, in this sample, experienced more intense mental health symptoms when being considered for the evaluation and during the evaluation itself (McCallum et al., 2015). McCallum et al. (2015) suggest forensic evaluators should become more aware of how a defendant's

race/ethnicity may lead to disproportionate engagement with mental health and/or criminal justice systems and how this may impact their CST evaluation process as well.

Forensic psychologists, conducting CST evaluations, assess the defendant's mental state to determine if they understand the legal proceedings against them enough to go to trial (Paradis et al., 2016). Most researchers agree that personal biases and attitudes play a significant role in forensic psychologists' decision making (Coons, 2018). Implicit bias is unconscious negative attitudes toward a person that can affect understanding and decision-making outcomes within CST evaluations (Hehman et al., 2019; Ungvarsky (2019). A forensic psychologist may hold negative beliefs that affect their attitude towards a minority defendant, but they may also hold other attitudes that influence their perception of a minority defendant (Ajoku, 2015). According to Hehman et al. (2019), implicit biases can change throughout a person's lifetime due to exposure to various life experiences (e.g. increased education and exposure of different cultures). Understanding forensic psychologists' lived experiences can offer insight into their "lifeworld" and potential influences within their CST evaluations of minority defendants (Hörberg, 2018).

Purpose of the Study

The purpose of this study is to provide qualitative research examining how forensic psychologists', who conduct CST evaluations on minority defendants, understand bias. Specifically, the current study is designed to examine how forensic psychologists' lived experiences help them to understand racial/ethnic bias when conducting CST evaluations on minority defendants. The study describes forensic psychologists' lived experiences that enabled their psycho-legal opinion within a CST

evaluation, the specific strategies used to decrease bias and increase objectivity, and problems, challenges, and/or barriers in applying nonbiased practices within the CST evaluation process.

Research Question

RQ–Qualitative: How do lived experiences help forensic psychologists understand racial/ethnic bias when conducting CST evaluations?

Theoretical Framework

Implicit bias theory is founded on the concept that all people have unconscious biases that affect decision-making and actions (Woods, 2018). The premise of implicit bias theory, in forensic psychology, is that forensic psychologists' have unconscious biases that cause them to make prejudicial decisions against individuals processed in the mental health system. Therefore, implicit bias theory suggests that if people are educated about their biases, they will be less likely to act on them (Woods, 2018). However, the unconscious nature of implicit bias can create challenges when it comes to a forensic psychologist assessing themselves, due to self-reports of bias being unreliable (Woods, 2018). Considering implicit bias self-report constraints forensic psychologists may face, researchers from several fields have developed assessments that seek to measure implicit cognition (Greenwald et al., 1998; Suter et al., 2017). An avenue for measuring implicit cognition is priming methods in which a subliminal initial prime (e.g. subconscious thought or feeling) influences or increases the sensitivity of a forensic psychologist's subsequent behaviors (Tinkler, 2012; Suter et al., 2017). Increasing awareness of implicit

bias should be a significant focus of training for those who seek specialized training in forensic psychology so that individuals can be treated fairly (Mulay et al., 2018).

According to Ungvarsky (2019), implicit bias refers to unconscious negative attitudes toward a person, place, or thing that can affect understanding, actions, and decisions. Implicit bias influence decision-making and outcomes and have been used to assess a variety of attitudes (Hehman et al., 2019). A person who exhibits implicit bias is unaware he or she possess bias and will most likely deny having bias if challenged. Implicit biases can change over time due to life experiences, increased education, and exposure to different cultures (Hehman et al., 2019). Research suggests that when an individual try to suppress implicit biases that such bias can often be more noticeable (Lee, 2018). Forensic psychologists are encouraged to reflect upon inwardly held negative attitudes, seek supervision or consultation when needed, and to preserve professional and personal boundaries (Mulay et al., 2018).

According to Acklin et al. (2015), there are several other forms of bias forensic psychologists may encounter. Forensic psychologists' who perform CST evaluations may also experience "partisan allegiance," which is defined as an extreme form of bias that favors the party who retained the forensic expert (Acklin et al., 2015). For example, Murrie et al. (2013) research identified a clear pattern of adversarial allegiance when risk scores were assigned by prosecution and defense experts (Acklin et al., 2015; Murrie et al., 2013). The researchers also suggest "there is little reason to believe that this is the only kind of forensic psychological evaluation vulnerable to allegiance effects" (p. 8) (Acklin et al., 2015; Murrie et al., 2013). Other factors that could influence an examiner's

performance are deficiencies in the evaluation model, implicit or explicit examiner biases, extraneous factors, and costs of errors (Miller & Brodsky, 2011; Murrie et al., 2013). Using validated forensic assessment instruments (FAIs) and checklists helps improve the quality of data, organize report information, and counteract decision-making biases such as prereflective or implicit biases (Miller & Brodsky, 2011; Murrie et al., 2013).

Nature of the Study

The nature of this study is qualitative with a phenomenological qualitative approach (Gustafsson et al., 2013). Keeping the focus on understanding the lived experiences of forensic psychologists', a phenomenological approach was used to analyze and interpret interviews with forensic psychologists' who have experience conducting CST evaluations on minorities. Phenomenology is a methodology that focuses on peoples' perceptions of the world, personal experiences, and understanding the essence of these experiences (Sloan & Bowe, 2014). Within the phenomenological approach, the interview process focuses on capturing the lived experiences of participants. Specifically, the interview involves an informal interactive process aimed to evoke a comprehensive account of the person's experience of the phenomenon (Patton, 2015). The choice to interview participants, in-person or remotely, offers forensic psychologists' the opportunity to respond in their own words and to express their perspectives. This approach would work for this study because it involves several forensic psychologists' that have shared the experience (e.g. conducting CST evaluations). Additionally, this approach will help the researcher analyze data for

significant statements, descriptions, and meanings regarding the essence of his or her experiences.

Definition of Terms

The following terms and phrases are defined, as they were used in this study:

Competency to stand trial (CST): Refers to whether the defendant has a factual and rational understanding of the legal proceedings against them, is able to assist the attorney, and is able to participate in the defense.

Forensic psychologist: Psychology professionals who are called upon by the court to offer an objective psycho-legal opinion (e.g. written or verbal) regarding a defendant CST (Mulay et al., 2018).

Racial bias: A general label for any psychological process or behavior that disadvantages members of a particular race or ethnic group. Racial bias involves the tendency to show ingroup favoritism by making judgments and engaging in behaviors that benefit members of one's own group (Hunt, 2015).

Implicit bias: Unconscious negative attitudes towards a person, place, or thing that can affect understanding, actions, and decisions. Implicit biases can change throughout a person's lifetime due to exposure to various life experiences (e.g. increased education and exposure of different cultures) (Hehman et al., 2019; Ungvarsky, 2019).

Biasability: The potential effects of irrelevant contextual information and other biases that may impact the decision (Dror & Murrie, 2018).

Empathy bias: The impact of attitudes on social behavior (e.g. situations in which strong feelings are aroused elicit the greatest effects) (Neal, 2018).

Bias blind spot: The tendency to recognize biases in others while denying the existence of those same biases in oneself (Zapf & Dror, 2017).

Implicit bias theory: Founded on the concept that all people have unconscious biases that affect decision-making and actions (Woods, 2018).

Bias-of-the-crowds theory: Is “understanding unintended discrimination requires appreciating the power of the situation” (Payne et al., 2017).

Bias-of-the-test theory: Builds on the cultural knowledge account of indirect measures and acknowledges these measures as “noisy measures” (e.g. changes in the evaluation or evaluation session) of cultural knowledge (Mitchell, 2017).

Assumptions, Limitations, and Delimitations

I assumed that participants would be comfortable being interviewed, truthful in the responses they provide during the interview, and would not intentionally withhold information or misstate responses in the interview. Open-ended questions were used during interviews to avoid influencing the responses of participants. Confidentiality and privacy were emphasized in the informed consent procedure to encourage the participants to be as open and honest as possible during the interview.

One of the limitations of the study is its population, as forensic psychologists are the only participants to be interviewed. The forensic psychologists experience may be different from what is represented in their previous CST evaluation outcomes of minority defendants. As a result, a limitation in this study was relying on the perceptions of forensic psychologist and not reviewing their previous CST evaluation outcomes. The study’s results may not be generalized to the general population, as the research focused

on a specific population. The population was limited to forensic psychologists' who have at least one year of direct experience conducting CST evaluations on minorities and are currently employed at a place where CST evaluations are conducted (e.g. mental health institutions, private practice, or independent contractors).

Significance

The current study focused on examining lived experiences of forensic psychologists' who conduct CST evaluations on minority defendants. It also sought to understand the potential role of bias when conducting CST evaluations on minorities. The results of the study provides insight into how forensic psychologists' lived experiences influence attitudes, the potential role of bias, and decision making within CST evaluations. Additionally, this study helps promote positive social change by creating awareness of racial/ethnic factors that affect CST evaluations and create education opportunities for psychology professionals, teachers/professors, and persons of all racial/ethnic backgrounds.

Summary

There have been numerous research studies conducted on bias. The limited research is reviewed to better understand the impact racial/ethnic bias has on forensic psychologists who conduct CST evaluations on minorities. Racial Bias is a general label for any psychological process or behavior that disadvantages members of a particular race or ethnic group. Racial bias involves the tendency to show ingroup favoritism by making judgments and engaging in behaviors that benefit members of one's own group (Hunt, 2015). However, in the wider context of the whole society, the impact of

racial/ethnic bias on forensic psychologists is equally significant. In Chapter 2, I will review the research that has been conducted to provide a detailed discussion of how racial/ethnic bias can impact CST evaluations conducted on minorities and the consequences it brings. In Chapter 3, the research methods used for this study will be discussed including the research design and approach, procedures, instrumentation, data collection and analysis, as well as the ethical protections.

Chapter 2: Literature Review

Introduction

The problem being addressed by this study is the need to conduct research on the lived experiences of forensic psychologists to help gain insight on the impact of racial/ethnic bias when conducting CST evaluations of minority defendants. The purpose of this research is to investigate how forensic psychologists' lived experiences help them to understand racial/ethnic bias when conducting CST evaluations on minority defendants.

CST evaluations may be the most common criminal forensic psychology evaluation (Mallory & Guyton, 2017). Due to the increased diversity of defendants within the legal system, forensic psychologists can be faced conducting CST evaluations on various cultural groups (Hays, 2016). Research suggests that many forms of bias, such as racial and implicit bias influence observable behavior, and likely impact decision making within a forensic evaluation (Mulay et al., 2018). Although researchers have studied many forms of bias, there is limited research conducted on the impact of racial/ethnic bias when conducting CST evaluations of minority defendants. Therefore, this study focused on the lived experiences of forensic psychologists' and the impact racial/ethnic bias has when conducting CST evaluations on minority defendants. Bias against minorities continues to remain an important issue which calls for an impartial stance and culturally competent practices of forensic psychologists (Mulay et al., 2018). Furthermore, most elements of the forensic evaluation process show limited cultural sensitivity (McCallum et al., 2015). Forensic psychologists must be sensitive to deliberate and automatic prejudices race/ethnicity could have within the forensic evaluation process,

as their psycho-legal opinions can impact a defendant's legal outcome (McCallum et al., 2015; Weiss & Rosenfeld, 2012). The above information further shows the significance of conducting research on forensic psychologists' who conduct CST evaluations on minority defendants. As such, this study focused on the lived experiences of forensic psychologists' and the impact racial/ethnic bias has when conducting CST evaluations on minority defendants.

A general lack of research emerges from the review of literature on how forensic psychologists understand racial/ethnic bias when conducting CST evaluations. This review of literature provided an overview of literature on the problem examined in this study in order to show the gaps in the literature and the rationale for conducting this study. This chapter is divided into three sections. The first section will focus on the theoretical foundation for the study. The theoretical foundation of this study is grounded on implicit bias theory. Implicit bias theory is founded on the concept that all people have unconscious biases that affect decision-making and actions (Woods, 2018). The second section will provide a review of literature in which the constructs of the problem explored in the study will be examined. These components were examined in the following subsections: CST, role of forensic psychologist, role of race/ethnicity, role of mental health, measuring competence, field reliability and validity, bias, theories, racial bias and cultural competence, measuring bias, and reliability and validity. The literature review will end with a summary of the findings of the chapter.

Literature Search Strategy

The strategy used to obtain the literature for this study was through the library at Walden University and Google scholar. Specifically, the databases used to locate research were; EBSCO, Psychology, ProQuest Central, Medline, PsycBOOKS, and Science Direct. Google scholar was also used to help further research. The key terms used to search for relevant literature on these databases were *bias, race/ethnicity, forensic evaluation, forensic psychology, attitude, competency evaluations, and decision making*. The review consisted primarily of peer-reviewed studies published in the preceding five years in order to ensure the inclusion of relevant and recent developments in the field. In efforts to include foundational and influential studies on the problem examined in the study, the review also includes a few older studies. The studies published in the last 5 years formed 90%, and the studies published before 5 years formed 10% of the complete reviewed literature.

Theoretical Foundation

The purpose of this research was to investigate how forensic psychologists' lived experiences help them to understand racial/ethnic bias when conducting CST evaluations on minority defendants. The purpose consisted of two major constructs that form the foundation of the study: the consequences of racial/ethnic bias when conducting CST evaluations on minorities and the role forensic psychologist's lifeworld have in how these consequences are shaped. The theoretical framework was chosen to ensure that the framework grounding the study addressed both these constructs. Therefore, implicit bias theory was chosen to form the theoretical framework of the study. The former addresses

the consequences of racial/ethnic bias when conducting CST evaluations on minority defendants, while the latter highlights how forensic psychologist's lived experiences affect how they conduct CST evaluations on minorities.

Racial bias is a general label for any psychological process or behavior that disadvantages members of a particular race or ethnic group (Hunt, 2015). Evidence of biases can be found through self-examination, looking at data from our own practices, using standardized tests of social biases (e.g. implicit association test), and thoughtful peer review (Parker, 2016). Previous research suggest that the CST process may be impacted by irrelevant factors (e.g. defendant's race and cultural background) (Harris & Weiss, 2018). Only a few studies focused on potential racial discrepancies in CST evaluations and whether they are exacerbated by professional experience. The fact that racial biases are often implicit and expressed in subtle ways poses several challenges for the justice system.

Growing literature informed by the legal movements of Critical Race Theory and Critical Race Realism are still exploring how discriminatory outcomes that result from implicit biases can be addressed and remediated under legal doctrines that are structured around intentionality (Hunt, 2015). However, determining when and why race influences judgments and behaviors, requires understanding concepts and theories from social psychological research on prejudice, stereotyping, and discrimination (Hunt, 2015). Aversive racism theory asserts most people want to be nonbiased, but many continue to have unwanted negative associations and discomfort with racial minorities due to psychological processes that differentiate between groups, exposure to prejudicial

statements, and stereotypical imagery (Hunt, 2015). In situations where race is salient, aversive racism may be influenced by negative racial associations and make biased judgments about minorities without realizing it (Hunt, 2015).

The tendency to favor members of one's ingroup may be an evolved psychological mechanism due to humans having to cooperate with and rely upon close social networks in order to survive. Regardless, ingroup favoritism can exist even without feelings of hostility toward outgroups. Thus, favoritism toward same-race individuals may be a stronger contributor to racial disparities than negative attitudes toward outgroups (Hunt, 2015). As this cultural shift continues within the United States and the population diversifies so will the concern within the sub-specialty of forensic evaluations (Kois & Chauhan, 2016). Regardless, it is the forensic evaluators' responsibility to seek, develop, and maintain cultural competence when conducting forensic evaluations with diverse populations (Kois & Chauhan, 2016).

Implicit bias has become an important topic within society when considering how human experiences and the ways we interpret them create hidden biases we all naturally carry within (Parker, 2016). In the 1970s implicit bias arose when researchers found that most people have biases of prejudicial thoughts towards certain groups of people and subjects without them being aware of them (Ungvarsky, 2019). These attitudes were assumed to have developed over time from personal experiences and are displayed automatically when a person is exposed to a representation of it. The premise of implicit bias theory, in forensic psychology, is that forensic psychologists' have unconscious biases that cause them to make prejudicial decisions against individuals processed in the

mental health system (Woods, 2018). Implicit bias theory suggests that if people are educated about their biases, they will be less likely to act on them. The unconscious nature of implicit bias can create challenges when it comes to a forensic psychologist assessing themselves, due to self-reports of bias being unreliable (Woods, 2018). Research suggests that when an individual try to suppress implicit biases that such bias can often be more noticeable (Lee, 2018). Additionally, a person who is exhibiting implicit bias is typically unaware of them doing so and would likely deny having implicit bias if challenged (Ungvarsky, 2019). An avenue for measuring implicit cognition is priming methods in which a subliminal initial prime (e.g. subconscious thought or feeling) influences or increases the sensitivity of a forensic psychologist's subsequent behaviors (Suter et al., 2017; Tinkler, 2012). Psychologists claim that everyone has some level of implicit bias and the best way to overcome it is intergroup contact or exposure to the subject of the bias and antibias strategies (Ungvarsky, 2019). An assumption of this study is that CST evaluations conducted on minorities are assumed to be affected by forensic psychologists lived experiences.

Literature Review

Competency to Stand Trial

CST evaluations may be the most common criminal forensic psychology evaluation (Gowensmith, 2019; Mallory & Guyton, 2017). The concept of CST dates back to the 13th century Anglo-Saxon law. In legal proceedings during this time, defendants were required to enter a plea as part of the process. However, some defendants would not say anything, and courts sought to distinguish those who were

“mute by visitation of God” from those who stood “mute by malice” (Mallory & Guyton, 2017). The group considered being mute by a visitation of God was viewed as afflicted in some manner, and punishing these individuals was viewed as unfair for multiple reasons. Punishing such individuals was considered extremely inhumane and cruel (Mallory & Guyton, 2017). Furthermore, they believed individuals so disordered would be unable to defend themselves in an adversarial process, which would violate one of the basic tenets of Anglo-Saxon jurisprudence (Mallory & Guyton, 2017).

The 13th century Anglo-Saxon law ideologies listed above were brought into the development of early American law. For example, the *Youtsey v. United States* (1899) case. Youtsey was a criminal defendant with epilepsy who claimed that his condition impaired his memory and ability to communicate with his attorney. Despite his claims he was tried and convicted of his crimes. The Court of Appeals overturned this conviction due to doubting that Youtsey could appreciate his legal situation or communicate relevantly with his attorney. This case helped to establish the premise in American law that defendants must be aware of their legal situation and able to defend themselves against charges (Mallory & Guyton, 2017). The due process clause of the 14th Amendment guarantees that states cannot deprive citizens of the rights guaranteed to them in the Bill of Rights, including those held in the Sixth Amendment. The Sixth Amendment is interpreted to mean that a defendant must be able to understand and participate in the criminal court process (Mallory & Guyton, 2017). Therefore, defendants who are unable to appreciate the criminal proceedings against them cannot effectively confront accusers or assist counsel. Ensuring that defendants are competent

serves two functions, protecting the defendant and protecting the court's interest in a fair proceeding (Mallory & Guyton, 2017).

Despite CST having a long legal history, there was little guidance regarding how to define this construct. One of the first attempts to define the constructs of CST was the *Dusky v. United States* (1960) case. In this case the Supreme Court opined that it is not enough for the district judge to find that the defendant is oriented (e.g. time and place) and has some recollections of events, but it should also be determined if a defendant has sufficient present ability to consult with their lawyer with a reasonable degree of rational understanding and if they have a rational and factual understanding of the proceedings against them (Mallory & Guyton, 2017). This Supreme Court statement within the *Dusky* case helped to form the basis for American criminal law with regard to CST.

Competency includes two prongs: (a) factual and rational understanding and (b) the ability to rationally consult with an attorney (Mallory & Guyton, 2017). The first prong covers static knowledge such as the accusations, the range of potential punishments, and knowledge of how the legal system functions. Whereas the second prong stresses that the defendant must be able to apply that knowledge to the legal case and work with the defense attorney. Although the *Dusky* case was fundamental in setting the competency standard, it provided little guidance in how to determine how much legal knowledge a defendant must possess or how well a defendant must work with the attorney (Mallory & Guyton, 2017).

In 1961 the U.S. District Court decision in *Wieter v. Settle* expanded on *Dusky* case and outlined eight functional abilities defendants must have: demonstrate mental

compacity (e.g. time, place, and things), understand they are in court due to criminal charges, the role of the judge, role of the prosecutor, and role of the defense attorney, have the ability to tell the defense attorney about the alleged offense, understand that a jury may decide on their guilt, and they must have sufficient memory to recall the events (Mallory & Guyton, 2017). In 1968, the *Wilson v. United States* case further expanded on the *Wieter* case to include six factors to be considered when a defendant cannot recall pertinent case-related events (Mallory & Guyton, 2017).

The *Wilson* factors require the court to consider (a) how amnesia affects the defendant's ability to consult with counsel, (b) how amnesia affects the defendant's ability to testify, (c) evidence relating to the crime or potential alibis, (d) how the government assisted the defendant and defense counsel in reconstructing the evidence, (e) the strength of the prosecutor's case, and (f) any other facts and circumstances that would indicate whether the defendant had a fair trial (Mallory & Guyton, 2017). Finally, in 1975, the Supreme Court expanded the definition of competency in the *Drope v. Missouri* case to include a defendant must be able to demonstrate factual and rational understanding and be able to assist counsel in preparing the defense strategy (Mallory & Guyton, 2017). The combination of these court rulings created what is often referred to as the "three prongs" of CST. The "three prongs" of CST refers to whether the defendant has a factual and rational understanding of the legal proceedings against them, is able to assist the attorney, and is able to participate in the defense (Mallory & Guyton, 2017).

Competency is a construct that runs throughout the defendant's contact with the judicial system. One area of controversy that emerged was whether the test for CST was

the same as for competency to proceed without an attorney (frequently referred to as proceeding pro se). This question was addressed in the Supreme Court decision of *Godinez v. Moran* (1993) (Mallory & Guyton, 2017). While committing a robbery, Richard Moran shot and killed two people then nine days later he shot and killed his ex-wife and attempted suicide by shooting himself and cutting his wrist. His CST was evaluated by two psychiatrists who agreed that although depressed, Moran was competent. However, three months later he discharged his public defender, pled guilty to all three counts, refused to allow any mitigating evidence to be presented, and was sentenced to death. When appealing his death sentence Moran argued that he was mentally incompetent to defend himself, but his appeal was rejected by the Nevada Supreme Court and a habeas corpus appeal was denied by the Federal District Court. In the Court of Appeals, his appeal was upheld, citing the trial court's error in not considering that Moran's competency to waive counsel required a higher level of functioning than described in *Dusky*. In addition, that a defendant who waives counsel or pleads guilty must be able to demonstrate "capacity for reasoned choice among those choices available" (p. 394). However, when the Supreme Court reviewed the Court of Appeals findings, they disagreed stating that these various competencies (e.g. to stand trial, plead guilty, waive counsel) were the same; a defendant competent to stand trial is also competent to waive counsel (Mallory & Guyton, 2017).

A more recent case suggested a different course of reasoning by the Supreme Court. In the *Indiana v. Edwards* (2008) case, Edwards was arrested for stealing a pair of shoes and subsequently shooting three people. Edwards was found incompetent for the

first 5 years after his arrest but was eventually determined to be competent to stand trial. The first trial resulted in a hung jury and Edwards requested to waive counsel before the second trial. His request was initially granted but later retracted due to noticing that Edwards's ability to conduct the defense was poor. He was again represented and convicted on all counts. Edwards appealed, citing the *Godinez* case and *Faretta v. California* (1975) which stated a defendant's right to self-representation when that choice is made knowingly and intelligently. Despite the Indiana Supreme Court agreeing with Edwards, the U.S. Supreme Court did not, deciding that the right to waive counsel can be limited if the defendant does not have sufficient mental capacity to conduct the trial by himself (Mallory & Guyton, 2017). It remains to be seen how future courts will interpret the Edwards decision and if more specific guidance is needed about the factors that courts will use to determine competency to waive counsel (Mallory & Guyton, 2017).

In the *Dusky* case, the United States Supreme Court established "rational understanding" as a necessary component of a defendant's competency to stand trial, but no attention was given to the definitions of rationality (Ragatz et al., 2015). Considering the courts have allowed competency statutes to vary, it is acceptable for a statute to use "rational manner" (e.g. behavioral test) or "rational understanding" (e.g. cognitive test) (Ragatz et al., 2015). Only three U.S. cases (*United States v. Blohm*, 1983; *United States v. Nagy*, 1998; *United States v. Timmins*, 2002) have specifically outline rational abilities (Ragatz et al., 2015). Consequently, this leaves forensic evaluators with inconsistent definitions of rational when assessing competency to proceed in trial. Despite competency statutes varying across jurisdictions, all include the basic components

outlined in the Dusky case (Ragatz et al., 2015). Forensic evaluators must gain an understanding of case law and rationality to conduct appropriate and comprehensive competency to proceed to trial evaluations (Ragatz et al., 2015).

Role of Forensic Psychologist

Forensic psychologists are called upon by the court to offer an objective psycho-legal opinion (e.g. written or verbal) regarding a defendant CST (Mulay et al., 2018). Approximately 50,000 to 60,000 CST evaluations are conducted every year (Gowensmith et al., 2015). Nationally, psychologist and psychiatrist are considered the most eligible professionals with statutory authority to conduct CST evaluations (Gowensmith et al., 2015). However, 15 states allow other disciplines (e.g. social workers, master's level counselors, and other licensed mental health professionals) to conduct CST evaluations (Gowensmith et al., 2015). Whereas, only two states continue to limit the pool of eligible professionals to psychiatrists (Gowensmith et al., 2015). This inconsistency raises questions about what level of training is needed to conduct a CST evaluation. CST evaluations are rarely simple, as there are often other factors impacting competency (Gowensmith et al., 2015). At the basic level of knowledge, training in competency is related to mental health and clinical interviewing, which would make it reasonable for other mental health disciplines to complete CST evaluations. However, CST evaluations often focus on issues of capacity and linkages to psycho-legal terminology and definitions, which require an advanced skill set in the professional's training program (Gowensmith et al., 2015). Regardless of discipline, professional conducting CST evaluations must receive specialized training to assess for malingering, exaggeration, and

secondary gain related to CST and cultural differences to manage such factors accurately (Gowensmith et al., 2015). Universally, not all mental health professionals are provided with the training to address such complexities but will require sophisticated trainings to help foster skills needed to complete CST evaluations.

As the field and science of CST evaluations continues to evolve, all evaluators could benefit from ongoing training (Gowensmith et al., 2015). More than half of the U.S. do not have a mandatory certification process to certify potential CST evaluators (Gowensmith et al., 2015). Whereas some states have long-standing certification processes with rigorous standards in place for evaluators maintenance of certification and procedures for decertification (Gowensmith et al., 2015). This inconsistency leaves questions about whether evaluators are using similarly rigorous standards that are used in other jurisdictions when conducting CST evaluations of defendants. Considering the importance of quality for forensic evaluations, certification programs could help improve the reliability and quality of CST reports (Gowensmith et al., 2015). Most states assign one evaluator to a CST case to receive an opinion of a defendant's CST (Gowensmith et al., 2015). Previous research indicated, when using multiple evaluators for CST opinions, they often do not agree (Gowensmith et al., 2015). Judd and Parker (2018), results showed evaluator rates of agreements for CST opinions may not be as high as indicated in previous research due to some forensic evaluators working independently in the community. Evaluator disagreement offers the courtroom personnel to consider the rationale for each evaluator's opinion to create a better understanding of the defendant's true capacities (Gowensmith et al., 2015). Additionally, given the high financial and

social costs of inpatient hospitalization for restoration, states might want to consider using multiple CST opinions versus a one-evaluator system (Gowensmith et al., 2015). Future research should ascertain the qualifications of individuals who are authorized to conduct CST evaluations and the specifics and effectiveness of competency assessment trainings, peer review processes, and quality improvement and certification processes.

As the number of CST evaluations continue to rise in the United States, it is causing many states to struggle to meet its demands, lawsuits and legal issues regarding delays for CST services, and potential for harm these delays present (Gowensmith, 2019). Courts ruled competency evaluators should make definitive opinions of CST evaluations within 15 days of court orders (Gowensmith, 2019). However, research suggest conducting evaluations too soon (e.g. within 15 days) may correlate with artificially inflated incompetence to stand trial rates (Gowensmith, 2019). When CST evaluations increase so does the need for restoration services (Gowensmith, 2019). No specific reason has been identified to explain the increase in CST evaluation and restoration cases. However, Gowensmith (2019) article explored several factors that could explain this increase: ineffective community mental health service systems, increased mental health knowledge among courtroom personnel, and access to mental health services (Gowensmith, 2019). Gowensmith (2019), suggests forensic mental health professionals are uniquely qualified to shape the evolution of competency-related services into a humane and effective system and provide insight into policy changes regarding the timing of competency evaluations, certification of evaluators, alternatives to inpatient restoration, and changes to evaluations and the associated reports. The fact still remains

that the demand for CST evaluations far outweighs the capacity for most systems to keep up, resulting in potential for harm towards defendants.

Ethically, forensic evaluators are recommended to begin in-person CST evaluations by explaining the nature and purpose of the evaluation (Mossman et al., 2018). To determine a defendant's consent of a CST evaluation, a forensic evaluator must know that the defendant understands the evaluator's explanation of the evaluation purpose and appreciates its significance (Mossman et al., 2018). For this reason, after describing the nature and purpose of a CST evaluation, a forensic evaluator may ask the defendant to answer questions or to paraphrase information disclosed (e.g. similar to obtaining informed consent for medical care) then correct any misconceptions a defendant may hold (Mossman et al., 2018). A defendant disclosure response (DR) must indicate they hear what the evaluator is saying, appreciate its bearing on the situation, and explain it rationally to the examiner, to assure the defendant has the mental faculties required to be CST (Mossman et al., 2018). For forensic evaluators to navigate a defendant DR successfully, it requires a CST defendant to exercise mental faculties that are relevant to adjudicative competence, including attention, orientation, verbal comprehension, memory, reasoning, executive functioning, and aspects of social cognition (Mossman et al., 2018). Mossman et al. (2018) study results showed a defendant's inability to provide a DR is a strong indicator of incompetence to stand trial. Additionally, seeking defendants' consent for CST undermined the ethical rationale for disclosure by electing clinical and legally significant findings relevant to defendant's understanding prior to them agreeing to have this information exposed (Mossman et al.,

2018). For defendants who cannot give valid consent to participate in CST evaluations, statutory provisions on the courts help identify defendants who are too impaired to assist counsel or understanding their legal proceedings (Mossman et al., 2018). Carefully considering consent processes may help evaluators identify defendants who should not undergo CST evaluations.

Role of Race/Ethnicity

Issues regarding race, ethnicity, and crime justice and potential disparities has been thoroughly researched (Dirks-Linhorst et al., 2018). Previous research found both significant and nonsignificant findings with regard to race and CST evaluations (Dirks-Linhorst et al., 2018). Dirks-Linhorst et al. (2018), explored a large sample of pretrial psychiatric evaluations submitted to the courts from July 1, 2002 to June 30, 2015, to determine whether racial differences exist within CST evaluations. The results of this study found that race has minimal effect on forensic examiner CST opinions, race was not associated with forensic examiner recommendations, and the only difference was in being diagnosed with a mental disease or defect (Dirks-Linhorst et al., 2018). The study was limited due to it only relating to forensic examiner opinions since the ultimate court outcomes were not known (Dirks-Linhorst et al., 2018). Little is known about the demographics, clinical features, and court outcomes of mental health court (MHC) defendants court-ordered for competence to stand trial (CST) evaluations (Judd & Parker, 2018). Judd and Parker (2018.) study examined the clinical features and demographics of MHC defendants referred for CST evaluations. The results showed race (e.g. Black males) and other factors (e.g. unemployed, on disability, and have a history of prior arrest

and psychiatric treatment) to be significantly related to a defendant being referred for a CST evaluation (Judd & Parker, 2018). This study was limited due to minority groups other than African Americans being either rarely represented or were not represented at all in the sample population, having a smaller sample size than those in other evaluator agreement studies for CST, inability to obtain all demographic and clinical information for each defendant, and rater dyads not being evenly distributed throughout the study period (Judd & Parker, 2018).

Previous research also examined the potential impact ethnicity may have on decision-making in certain forensic settings (McCallum et al., 2015). Racial disparities exist within the criminal justice system and the mental health field (McCallum et al., 2015). There has been a lot of research exploring the impact of ethnicity on clinicians' decisions making, but there continues to be limited research examining the impact of a criminal defendant's ethnicity upon forensic mental health experts (McCallum et al., 2015). McCallum et al. (2015) study found significant difference between ethnic groups regarding recommendations of CST. Specifically, the results suggest that the Asian population, in their sample, experienced more intense mental health symptoms when being considered for the evaluation and during the evaluation itself (McCallum et al., 2015). In this study it was noted that a higher percentage of Asian defendants presented with psychosis than other ethnic groups. Many Asian communities view mental illness with high levels of stigma and family shame, and reluctant to access preventative treatment services (McCallum et al., 2015). It is possible that the Asian defendants in this study avoided mental health treatment until the severity of the illness manifested into

minor criminal behavior. The researchers study supported this possibility by finding that Asian defendants in the study were, as a rule, significantly more likely to present with a psychotic illness after arrest than other defendants, may have presented to the court with more severe or undertreated mental health needs than other defendants, and therefore was referred for mental health evaluations at disproportionately higher rates than other defendants. The researchers suggest forensic evaluators become more aware of how a defendant's race/ethnicity may lead to disproportionate engagement with mental health and/or criminal justice systems and how this may impact their CST evaluation process as well (McCallum et al., 2015). The study was limited due to the sample population consisting more of Asian and Pacific Islander/Native Hawaiian persons which decreased the study generalizability.

Paradis et al. (2016) study assessed demographic, psychiatric, and legal characteristics of a large ethnically and culturally diverse group of pretrial criminal defendants referred for CST evaluations. Additionally, they provided information regarding examiner agreement rates for psychiatric diagnosis and CST opinions (Paradis et al., 2016). The results indicated no significant associations between CST opinions and demographic variables, CST opinions and immigration history, and CST opinions and severity of legal charges (Paradis et al., 2016). Additionally, the results found a relationship between psychiatric illness and CST opinions, and immigrant defendants who required the assistance of interpreters and CST opinions (Paradis et al., 2016). Finally, the present study found an interesting trend toward a significant association between CST opinions and whether the examination was conducted jointly or separately.

A higher percentage of defendants were found not competent when the examiners interviewed together versus separately. The researchers believe this was due to examiner characteristics and the examination procedures. However, it is possible that, when examiners interviewed together, the examiner who believed the defendant to be not competent influenced the other to take the more conservative approach or being aware of an examiners opinion before they write their own reports could affect their own opinions (Paradis et al., 2016). The study was limited due to some information being omitted from the reports, data being based on defendants' self-reports, and the study not administering defendant's intelligence (I.Q.) tests (Paradis et al., 2016). Future studies should focus on evaluators' backgrounds, training, and years of experience that affect their CST opinions in different jurisdictions (Paradis et al., 2016). Research on the evaluation process could examine the advantages/ disadvantages of joint interviews and how evaluators' backgrounds, training and years of experience affect their CST opinions in different jurisdictions.

Mixed results have been reported regarding characteristics associated with CST (Paradis et al., 2016). While some studies found non Caucasian ethnicity, older age, unmarried status, unemployment, and lower education level to be associated with being not competent, other researcher found the presence of a psychotic disorder, active psychotic symptoms, and a prior psychiatric history to be the strongest predictors of being found not competent (Paradis et al., 2016). Only a few studies have focused how immigration history influences CST. According to the Sixth Amendment of the United States Constitution, the right to counsel exists whether or not a person is a U.S. citizen in

regard to criminal proceedings (Korngold et al., 2015). However, the same right to counsel does not exist for immigration proceedings due to them being a civil matter and not criminal.

In 2013, a federal judge proceeding over the *Franco-Gonzalez v. Holder* class action lawsuit ordered the U. S. government to provide legal representation for immigrant detainees in California, Arizona, and Washington who are incompetent to represent themselves due to a mental disorder or defect (Korngold et al., 2015). Therefore, forensic evaluators must understand that an evaluation for competency of an immigrant includes both the Dusky criteria and capacity for self-representation (Korngold et al., 2015). The U.S. Supreme Court stated that competency to waive counsel includes different functional abilities than CST but did not comment explicitly on how competency to waive counsel should be assessed (Mallory & Guyton, 2017). This ruling left evaluators and trial judges to question how these cases should be assessed. It remains to be seen if more specific guidance is needed about the factor's courts will use to determine competency to waive counsel (Mallory & Guyton, 2017). However, researchers stress the importance of forensic evaluators understanding legal concepts to assess an immigrant detainee's competency for self-representation (Korngold et al., 2015).

Most forensic evaluators will most likely be asked to evaluate someone within a minority ethnic group, given the changing demographics in the U.S. (Canales et al., 2017). Previous research has examined the acceptability and frequency of test use in forensic evaluations, but not how practices are applied to Hispanic and limited English-proficient (LEP)-Hispanic evaluatees (or any other diverse group) (Canales et al., 2017).

Little is known about common or empirically supported practices with minority evaluatees (Canales et al., 2017). Despite limited literature on this topic previous researchers suggest forensic evaluators should consider their own cultural competence, an evaluatee's level of acculturation, the psychometric properties of measures and cultural influences when interpreting testing results, use trained interpreters who can provide verbatim translations of evaluatee responses, and acknowledge when testing is inappropriate and use other (Canales et al., 2017). Canales et al. (2017) study sought to build upon, and extend, previous research by surveying practitioners regarding their evaluations of CST. Results suggest that although some common practices are consistent with guidelines (e.g., taking acculturation into account), other practices (e.g., using ad hoc interpreters) are not (Canales et al., 2017). The researchers provided evidence in their study to support their argument, limitations, and suggestions for future research.

Role of Mental Health

The presence of mental illness has continually predicted defendant incompetence to stand trial (Gay et al., 2015). Previous research suggests that a defendant diagnosed with a psychotic disorder is up to eight times more likely to be found incompetent to stand trial and defendants with previous psychiatric hospitalizations/treatment have been found twice as likely to be found incompetent to stand trial (Gay et al., 2015; Judd & Parker, 2018). Gay et al. (2015) study examined clinical, legal and social variables, and their relationship to forensic evaluators' opinions of CST on each of the three Dusky prongs (factual understanding of court proceedings, rational understanding of court proceedings, and ability to assist one's counsel). The results indicated psychotic

symptoms, intellectual disabilities and impairment in mental status predicted opinions of not competent to stand trial across the Dusky competency prongs but were differentially related to mental health issues (Gay et al., 2015). Additionally, this study found an association between impaired mental status (e.g., lack of orientation to person, place, time and or situation) and rationally understanding court proceeding (Gay et al., 2015). CST opinions may differ due to posthospitalization changes in defendants' mental status (Mossman et al., 2018). The study was limited due to not listing specific observed or reported symptoms noted in their psychiatric history (Gay et al., 2015). Nevertheless, a defendant's mental health history remains an important factor to consider when conducting CST evaluations.

According to Preeti et al. (2015), questions of CST and mental state at the time of the offense (MSO) are the two most frequently requested forensic evaluations. Joint evaluations of CST and MSO are common practice even though they are assumed to be unrelated to an evaluators' psycho-legal opinion (Preeti et al., 2015). MSO evaluations are thought to be more completed due to obtaining more information and time it takes to evaluate a defendant's past mental state (Preeti et al., 2015). Previous research found over half of defendants suffered from mental disease or defect when MSO was evaluated (Preeti et al., 2015). Consistent with prior research, Preeti et al. (2015) study suggests within the context of joint evaluations, the defendant was more likely to be found incompetent when there is an opinion of insanity. This co-occurrence likely reflects the influence of severe mental illness both at the time of the competency assessment and at the time of the offense (Preeti et al., 2015). Also these findings suggest that the

evaluation structure is more important than commonly assumed for forensic practice and may help to inform the clinical practices of evaluators.

Measuring Competence

The majority of evaluators do not use measures in CST evaluations, despite previous research suggesting the use of forensic assessment instruments of CST improves the integrity of forensic opinions (Tarescavage et al., 2017). Early assessment tools comprised checklist of basic legal abilities, sentence completion tasks, and semi structured interviews (Blake et al., 2019). Since the 1990's several CST measures have been developed, but the legal test for CST varies across jurisdictions (Blake et al., 2019). Although accountability and reliability were improved through standardization, research identified significant limitations to the construct validity of these tools (Blake et al., 2019). Several second-generation competency assessment tools were developed to improved standardization and address threats to validity (Blake et al., 2019).

The first of the second-generation tools was the Competence Assessment for Standing Trial for Defendants with Mental Retardation (CAST*MR) (Blake et al., 2019). This assessment measure has received little attention in the literature and is not frequently used among forensic mental health professionals (Blake et al., 2019). It is presumed that this is due to the construct of competency continually evolving as mostly being associated with psychosis in U.S. case law (Blake et al., 2019). Several years after CAST*MR was developed, the MacArthur Competence Assessment Tool—Criminal Adjudication (MacCAT-CA) was released (Blake et al., 2019). The MacCAT-CA was developed with a theoretical basis in Bonnie's (1992) legal theory of competence (e.g.

foundational and decisional competence), with some items modeled from the assessment of competence to consent to treatment (Wood et al., 2017). The MacCAT-CA consist of 22 items across three subscales: Understanding, Reasoning, and Appreciation (Wood et al., 2017). On the surface the MacCAT-CA appears to follow the three-pronged structure of competency to consent to treatment and Dusky, but some researchers argue that two models were combined to develop the final three-factor structure of the instrument (Wood et al., 2017). Previous research suggests the MacCAT-CA is valid, reliable, and able to discriminate between competent and incompetent defendants (Wood et al., 2017). The MacCAT-CA should be supplemented with additional case-specific information and should not be the only direct measure of an individual's competence (Wood et al., 2017). The MacCAT-Fitness to Plead (MacCAT-FP) was released soon after the MacCAT-CA for use in the United Kingdom (Blake et al., 2019). Then the Evaluation of Competency to Stand Trial – Revised (ECST-R) was developed, which was the product of a doctoral dissertation. The ECST-R differed from former measures in several practical and theoretical ways: items were developed in consultation with legal experts, the scoring procedure is the reverse of the former tools (e.g. all defendants are presumed to be competent), and semi structured and structured interview techniques are used (Blake et al., 2019). The ECST-R is the only second-generation competency measure to evaluate malingering and feigning specific the defendant's own trial (Blake et al., 2019).

Blake et al. (2019) conducted a study aimed to meta-analyze the psychometric properties of the four 'second generation' competency assessment tools: the MacCAT-CA, MacCAT-FP, ECST-R, and CAST*MR. The results varied. First, the MacCAT-CA,

ECST-R and CAST*MR demonstrated acceptable subscale internal consistencies and interrater reliability (Blake et al., 2019). Second, the MacCAT-CA and CAST*MR discriminated between competent and incompetent defendants with large effects (Blake et al., 2019). Lastly, the MacCAT-FP had insufficient reliability data and poor discrimination (Blake et al., 2019). The study was limited due the possibility of Type I and II errors, using the language of a ‘reliable’ and ‘valid’ competency measure which could be misleading, and the small number of included studies for each assessment tool. According to Ragatz et al. (2015), a primary advantage for using structured instruments is their design and validation, especially as they relate to the prongs of Dusky, including rational understanding. Two second-generation CST instruments, the MacCAT-CA and ECST-R, have shown promise in providing evaluators instruments useful in understanding the prongs of competence to proceed to trial (Ragatz et al., 2015).

For a variety of reasons, most practitioners are not using competency-specific measures in their CST evaluations (Tarescavage et al., 2017). Tarescavage et al. (2017) study sought to bridge the gap between evaluations that use these measures from those that do not by providing a normative point of reference, as well as to identify the questions that most differentiate competent and incompetent defendants. Results indicated fairly consistent trends that questions relating to rational understanding and ability to cooperate with counsel were the most associated with competence (Tarescavage et al., 2017). Furthermore, the researchers suggest that using forensic assessment instruments of competency help produce consistent psycho-legal opinions (Tarescavage et al., 2017).

The Bender Gestalt Test (BGT) and computed tomography (CT) are commonly used when assessing for CST in South Africa (Mosotho et al., 2017). The CT scan was introduced in 1972 to allow visualization of the brain matter in living persons (Mosotho et al., 2017). Individuals with neurological impairment have poor concentration and tire easily, therefore its not advised to use a long battery of test in their CST evaluation (Mosotho et al., 2017). A simple paper and pencil drawing test (BGT) is used for the assessment to measure visual-motor integration along with identification and screening of neuropsychological impairment (Mosotho et al., 2017). Mosotho et al. (2017) study examined the extent to which the BGT results and the CT scans are associated with outcomes in the assessment of CST and criminal responsibility in defendants. Results indicated no statistically significant association between the Bender Gestalt Test Hain's scores and the outcome of criminal responsibility and CST (Mosotho et al., 2017). Furthermore, the results suggest BGT and CT scans do not affect CST opinions amongst forensic evaluations.

Field Reliability and Validity

Interrater reliability refers to how often two different forensic evaluators will return the same opinion (Guarnera & Murrie, June 2017). Various metrics can be used to measure interrater reliability, but the most common reliability metrics are simple percentage-agreement and kappa statistics (Guarnera & Murrie, June 2017). Surprisingly, little is known about the interrater reliability of forensic psychological opinions produced during routine practice in the field (Guarnera & Murrie, June 2017). More research is needed on field reliability of forensic psychological opinions because previous research

suggest reliability estimates may be lower in routine real-world practice conditions than reliability estimates under controlled research conditions (Guarnera & Murrie, June 2017). Guarnera and Murrie (June 2017) study systematically reviewed, using meta-analytic procedures and study space methodology, the existing literature on the interrater reliability of common forensic psychological opinions. Results presented a wide range of reliability estimates; pairwise percentage agreements ranged from 57% to 100% and meta-analytic combinations of reliability returned estimates of .49 (95% CI: .40–.58) for competency opinions (Guarnera & Murrie, June 2017). Their study was limited due the studies they examined providing little information about contextual variables crucial to understanding their findings.

The reliability of forensic methods continue to be controversial (Acklin et al., 2015). Mossman (2013) study provided four hypothetical “decision thresholds” to account for variability in forensic judgments, examiner bias, and the inevitability of random error (Acklin et al., 2015). The four decision thresholds (most probable status, mild bias, clear and convincing bias, and fuzzy zone) are points along the decision axis and are associated with particular values of sensitivity and specificity (Acklin et al., 2015). An examiner’s opinion reflects their implicit or explicit judgments and their thinking about the location of a particular case along the decision axis (Acklin et al., 2015). Acklin et al. (2015) study examined independent forensic reports with judicial determinations to assess field reliability (e.g. examiner agreement and judicial consensus). The results suggest that the CST construct may be evaluated with a moderate degree of reliability but can be improved through using validated forensic assessment

instruments (FAIs) to increase reliability (Acklin et al., 2015). However, previous research has found younger forensic evaluators are significantly more likely to use FAIs compared to older forensic evaluators (Acklin et al., 2015). Future research should focus on the accuracy of forensic methods resulting in classification and individualization conclusions.

The majority of psycho-legal research has focused on the validity and reliability of assessing a criminal defendant's competency, but little attention has been given to examining attorney-defendant interactions by forensic evaluators and how these interactions impacts psycho-legal outcomes (Cox et al., 2019). Direct observation is a meaningful approach to assessing a defendant's ability to assist and consult counsel because it gives the forensic evaluator an additional data point when evaluating and providing their psycho-legal opinion to either support or refute the defendant's competency (Cox et al., 2019). However, there are several obstacles forensic evaluators will face attempting to directly observe attorney-defendant interactions: differential access, attorney-client privilege, attorney opposition, financial barriers, and third-party influences (Cox et al., 2019). Despite these obstacles to direct observation, the researchers suggests this practice may provide the evaluator with unique and important data to use when opining about a defendant's ability to assist and consult (Cox et al., 2019).

Bias

According to West and Kenny (2011), bias is the systematic deviation from the truth, though it does not necessarily result in error (Neal et al., 2019). Forensic

psychologist are susceptible to bias in their professional work. It is important for forensic psychologist to remain objective, culturally sensitive, and manage their emotional reactions to defendants when conducting CST evaluations, as a way in which to preserve the integrity of the evaluation (Mulay et al. 2018). Implicit bias, automatic bias outside of examiner awareness, is probably a more common and insidious threat to the integrity and objectivity of forensic evaluations (Neal & Grisso, 2014; Neal et al., 2019). It is possible for forensic evaluators to minimize the effects of bias by being more knowledgeable about bias and more open to workflow practices to reduce systematic bias in their work (Neal et al., 2019).

Despite forensic psychologists attempts to remain objective during CST evaluations, there continues to be evidence that indicates bias within CST evaluations. However, researchers argue the internal reaction of the forensic psychologists lived experiences may provide valuable information to the evaluation process, as well as how these lived experiences may either enhance or negatively influence the evaluation process (Mulay et al. 2018). According to Mulay et al. (2018), empathy bias is one of the factors contributing to forensic psychologists' inability to remain objective when conducting evaluations. Empirical research investigating the impact of attitudes on social behavior (empathy bias) indicates that situations in which strong feelings are aroused elicit the greatest effects (Neal, 2018). Empathy bias could be used to help explain our attitudes, beliefs, and behaviors towards people outside our social groups (implicit bias). The researchers also acknowledge the need for further research of forensic psychologists lived experiences which may enhance or negatively influence the evaluation process (Mulay et

al. 2018). Other research has argued that occupational socialization works to mold or shape individuals' cognitions, emotions, and values to be consistent with the work they do (Neal & Brodsky, 2014). This argument suggests mental health professionals can be occupationally socialized to act objectively in their work, even if they hold deep personal values and beliefs that might otherwise bias their work (Neal & Brodsky, 2014). Previous research explored how forensic psychologists are socialized into the field and investigated the role occupational socialization plays in developing objectivity and belief in one's ability to be impartial do (Neal & Brodsky, 2014). The results indicated occupational socialization was positively associated with years of experience, belief in one's ability to be objective, and endorsement of the usefulness of various bias correction strategies do (Neal & Brodsky, 2014).

Research on forensic evaluations has shown wide variability in forensic decision-making among professionals and how their decision-making is influenced by irrelevant information (Zapf & Dror, 2017). However, the extent to which forensic psychology evaluators acknowledge the existence of bias, recognize it, and understand the need to guard against it continues to be unknown (Zapf & Dror, 2017). Zapf and Dror (2017) study surveyed a large international sample of forensic evaluators to determine the extent to which bias in forensic evaluation is acknowledged within their own evaluations and evaluations of their peers. They also were interested in whether experience or training on biases were related to evaluators' opinions regarding the impact of bias in forensic evaluation (Zapf & Dror, 2017). Their results indicated that many evaluators acknowledged bias as being an ethical problem but believe that willpower can reduce

bias. Despite these beliefs, there has been overwhelming research to suggest that bias operates automatically, without awareness, and cannot be eliminated through willpower alone (Zapf & Dror, 2017). The researchers also found evidence for a bias blind spot. A bias blind spot is the tendency to recognize biases in others while denying the existence of those same biases in oneself (Zapf & Dror, 2017). When considering forensic psychologist who conduct CST evaluations, the presence of a bias blind spot might impact the perceived necessity of taking measures to minimize bias within their evaluations or the selection of measures to use for this purpose (Zapf & Dror, 2017). Lastly, their results showed how many evaluators struggled with understanding how to effectively mitigate bias, but those who had received training about bias were more likely to acknowledge bias as a cause for concern versus those with more experience (Zapf & Dror, 2017). As a means to reduce bias, the researchers suggested highlighting bias blind spot within training efforts and developing policies and procedural guidance in regard to best practices in forensic evaluations (Zapf & Dror, 2017). Furthermore, continuing to research bias in the forensic sciences can significantly impact policy implementation and procedures to attempt to minimize the impact of bias (Zapf & Dror, 2017).

Prior research data provided other strategies to mitigate bias in forensic evaluations. One method is to document information gathered in interviews, rather than relying on memory, to alleviate selective retrieval mechanisms within the examiners' memory (Neal et al., 2019). Another method is seeking information that is disconfirming, to help offset confirmation bias and reduce overreliance on prejudiced sources (Neal et al., 2019). It has also been recommended to use checklists when trying to reduce bias, as

it forces the evaluator to consider all the sources of information stated on the checklist (Neal et al., 2019). Another approach suggested adopting from medical practice to slow down workplace strategies, allowing the evaluator focus completely on a specific task (Neal et al., 2019). Despite the value of the strategies just discussed, researchers found while most psychologist reported familiarity with well-known biases and reported using research-identified strategies, some reported little familiarity (Neal et al., 2019). These finding suggest that forensic evaluators need additional training to recognize biases and begin to effectively mitigate harm from biases (Neal et al., 2019).

Nevertheless, much remains unknown about bias or how it might affect forensic evaluators (Neal, 2018). Understanding bias and its effects on forensic evaluators becomes more important when considering evaluations in which the criteria for decision-making are more ambiguous than in other types of evaluations (Neal, 2018). For example, insanity referrals are one type of common forensic evaluation. Currently there are no set standards for how these evaluations should be conducted or how the report needs to be structured, which increases the room for bias within these types of evaluations (Neal, 2018). Therefore, it has been recommended that forensic evaluators avoid emotionally charged and exaggerated language (e.g. absolutely, totally, unquestionably) in an effort to maintain impartiality when communicating results of these evaluations (Neal, 2018).

Theories of Bias

Implicit bias has become a hot topic for all of society, as human experiences and how we interpret them creates hidden biases we all naturally carry within (Parker, 2016).

According to Ungvarsky (2019), implicit bias refers to an unconscious form of prejudice or negative attitude about someone or something. A person who is exhibiting implicit bias is typically unaware of them doing so and would likely deny having implicit bias if challenged (Ungvarsky, 2019). In the 1970s implicit bias arose when researchers found that most people have biases of prejudicial thoughts towards certain groups of people and subjects without them being aware of them (Ungvarsky, 2019). These attitudes were assumed to have developed over time from personal experiences and are displayed automatically when a person is exposed to a representation of it. There continues to be a debate whether implicit bias influences behavior. However, psychologists claim that everyone has some level of implicit bias and the best way to overcome it is intergroup contact or exposure to the subject of the bias and antibias strategies (Ungvarsky, 2019).

According to Payne, Vuletich, and Lundberg (2017), implicit bias reflects the accessibility of concepts linked to a social category and can be thought of as the bias-of-crowds (Mitchell, 2017, Payne et al., 2017). The bias-of-the-crowds theory can be used to explain findings within the implicit bias literature. For example, the Implicit Association Test (IAT) and Affect Misattribution Procedure (AMP) are seen as reliable tools to assess the accessibility of prejudicial or stereotypic thoughts within the ambient environment (Mitchell, 2017). However, both the IAT and AMP consistently produce average difference scores that appear to be indicative of bias toward various minority groups (Mitchell, 2017). Therefore, bias-of-the-crowds theory uses these consistent findings paired with the assumption that the average scores reflect some residual level of bias within the environment (Mitchell, 2017). Completing an implicit measure (e.g. IAT,

AMP, and any other indirect measures) by itself can create bias in any situation due to its ability to increase accessibility of a relevant concept (Mitchell, 2017). This concept is referred to as the bias-of-the-test theory, which builds on the cultural knowledge account of indirect measures and acknowledges these measures as “noisy measures” (e.g. changes in the evaluation or evaluation session) of cultural knowledge (Mitchell, 2017). The difference between the bias-of-the-test theory and bias-of-the-crowds theory is that the bias-of-the-test theory believes it to be factual that the evaluation creates the bias rather than people having preexisting bias. However, bias-of-the-test theory is able to defend against objection due to weak correlations observed between behavior and indirect measures suggesting that these evaluations are not a guide to behavior (Mitchell, 2017).

According to empirical evidence, most of the systematic variance in implicit bias is situational despite it existing as an attribute of a person (Payne et al., 2017). Therefore, implicit bias may emerge through a combination of individual fluctuations in concept accessibility that are situational and context dependent. Which is why the bias of crowds theory treats implicit bias tests as measures of situations more than persons (Payne et al., 2017). By switching the emphasis from a person-based analysis to a situation-based view, implicit bias become more meaningful, valid, and reliable (Payne et al., 2017). Person-based assumptions remain dominate within implicit bias literature, but has lead to many unanswered questions due to these assumptions not being matched by high predictive validity at the individual level (Payne et al., 2017). Returning to the roots of implicit bias in systemically biased social structures can help to solve these unanswered questions. The

most impactful piece of the bias of crowds model is “understanding unintended discrimination requires appreciating the power of the situation” (Payne et al., 2017).

According to Neal and Brodsky (2016), the word “bias” is often used to describe emotional involvement in a situation. Despite emotional involvement playing a major role in most of the ethical decisions people make, many do not realize how much their emotions direct their moral choices (Blanken & Zeelenberg, 2015). Moral licensing theory suggests that people who initially behave in a moral way can later display behaviors that are immoral, unethical, or otherwise problematic. Specifically, it is the idea that internal balancing of moral self-worth and the costs associated with pro-social behavior determine a person’s overall (e.g. immoral vs. moral) behavior (Blanken & Zeelenberg, 2015). There continues to be a need for future research on moral licensing, with larger sample sizes, to draw solid conclusions since there have been inconsistent results in published studies versus unpublished studies pertaining to this issue.

Previous research suggests forensic mental health evaluators underestimate the severity of cognitive and emotional biases influencing their decision making within their work (Neal & Brodsky, 2016). However, there is no research that has evaluated the degree to which forensic experts are aware of their own biases. Neal and Brodsky (2016) study examined psychologists’ experiences, awareness, and efforts to correct for bias in forensic mental health evaluations. Their results were consistent with previous research indicating people perceive themselves as less vulnerable to bias than others. Additionally, they found forensic evaluators insisting their own assessments were accurate and objective and others were affected by biases (Neal & Brodsky, 2016). Even when forensic

evaluators acknowledged their conclusions were biased, they insisted they could overcome the bias and reach an objective judgement. Introspection is one of the strategies forensic psychologists rated as most useful for mitigating bias (Neal & Brodsky, 2016). However, literature identified introspection as an ineffective strategy, which could exacerbate bias, regardless of it being perceived as useful by forensic psychologists (Neal & Brodsky, 2016).

Forensic evaluators may believe that they can identify and work on their biases via introspection, but as stated previously the “bias blind spot” may likely to prevent the success of their efforts. To help forensic evaluators combat biases, literature has identified several effective strategies. First, received training about objectivity and exposing oneself to the importance of objectivity through reading professional literature was seen as extremely useful (Neal & Brodsky, 2016). Second, “slowing down,” spreading the evaluation over time, and taking time to think about evaluation information, is seen as particularly useful in combating biases (Neal & Brodsky, 2016). Third, using structured evaluation methods to reduce bias, even though they do not eliminate bias and evaluators should consider using other bias mitigation strategies in addition to these methods (Neal & Brodsky, 2016). Fourth, “consider-the-opposite” strategies (e.g., considering alternative hypotheses), was seen as the most appropriate in adversarial proceedings considering forensic psychologist may be cross-examined about their evaluations and conclusions (Neal & Brodsky, 2016). Last, examining patterns of personal decision making that represent a behavioral marker for forensic psychologist

was suggested as being useful when examining their potential biases rather than introspection (Neal & Brodsky, 2016).

Implicit bias theory maintains that everyone's decisions and actions are determined by unconscious prejudices, resulting in both individual and systemic discrimination. Specifically, Woods (2018) study found that professionals working within the criminal justice system have unconscious biases that cause them to make prejudicial decisions against individuals processed in the system. Previous research demonstrated that forensic psychologists are occupationally socialized to believe that they can and do practice objectively (recall the discussion of training and motivational influences) (Zapf & Dror, 2017). However, current research on bias in forensic evaluation has demonstrated that previous research on this topic may not be accurate. For example, the influence of adversarial allegiance within the forensic evaluation process. Adversarial allegiance is the tendency to arrive at an opinion or conclusion that is consistent with the side that retained the evaluator (Zapf & Dror, 2017). Additionally, current research found that adversarial allegiance appears to influence norm selection and reporting practices (e.g. defense-retained evaluators were more likely to endorse reporting practices that conveyed the lowest possible level of risk whereas prosecution-retained evaluators were more likely to endorse practices suggesting the highest possible level of risk) (Zapf & Dror, 2017). However, there is an implicit bias within implicit bias theory which misrecognizes the nature of racism and thus underestimate the scale of the breach to be crossed through antiracist agitation (Woods, 2018). For example, the theory of implicit bias would question why when a Black person enters the room, all reasonable behavior flees,

compelling us towards other concerns (Woods, 2018). Research suggest neither rational argument nor scientific reasoning will win this argument, only a power struggle will ensue (Woods, 2018). Irrelevant information can influence our perceptions and interpretation the same as our experiences and expectations can influence our memories and conceptualizations, which might result in biased opinions or conclusions (Zapf & Dror, 2017). If people are educated about their biases, then they will be less likely to act on them, which would reduce discrimination throughout the criminal justice system. Woods (2018) article is important to this study because it questions if implicit bias is used as a term to dismiss blatant racism with the criminal justice system.

Racial Bias and Cultural Competence

Implicit bias has become an important topic within society when considering how human experiences and the ways we interpret them create implicit bias (Parker, 2016). Evidence of these biases can be found through self-examination, looking at data from our own practices, using standardized tests of social biases (e.g. implicit association test), and thoughtful peer review (Parker, 2016). Parker (2016) article examined the researcher personal database over four and a half years of court-orders determinations of both competency and sanity. Through analyzing the patterns of his findings by race and gender, he found White defendants were more likely to stand trial than Black defendants, Black men were more likely to be found competent to stand trial than Black women, White women were more likely to be found competent to stand trial than Black women, female defendants were more like to be found insane than male, and White women to be more likely to be found insane than White men (Parker 2016). However, to get a better

understanding of how individual patterns fit or do not fit, additional research is needed to compare forensic evaluators individual patterns to larger patterns within communities (Parker, 2016). This article is important because it acknowledges forensic evaluators have implicit bias which can be seen if they review their own data regarding decisions rendered in previous evaluations. For example, the researcher stated when comparing his own data, he found that he was more likely to find Black defendants incompetent to stand trial than White defendants, by a ratio of 1.25:1 thereby showing evidence of modest bias in his competence evaluations. In addition, the researcher noted patterns of his opinions of competence and sanity in the two geographical groups (e.g. Black and White) showing he was more likely to find White defendants than Black defendants competent in both the urban county and all the other counties. Human experiences and how we interpret them create the hidden biases we all naturally carry within. The researcher encourages all forensic evaluators to take a look at their data from time to time, to look for their own trends and patterns and how their patterns fit or do not fit with other communities.

As mentioned previously, some research suggest that the CST process may be impacted by irrelevant factors (e.g. defendant's race and cultural background) (Harris & Weiss, 2018). Only a few studies focused on potential racial discrepancies in attorney referrals for CST evaluations and whether they are exacerbated by professional experience. Harris and Weiss (2018) study examined potential racial discrepancies in attorney referrals for CST evaluations and whether they are exacerbated by professional experience. Their results indicated both law students and attorneys were generally more likely to refer unfit rather than fit defendants, law students displayed racial bias when

referring the defendants who were unfit due to the lack of a rational understanding of the relevant legal case, and fitness conditions was the only significant predictor of attorney referral (Harris & Weiss, 2018). Racial bias is a general label for any psychological process or behavior that disadvantages members of a particular race or ethnic group (Hunt, 2015). Overall, results indicated that professional experience did not increase racial biases. These results can be used to question if implicit bias starts prior to forensic evaluators getting a case and if evaluators are subconsciously motivated to make an expert opinion in favor of competency and incompetence. The fact that racial biases are often implicit and expressed in subtle ways poses several challenges for the justice system. Growing literature informed by the legal movements of Critical Race Theory and Critical Race Realism are still exploring how discriminatory outcomes that result from implicit biases can be addressed and remediated under legal doctrines that are structured around intentionality (Hunt, 2015).

However, determining when and why race influences judgments and behaviors, requires understanding concepts and theories from social psychological research on prejudice, stereotyping, and discrimination (Hunt, 2015). Aversive racism theory asserts most people want to be nonbiased, but many continue to have unwanted negative associations and discomfort with racial minorities due to psychological processes that differentiate between groups, exposure to prejudicial statements, and stereotypical imagery (Hunt, 2015). According to aversive racism theory, the tension between the belief that all people are equal and that of negative racial associations leads individuals to engage in racial bias under a predictable set of conditions (Hunt, 2015). For example,

when aversive racist become aware that their behaviors may be influenced by race, they act in a nonbiased manner and may even show favoritism to racial minorities. However, in situations where race is salient, aversive racist may be influenced by negative racial associations and make biased judgments about minorities without realizing it (Hunt, 2015). To compliment this theory, research on intergroup relations suggest that a significant contributor to racial bias involves the tendency to show ingroup favoritism by making judgments and engaging in behaviors that benefit members of one's own group (Hunt, 2015). The tendency to favor members of one's ingroup may be an evolved psychological mechanism due to humans having to cooperate with and rely upon close social networks in order to survive. Regardless, ingroup favoritism can exist even without feelings of hostility toward outgroups. Thus, favoritism toward same-race individuals may be a stronger contributor to racial disparities than negative attitudes toward outgroups (Hunt, 2015).

Research suggests that implicit biases can affect the way individuals perceive and interact with different group members, affect people's understanding from an early age, and could be consistently reinforced through societal messages (Lee, 2018). Forensic mental health assessments (FMHA) are used to capture a range of symptoms in the attempt to provide an impartial evaluation of the examinee in the legal system (Lee, 2018). Despite previous research indicating a relationship between implicit bias and discriminatory behaviors, FMHAs rarely consider the impact of race. Lee (2018) proposal, provides an analysis of how race-based perceptions may influence the process of FMHA and provided two different models (race-neutral and race-conscious) for

considering the impact of race. The race-neutral approach assumes that all examinees are treated comparably by examiners and there is no systematic or significant influence exerted by race (Lee, 2018). Whereas, the race-conscious approach suggests if race does exert a significant influence, then the examiner's impartiality may be at risk and such impartiality may prove illusory if a significant but implicit influence is present without acknowledgment (Lee, 2018). Nine factors were identified from a review of empirical and theoretical literature on race and its impact on forensic examiners: cultural competence, perception of social ills, trust appropriate to context (e.g. proving expertness and trustworthiness), experience of trauma and adverse experience, daily stressors, anger, effective working relationship, and unequal power dynamics (Lee, 2018). Each model have potential effects based on the factors identified. Lee (2018) critical analysis paper is important to my study because it acknowledges the need for a formal investigation to determine if and how forensic evaluators apply cultural competence practices.

The cultural landscape within the United States has shifted significantly over recent decades (Kois & Chauhan, 2016). As this cultural shift continues and the population diversifies so will the concern within the sub-specialty of forensic evaluations. Cultural competence is defined as “a set of congruent behaviors, attitudes, and policies that come together in a system, agency, or among professionals, and enables that system, agency, or those professionals to work effectively in cross-cultural situations” (Kois & Chauhan, 2016). It is a forensic evaluators' responsibility to seek, develop, and maintain cultural competence. A combination of general cultural competence and forensic-specific guidelines can provide a “roadmap” of five domains (communication, clinical interview

and collateral information, assessment, case formulation, and bounds of competence) that evaluators may consider when conducting forensic evaluations with diverse populations (Kois & Chauhan, 2016).

First, establishing clear communication with the person who is being evaluated is important. Understanding how language abilities may impact evaluations is critical for forensic evaluators (Kois & Chauhan, 2016). Evaluators should consider cultural norms and comfort level when making observations of an evaluatees' verbal and nonverbal communication habits. To avoid making errors, evaluators can ask for clarification or use an interpreter who is fluent in the preferred language when they have difficulty understanding evaluatees'. Second, evaluators may consider using structured clinical interviews (e.g. DSM-5 Cultural Formulation Interview (CFI)) to gather cultural information and explore stressors unique to underrepresented groups (Kois & Chauhan, 2016). The CFI provides specific questions forensic evaluators can ask family members and associates to help evaluators collect collateral information in a methodological way (Kois & Chauhan, 2016). Third, standardized clinical assessments, which should occur in the evaluatees' preferred language. Unfortunately, forensic evaluators have few options for individualizing test sections, administration, and interpretation with culturally and linguistically diverse evaluatees (Kois & Chauhan, 2016). However, previous research recommended a four-step process (identify translated tests, identify research using translated tests, confirm that research applies to the client, and determine the level of research support for using the translated test with the client) to guide test selections for individuals from various cultural groups (Kois & Chauhan, 2016). Fourth, forensic

evaluators should synthesize all clinical, criminogenic, and cultural data into a case formulation. This step is important because forensic evaluators can learn more about evaluatees' cultural context to avoid pathologizing culturally syntonically behaviors (Kois & Chauhan, 2016). Last, evaluators are encouraged to recognize when specific referrals are outside their bounds of competence, seek consultation and refer cases when needed, attend diversity-themed trainings, and stay abreast of relevant literature. Despite having theory, research, and specialty guidelines for conducting culturally competent forensic evaluations, there has been little formal investigation to determine if and how forensic evaluators apply cultural competence practices. However, current literature on this topic indicated evaluators do not always uphold practice guidelines, evaluators' training varied, and evaluators who saw more racially and linguistically diverse evaluatees were more likely to participate in culturally sensitive case formulation practices (Kois & Chauhan, 2016).

Major challenges also persist regarding research on culturally responsive tests and testing practices. These challenges include limited training in multicultural testing competence, testing in a second language by assessors with limited second-language proficiency, and underrepresentation of ethnic minority psychologists (Hays, 2016). An individual's behavior and functioning cannot be understood without a thorough understanding of his or her cultural identity and context. The most commonly used standardized testing are from the United States or Great Britain and represent knowledge and competencies relevant to urban industrialized societies (Hays, 2016). Increased diversity within many nations and within the field of psychology has contributed to an

increase of cross-cultural research focusing on tests and testing practices that compares cultural groups within one country and between countries (Hays, 2016). Thus, to address the biases that result from standardized tests are not culturally competent nor appropriate for various ethnic groups, researchers have used various approaches.

One of the most common approaches involves using restandardized instruments, which can be used to help the collections of norms from samples that are most representative of the population at large (Hays, 2016). An advantage of this approach is its ability to provide a starting point that has been well established with at least one group (e.g. the dominant culture), with the belief that it is possible for an instrument developed for one culture to be relevant to another (Hays, 2016). However, restandardization does not address all potential forms of bias (e.g. tests that are translated from English into another language). A second solution would be to establish separate norms for specific racial, ethnic, and language groups. A drawback of this solution is even though race and ethnicity hold powerful social meanings for some group members, they say little about a person's intellectual abilities, personality, interest, and experiences (Hays, 2016). A third solution would be to create new tests that emanate from underrepresented cultures themselves and assess the skills and knowledge that are valued by those cultures. Despite this approach of developing culture-specific tests may be ideal in some instances, the resources required to develop such tests are scarce (Hays, 2016). The fourth approach would be to use adjustments based on acculturation level (e.g. using an index of correction and adjusting an individual's score on the test by this correction factor). Unfortunately, standardized procedures for this approach have not been established and a

conceptualization of acculturation as a linear process is seen as too simplistic (Hays, 2016). The final approach involves using strategies that are aimed at gathering “additional qualitative data about the examinee” that help with a fuller understanding of the client’s test performance (Hays, 2016). This information can be obtained through interviews, active listening, direct observation, informant reports, and culture-specific tests. Despite having the above approaches, researchers continue to look for ways to increase the validity of cross-cultural psychological evaluations.

Measuring Bias

The primary tool for measuring implicit bias is the Implicit Association Test (IAT), which was created by Dr. Anthony Greenwald (Kakoyannis, 2017). The IAT is a computerized test in which participants are asked to sort pictures by identifying characteristics (e.g. Black faces and White faces) by pressing different keys, asked to sort positive and negative words (e.g. trustworthy and violent), then pair the words with the identifying characteristics according to different prompts (Kakoyannis, 2017). The computer measures the time required to complete these pairings and user errors. Pairings that take longer and produce more errors indicate greater levels of bias (Kakoyannis, 2017). Previous studies of Race IAT show an overwhelming preference for Whites, even among Black study participants, and biases against Latinos, Jews, Asians, non Americans, women, gays, and the elderly (Kakoyannis, 2017).

Bias often exists unconsciously, which makes individuals unlikely to be aware of how it affects their decisions and behavior (Gowensmith & McCallum, 2019). For example, most forensic evaluators would likely be surprised at the influence of bias in

their evaluations. Forensic evaluators are expected to provide their expert opinions in legal proceeding in an objective and unbiased way. Considering the potential for bias, legal professionals should not solely rely on a forensic evaluators expert opinion, but also the various error rates (e.g., within testing instruments, individual base rates, normative base rates, and research related to the existence of bias in the field) that can affect that opinion (Gowensmith & McCallum, 2019). Several studies have shown that evaluator opinions are influenced by which side (defense or prosecution) retains their service, the fees they earn, and individual differences (Gowensmith & McCallum, 2019). Other research suggest that personality characteristics of the evaluators themselves may also influence their forensic opinions and race and ethnicity may also be quite influential in evaluator decision-making (Gowensmith & McCallum, 2019). Bias blind-spot is a term used to refer the difficulty in recognizing bias in ourselves, coupled with the relative ease with which we are able to identify bias in others (Gowensmith & McCallum, 2019). Individuals are more likely to use introspection rather than behavioral outcomes to evaluate their own biases when explaining this type of cognitive error. However, as stated previously introspection has been identified as an infective strategy, which could exacerbate bias, despite forensic psychologists rating it as most useful for mitigating bias (Gowensmith & McCallum, 2019; Neal & Brodsky, 2016).

A number of evaluators have recommended that evaluators keep a record of their own evaluations and outcomes and increase their awareness of cultural influences to allow for an objective measuring of potential for bias (Gowensmith & McCallum, 2019). Understanding how practitioners fit or do not fit with the larger cultural norms around

them could provide a great deal of important information. It has been recommended for forensic evaluators to track his or her own evaluations and opinions across a variety of variables (e.g., defendant ethnicities, referral sources, amount of fees charged, charge types) to help identify personal biases (Gowensmith & McCallum, 2019). Additionally, forensic evaluators should consider recording and analyzing objective data, which means focusing on behavioral evaluation variables and outcomes (i.e., specific evaluation factors, decisions, and opinions) (Gowensmith & McCallum, 2019). Such analyses can be helpful in clarifying or explaining biases. According to Gowensmith and McCallum (2019), only through such methodology will forensic evaluators be able to accurately calculate rates of opinions/biases and provide such information.

Cognitive neuroscience has shown that even highly educated and well-motivated individuals are disturbingly prone to unintentional bias (Gray, 2020). For example, maintaining a high level of vigilance could create a heightened level of suspicion which could easily leave a forensic evaluator vulnerable to confirmatory biases (Gary, 2020). As stated previously, the Implicit Association Test (IAT) is seen as a reliable tool to assess the accessibility of biases within the ambient environment (Mitchell, 2017). Additionally, the IAT is predictive of bias among individuals reporting to have egalitarian beliefs (e.g. people should be treated as equals) (Kakoyannis, 2017). Nevertheless, completing an implicit measure by itself can create bias in any situation due to its ability to increase accessibility of a relevant concept (Mitchell, 2017). Therefore, it is best to acknowledge indirect measures as “noisy measures” of cultural knowledge when attempting to measure biases.

Reliability and Validity

The field of forensic sciences have little data revealing how well forensic psychologist actually perform making skilled observations and conclusions, with minimal bias, to provide reliable and accurate conclusions to the courts (Dror & Murrrie, 2018). The two basic properties of decision making are biasability and reliability. Biasability refers to the potential effects of irrelevant contextual information and other biases that may impact the decision (Dror & Murrrie, 2018). Reliability refers to the consistency, reproducibility, or repeatability of decisions, regardless of bias (Dror & Murrrie, 2018). Despite reliability and biasability being distinct concepts, both contribute to variability in decision making. Human experts play a critical role in forensic decision making. However, little attention has been given to the role of human experts and human decision making in forensic psychological evaluations (Dror & Murrrie, 2018). The field of psychology tend to value reliability and objectivity but consider these more as qualities to be studied and maximized in instruments versus studying and maximizing these among the human experts rendering forensic opinions (Dror & Murrrie, 2018). The performance and variability of forensic psychology experts has been examined and quantified between-experts (variability among experts) and within-experts (variability within a single expert) (Dror & Murrrie, 2018). The Hierarchy of Expert Performance (HEP) was created by combining these elements to produce an eight-level framework for expert decision making. HEP conceptualizes and defines the aspects involved in expert decision making, thus helping to frame the existing research and identify gaps (Dror & Murrrie, 2018). In contrast, applying HEP could reveal more domains in which we lack data

addressing fundamental aspects of expert performance, such as reliability at the level of observations, and reliability and biasability within experts (Dror & Murrrie, 2018).

Nevertheless, forensic psychology can learn from these insights and use HEP to benefit and enhance forensic psychology decision making (Dror & Murrrie, 2018).

In 2009, the National Research Council (NRC) warned that the accuracy and reliability of many popular forensic-science techniques are unknown, that error rates are rarely acknowledged, and that forensic psychologist are prone to bias because they are not independent of the parties requesting their services (Murrrie et al., 2013). Despite announcing these concerns, little is known about whether experts can provide opinions unbiased by the side that retained them. These concerns have raised questions regarding whether forensic psychologists and the evaluations they complete might also suffer similar problems of unreliability and bias (Murrrie et al., 2013). Thus, the NRC continues to urge further research on the cognitive and contextual biases that influence forensic experts.

Psychologists are uniquely suited to explore reliability and bias in decision making, but their continued delay in investigating adversarial allegiance is disappointing. Adversarial allegiance is the presumed tendency for experts to reach conclusions that support the party who retained them (Murrrie et al., 2013). Murrrie et al. (2013), conducted a study to explore adversarial allegiance within forensic psychologists. Their results provide strong evidence of an allegiance effect among some forensic experts in adversarial legal proceedings (e.g., those who believed they were working for the prosecution tended to assign higher risk scores to offenders, whereas those who believed

they were working for the defense tended to assign lower risk scores to the same offenders). Unfortunately, their study could not identify whether the allegiance effect was more attributable to the initial conversation with an attorney, a sense of team loyalty, the monetary payment, or the promise of future work (Murrie et al., 2013). The researchers identified not knowing the role of confirmation bias, anchoring, and other potentially important cognitive mechanisms as reasons for this failure (Murrie et al., 2013).

New opportunities for the study of racial bias have presented through advances in large-scale data collection (Hehman et al., 2019). However, explicit and implicit bias measures were initially developed and validated at the individual level. According to Hehman et al. (2019), when established measures are used in a new context, new validity evidence is needed to support interpretations. Previously, data were primarily collected through small, controlled experiments in laboratories on university campuses recruiting undergraduate psychology students as participants (Hehman et al., 2019). Advances in technology now facilitate the collection of massive amounts of data from diverse populations and locations, opening up new opportunities for exploration, theory building, and hypothesis testing. Current data which uses such large-scale approaches has revealed a number of insights into human behavior (Hehman et al., 2019). As researchers continue to include different levels of analysis and diverse groups of people, critical questions about the validity of their measures has emerged. Considering constructs within psychology are often latent in nature, they cannot be directly observed (Hehman et al., 2019). Thus, new measures were developed to assess them and gather evidence that the measures capture the constructs of interest.

Hehman et al. (2019) study was the first to investigate the construct validity of regional explicit and implicit racial bias of Black and White people by examining the substantive, structural, and external evidence of construct validity for regional biases. The external phase of construct validity provides the predictive validity of explicit and implicit racial bias operationalized at regional levels (Hehman et al., 2019). Their results indicated strong explicit-implicit correlations at regional levels and conventionally acceptable levels of retest reliability at the highest levels of regional aggregation (Hehman et al., 2019). Explicit and implicit racial bias at regional levels are generally positively associated with one another which increase at the state level, but this relationship is diminished when location is randomly aggregation assigned (Hehman et al., 2019). This research offers a promising first step in understanding racial bias on a regional scale despite. However, their research was limited due to solely focusing on racial bias, biases of White and Black people, IAT as a measure of implicit bias, limited measures of explicit racial bias, and the sample population not being representative to the general North American population (Hehman et al., 2019). It was recommended to examine regional biases over time using large-scale samples at the state level of minorities and examine explicit and implicit racial bias as predictors in separate statistical models when examining regional outcomes (Hehman et al., 2019). There is still much to be discovered about reliability and validity of racial bias, but our hope is this study will help contribute to current research and guide a path for future research to explore.

Summary and Conclusions

This review of literature provided an overview of literature on the problem examined in this study in order to show the gaps in the literature and rationale for conducting this study. The chapter was divided into three sections. The first section focused on the theoretical foundation of the study, implicit bias theory. Implicit bias theory is founded on the concept that all people have unconscious biases that affect decision-making and actions (Woods, 2018). The second section provided a review of literature in which the constructs of the problem explored in the study were examined. These components were examined in the following subsections: CST, role of forensic psychologist, role of race/ethnicity, role of mental health, measuring competence, field reliability and validity, bias, theories, racial bias and cultural competence, measuring bias, and reliability and validity.

In the first subsection on competency to stand trial, it was noted that the concept of CST dates back to the 13th century Anglo-Saxon law, where it was found to be unfair and inhumane to have defendants that did not have mental capacity to make decisions regarding their legal proceedings (Mallory & Guyton, 2017). CST evaluations may be the most common criminal forensic psychology evaluation (Gowensmith, 2019; Mallory & Guyton, 2017). Subsections two through four noted the role of various factors (e.g. forensic evaluators lifeworld, race/ethnicity of the defendant, and history of mental illness) that could influence CST evaluations and its process.

Chapter 3: Research Methodology

Introduction

The purpose of this research is to investigate how forensic psychologists' lived experiences help them to understand racial/ethnic bias when conducting CST evaluations on minority defendants. Chapter 3 includes the qualitative phenomenological approach as the research design and the role of the researcher. The chapter provides a discussion of the sample and the sampling technique, the interview questions, and the data analysis plan. Finally, issues of trustworthiness, and ethical issues will be discussed. A summary of the chapter will be provided prior to transitioning to Chapter 4.

Research Questions

The qualitative research question that will guide the study included:

RQ–Qualitative: How do lived experiences help forensic psychologists understand racial/ethnic bias when conducting CST evaluations?

Qualitative Research

The purpose of research is to solve a question and address a problem, specifically, a problem of interest to the researcher and the researcher's audience (Booth et al., 2003). Research problems may be addressed in either a quantitative approach or a qualitative approach (Creswell, 2014). Quantitative research is often used to address an explicit research question and problem. The researcher uses a falsifiable theory to deduct or hypothesize an outcome (Creswell, 2014; Johnson & Onwuegbuzie, 2004). The hypothesis is then tested (e.g. surveys, standardized tests, or experiments) and the researcher findings may support or counter the theory (Johnson & Onwuegbuzie, 2004).

The methodology is often rigid and predetermined, and the data may be categorical or numeric (Creswell, 2014). The use of quantitative research is recommended for concrete and/or numeric data, quick data gathering, outcome prediction, and a large sample size (Creswell, 2014).

Qualitative research is a scientific method aimed at contributing to theory development by employing a social constructivist perspective in order to explore and explain social trends (Johnson & Onwuegbuzie, 2004; Silverstein et al., 2006). Qualitative researchers collect data from field observations, interviews, and archival documents, then use research strategies such as ethnography, grounded theory, case study, and phenomenology (Creswell, 2014). Qualitative studies are interpretive, context-specific, and center on the verbal and visual rather than statistical-inquiry procedures. The instruments used to collect the data are often open-ended, semi-structured, or unstructured (Creswell, 2014). Qualitative studies typically use small samples, compared the large sample size used in quantitative studies (Creswell, 2014).

In some studies, a mixed-methods design is considered ideal. Mixed-methods designs are used when a part of the research problem can be addressed through testing an existing theory, but the remaining part cannot. Mixed-methods design may be sequential or concurrent (Creswell, 2014). Sequential strategies, depending on the nature of the research problem, collect one form of data (e.g. quantitative or qualitative) prior to collecting the other form of data (Creswell, 2014). Whereas, in concurrent strategies, the quantitative data and qualitative data are collected at the same time (Creswell, 2014). The nature of the study defines the appropriate approach to address the research problem, as

quantitative and qualitative methods differ in the research methods (Creswell, 2014). Qualitative research is recommended for studying a phenomenon without an existing theory, for scarce information about the research problem, or for gaining an in-depth understanding of the research problem through the experiences of individuals (Creswell, 2014). Given the need to gain further insight and an in-depth understanding of the impact bias has on forensic psychologists, the use of qualitative research was more appropriate for this study.

Research suggests that many forms of bias, such as racial and implicit bias influence observable behavior, and likely impact decision making within a forensic evaluation (Mulay et al., 2018). Although researchers have studied many forms of bias, there is limited research conducted on the impact of racial/ethnic bias when conducting CST evaluations of minority defendants. Given the little information known about the impact of bias on forensic psychologists who conduct CST evaluations of minority defendants, and my interest in gaining an in-depth understanding, the use of qualitative research is more appropriate than a quantitative method. The following section will discuss the research designs under the qualitative approach, and how the designs will impact the study.

Research Design

Based on the nature of the research study, a researcher can select qualitative, quantitative, or mixed methods to conduct the research (Creswell, 2014). The focus in quantitative research is on empirical data that can be measured quantitatively. In scientific research, the use of quantitative method is significant as it allows rigor to the

collected data and substance to the conclusions but is limited due to no exploring the experiences of individuals (Creswell, 2014). As the purpose of the research is to investigate the lived experiences of forensic psychologists who conduct CST evaluations on minority defendants in order to gain insight into their perceptions of the impact of bias, the qualitative approach will be used. Neither the quantitative method nor the mixed method approach was appropriate for this study due to the limitation of both methods (e.g. not exploring lived experiences). Qualitative methodology is used in the exploration of social phenomena with the goal of interpreting the meaning of experiences (Creswell, 2014). The focus in qualitative method on the exploration of research phenomenon was more appropriate considering the research purpose of this study. Therefore, the qualitative method is the most consistent method for this study.

Within the qualitative research method, a researcher can use several research designs including case study, ethnography, grounded theory, and phenomenology. Case studies are used to study a participant or a group of participants over time to describe a behavior, may be single or multiple, and may be supported by numerous data sources including quantitative evidence to study a phenomenon in a real-life context (Yin, 2014). Although the case study involves the perspectives of participants, the focus is not directed solely on the participants' experiences, but on collecting the data through multiple sources to provide a view of a phenomenon that is rich in data (Yin, 2014). The case study research design was not appropriate for this study because the purpose of the study was on exploring the lived experiences of the participants through their own expressions, and a phenomenological research design provided a better alternative.

Ethnography is a type of case study that examines a culture or a social group and is typically used in anthropology, and often includes the study of the setting, such as terrain and climate. The choice of ethnographic research design would have been more appropriate if the nature of the inquiry leaned towards anthropological inquiry, instead of the meaning of the lived experiences of the participants. Therefore, the ethnographic research design was appropriate for this study. Grounded theory is referred to as the construction of theory through data analysis. The researcher in search of emerging patterns or themes will review the data. The emerging themes will be grouped into concepts, which will then be the basis of a theory (Faggiolani, 2011). Grounded theory was not chosen for this study because the purpose of this research is not to formulate a theory on the influence of bias on forensic psychologists, but rather on understanding such influence through their perceptions.

The phenomenological research design is centered around understanding the lived experiences of individuals. Phenomenology is a methodology that focuses on peoples' perceptions of the world, personal experiences, and understanding the essence of these experiences (Sloan & Bowe, 2014). I considered phenomenology to be the most suitable for this study, as the aim is to understand the experience and meaning of the phenomenon under investigation (see Yin, 2014). Researchers using the phenomenological method aim to capture the essence of the phenomenon under study by selecting participants who have experienced the phenomenon (Yin, 2014). In this study, the specific phenomenon for which such experiences will be explored were the influence of bias on forensic psychologists who conduct CST evaluations on minority defendants. Within the

phenomenological approach, the interview process focuses on capturing the lived experiences of participants. Specifically, the interview involves an informal interactive process aimed to evoke a comprehensive account of the person's experience of the phenomenon (Patton, 2015). The choice to interview participants, in-person or remotely, offers forensic psychologists' the opportunity to respond in their own words and to express their perspectives. Therefore, phenomenology provides an avenue for in-depth analysis of the phenomenon under study, as I consider the lived experiences of the informants.

Role of the Researcher

As the researcher of this study, I strived for a more neutral approach on handling data by interacting with each participant to obtain a more in-depth understanding of the phenomenon under study. My view on the effects of bias on forensic psychologists was taken in the context of my experiences. As an African American female who witnessed various forms of bias towards minorities, I have experienced the impact bias has, especially within the context of the U.S. legal system. I understand that the personal experience of bias may influence my personal view of bias and could, if unchecked, lead to bias in data collection and analysis. To manage my experiences, thoughts, and bias, multiple steps were taken. These steps included member checking, data saturation, reflexivity, and proper documentation using field notes and memos. In addition, a trained peer reviewed the transcripts and themes and categories for accuracy and bias. As the researcher, it is essential to minimize personal bias in understanding of the participants' feelings regarding the topic. Therefore, participants were allowed to express their feelings

honestly and further assistance was provided if needed. For this purpose, I used a semi structured, open-ended format for the interviews with the purpose of allowing the participant to clarify their experiences. Last, I aimed to minimize the intrusion of subjective attitudes in the study to ensure the findings are neutral and revealing of the truth as communicated by the participants.

Participants of the Study

To better understand the phenomenon, participants with lived experiences were selected. The target population within this study are forensic psychologists' who have at least one year of direct experience conducting CST evaluations on minorities and are currently employed at a place where CST evaluations are conducted (e.g. mental health institutions, private practice, or independent contractors). Forensic psychologists from all demographic backgrounds, who are 18 years or older, and meet the above inclusion criteria are welcomed to participate. Participants were excluded if they have been employed, less than a year, at a place where CST evaluations are conducted, if they do not have direct experience conducting CST evaluations on minorities and are less than 18 years old. Participants were asked about their lived experiences of conducting CST evaluations on minority defendants. This study consisted of nine participants until theme saturation was reached within the interviews and could no longer provide new insights regarding the implications of bias within the CST evaluation process (Gustafsson et al., 2013). However, according to Creswell (2014), detailed interviews with up to 10 participants is enough to reach saturation. Fusch and Ness (2015) said that data saturation does not depend on the number of participants, but on the depth of the information

collected from the participants. In a phenomenological study, as little as 2 participants to a maximum of 10 participants will be enough, given that the interview questions are somewhat structured.

The study was advertised via email flyers and social media postings at places where forensic psychologists are employed and CST evaluations are conducted (e.g. mental health institutions, private practice, or independent contractors). The announcement contained the nature and purpose of the study, specification of time constraints, as well as my contact details. Participants who contact me were screened according to the recruitment criteria prior to being provided the interview questions. Interviews were conducted via email. According to Meho (2006), email interviewing is rapidly increasing as an interview format within qualitative studies. Email interviews are cost effective, allows the researcher to invite participation of large or geographically dispersed samples of people, and decreases the cost of transcribing (Meho, 2006). Other benefits include allowing the researcher to interview more than one participant at a time and requires little editing or formatting. One major limitation of using email interview is not having a specific time period to collect data (Meho, 2006). For example, it could take months before a respondent replies to an email or it can take only a week. Therefore, it is important when using email to obtain data to specify time constraints prior to participants agreeing to participate in the study. Once data was obtained, it was analyzed, and coded through NVivo. All efforts were made to insure content validity and credibility.

Data Collection

I used email interviews as the data collection method, specifically, semi structured interviews. The use of interviews is recommended to gather complex and wide-ranging information about the phenomenon under study. A semi-structured interview allowed me to ask participants a series of predetermined but open-ended questions, while also allowing participants to speak freely (Fusch & Ness, 2015). This section is composed of two sub-sections that will further discuss instrumentation and data collection procedures in detail.

Instrumentation

Prior to the interview, demographic information was collected from the participants to ensure that the inclusion criteria were met. A researcher-developed questionnaire was used as a guide in data collection. Using semi structured questions in the study will require narratives that will reveal in-depth information, allow me as the researcher to construct questions that are in line with the research problem, and allow the participants to answer the questions specified and add further information (Fusch & Ness, 2015). Through the research questions, I obtained concrete descriptions of the participants' lived experiences. In addition, I used guided questions in efforts to direct rather than lead the participants and maintain a subject-subject relation and subject-phenomenon relation during the interview process (Yin, 2014). The guided interview and demographic questions are listed in Appendix A and B.

Data Collection Method

Approval from the Institutional Review Board (IRB) was obtained prior to data collection. Upon receiving the approval, the participants who expressed interest in participating in the study was screened to ensure they meet the inclusion criteria. Next, the participants was invited to participate in an email interview to be conducted in a place of their choosing, adhering to the time constraints provided. Participants were given three days to complete the interview questions and email back the completed version. Data was recorded via email. Participant's responses were written in their own words and therefore do not need to be transcribed. Prior to the interview, the nature of the study was be explained, and an informed consent form was given to each participant to review and sign.

The informed consent form included an outline of the purpose of this study, procedures, potential risks and discomforts, potential benefits to subjects and/or society, payment/compensation for participants, potential conflicts of interest, confidentiality, participation and withdrawal, alternatives to participation, rights of research subjects, what will be required of the participants in joining the study, and identification of investigators. Specifically, there were statements that participation in this study is voluntary, without incentives, and signing the form will grant me permission to publish the data in this doctoral dissertation to complete a doctoral degree and in any possible future publications unless the participant chooses to withdraw from the study, in which case any data collected from them by then will be permanently destroyed. In addition, the informed consent form indicated that the participants have a right to withdraw from the

study anytime they wish to do so. The participants received a copy of the informed consent form, while I kept the second copy in a secure location for five years before being destroyed. The participants were assigned a random number to replace their name and protect their identity.

Participants were individually asked to provide written responses to interview questions via email and interview questions must be completed within three days of receiving the them to allow participant flexibility and potential time for personal reflection. The interviews described the participants' lived experiences of racial/ethnic bias when conducting CST evaluations on minority defendants. The interview was guided by the protocol provided in the previous sub-section. The protocol was designed to be semi structured, which allowed me to ask follow-up questions for further probing.

Considering data was recorded via email and participants responses were written in their own words, there was no need for them to be transcribed. Member checking served as the follow up procedure, in which the participants may correct or change their initial response. I contacted the participants to ask if their emailed response is accurate or if they are satisfied with their response. If the participants opt to change their answer, I conducted a follow up email procedure. The follow up interview was added to the original email as an addendum. Finally, the data analysis procedures described below was performed on all collected data.

Data Analysis Plan

All the collected data will be compiled using NVivo. NVivo is qualitative data analysis software that assists the researcher in coding and keeping tabs on the data. The

compiled data will be read several times in order to reach data saturation while looking for patterns. The data patterns will be analyzed according to how they are related, which will generate themes and categories to address the research questions. To minimize bias once the themes and categories are finalized, a trained peer will review the emails/transcripts, themes, and categories.

A phenomenological analysis will be used. This analysis includes seven steps; horizontalization, reduction and elimination, clustering and thematizing, validation of invariant constituents, individual textural description, individual structural description, and composite description (Moustakas, 1994). Horizontalization will include an examination of the transcripts to generate invariant constituents. Reduction and elimination will be conducted to ensure that invariant constituents that are not central to the experience, through comparing the relevance of the data with the research questions. Clustering and thematizing involves grouping the invariant constituents in terms of themes. I plan to ensure that the themes are representative of the participants' lived experiences, and that the themes are supported by raw data. The generation of individual textural description will summarize the meaning of the experience using key words from the emails/transcripts, while individual structural descriptions will be created using the interpretation of the emails/transcripts. Last, the composite description will include the final report of the meaning of the lived experience, focusing on the experience as a whole (Moustakas, 1994).

Issues of Trustworthiness

The researcher utilized validity and reliability methods to ensure the trustworthiness of the study. According to Shenton (2004), trustworthiness of qualitative research generally is often questioned because their concepts of validity and reliability cannot be addressed in the same way as other research. The credibility of the study is referred to as internal validity. The internal validity in a qualitative study is dependent on the researcher and the instrument of data collection and analysis (Yin, 2014). To increase the internal validity of this study, the researcher used member checking, data saturation, and reflexivity. For external validity, the researcher provided detailed descriptions of the phenomenon for the readers to have their own ideas on the extent of the generalizability of the study findings. Researcher aimed to attain reliability of the study by documenting of all the data including field notes, memos, and research journals.

Ethical Procedures

To maintain the ethical integrity of the study, permission will be sought from the IRB. Following the ethical policies of the IRB will ensure confidentiality to protect participants within the study. Throughout the study, the names of the participants will be replaced with numbers to protect the participants' identity. Furthermore, The American Psychological Association's (APA) Ethical Code will be followed.

All the participants will be voluntarily recruited. The participants will be briefed and given an informed consent form prior to the interview. After the interviews, member checking will be conducted, which served as follow-up interviews for data accuracy. In addition, data collected will be handled with confidentiality. For example, a pseudonym

will be assigned prior to the interview with each participant and demographic information will be tabulated with the pseudonyms immediately after the interview. The pseudonyms are meant to be useful during the publication, but the researcher will have the knowledge of the identity of each participant, which is required in order to contact the participants. Participant data will be stored in a password-protected personal computer during the research process. In addition, data will be kept secure by using codes in place of names and email encryptions. All data will be kept in a password-protected personal computer in the researcher's personal office for five years before they will be destroyed. Last, all digital data will be secured through encryption.

Summary

A phenomenological qualitative research methodology was selected as the most suitable method to explore the effects of bias on forensic psychologists. The participants of the study are forensic psychologists who will meet the criteria of having at least one year of direct experience conducting CST evaluations on minorities and are currently employed at a place where CST evaluations are conducted (e.g. mental health institutions, private practice, or independent contractors). Forensic psychologists from all demographic backgrounds, who are 18 years or older, and meet the above inclusion criteria are welcomed to participate. Approximately 10 subjects will be regarded as the appropriate sample size based on literature on phenomenological studies. The Ethical Code of APA and the policies of the IRB will be followed. The participants will be interviewed via email, individually using semi structured questions. The data collected will be analyzed and coded into themes and categories, which will be used to address the

research questions. The researcher will ensure the trustworthiness of the study using validity and reliability methods. Chapter 4 will provide discussions on the data analysis procedures and research findings.

Chapter 4: Results

Introduction

Chapter 4 of the study contains the results of the qualitative phenomenological analysis of the nine interviews with forensic psychologists. The purpose of this qualitative phenomenological research was to investigate how forensic psychologists' lived experiences help them to understand racial/ethnic bias when conducting CST evaluations on minority defendants. Moustakas' (1994) van Kaam method was used to identify the most significant experiences of the participants, addressing the main research question of the study. NVivo was also used to assist the researcher in methodically organizing and tabulating the themes of the study. Only one research question guided the study: How do lived experiences help forensic psychologists understand racial/ethnic bias when conducting CST evaluations? In this chapter, the demographics, data analysis, evidence of trustworthiness, findings, and summary will be discussed.

Demographics

Nine forensic psychologists were interviewed for the study. The three main standards were the following: (a) forensic psychologist, (b) have at least one year of direct experience conducting CST evaluations on minorities and are currently employed at a place where CST evaluations are conducted (e.g., mental health institutions, private practice, or independent contractors), (c) are 18 years or older. Nine participants were commissioned for the current study. Table 1 contains the participant code, race/ethnicity, licensure, years of experience, work environment, and professional log of opinions.

Table 1

Participants Background Information

Participant Code	Race/Ethnicity	Licensure	Years of Experience	Work Environment	Professional Log of Opinions
Participant 1	Caucasian/White	Licensed Clinical Psychologist	20 years	Private Practice	Yes
Participant 2	Caucasian/White	Licensed Clinical Psychologist	22 years	State Forensic Hospital and Private Practice	Yes
Participant 3	Caucasian/White	PhD	21 years	Private Practice	No
Participant 4	Caucasian/White	PsyD	12 years	Private Practice and Mental Health Institutions	No
Participant 5	Caucasian/White	PsyD	11 years	Private Practice, State Forensic Hospital, and Independent Contractor	Yes
Participant 6	Caucasian/White	PsyD	28 years	Private Practice and Independent Contractor	Yes
Participant 7	Caucasian/Jewish	PhD	47 years	Independent Contractor	No
Participant 8	Multiracial	PsyD	2 to 3 years	State Forensic Hospital	No
Participant 9	Caucasian/White	PsyD	15 years	Federal Prison System	Yes

Data Collection

Emailed interviews was used to collect data from the nine participants, specifically, semi structured interviews. A researcher-developed questionnaire was used as a guide in data collection. The guided interview was used to obtain concrete descriptions of the participants' lived experiences. Demographic information was also collected from the participants to ensure that the inclusion criteria were met. Participants were given three days to complete the interview questions and email back the completed version. Data was recorded via email. Participant's responses were written in their own words and therefore do not need to be transcribed. There were no variations in data collection from the plan presented in chapter 3.

Data Analysis

First Step: Listing and Preliminary Grouping- Horizontalization

The first step of the modified van Kaam method by Moustakas (1994) was the noting and initial grouping of the experiences from the interviews of the nine forensic psychologists. The practice of listing relevant points of the participants' experiences was known as the horizontalization process of the analysis (Moustakas, 1994).

Second Step: Reduction and Elimination

The second step of the modified van Kaam method by Moustakas (1994) was the reduction and elimination process. During this stage, the data was read multiple times to determine the relevant responses, related to the main research question of the study. For the researcher to classify the invariant constituents or known as the other significant perceptions and experiences of the participants, two questions were proposed by

Moustakas (1994): (a) Does it contain a moment of the experience that is a necessary and sufficient constituent for understanding? (b) Is it possible to abstract and label it? If so, it is a horizon of the experience. Expressions not meeting the above requirements are eliminated. Overlapping, repetitive, and vague expressions are also eliminated or presented in more descriptive terms. The horizons that remain are the invariant constituents of the experience. (p. 121). From the two questions of Moustakas (1994), all 9 interview transcripts of the forensic psychologists were thoughtfully examined. These two questions were used to determine which parts of the interviews were to be employed and incorporated into the next five stages of the analysis. The lived experiences shared by the participants, which strictly addressed the main research question of the study, were then sustained and tagged as the initial invariant constituents of the study.

Third Step: Clustering and Thematizing of the Invariant Constituents

The third step of the analysis was the grouping of the primary invariant constituents uncovered from the previous step. The grouping followed the main research question of the study and the two thematic categories to fully address the research question. According to Moustakas (1994), the grouped and categorized invariant constituents should then be analyzed further and transformed as the core themes of the study. NVivo was vital in determining the invariant constituents and themes of the study, through the systematic organization and tabulation of the manually coded themes.

Fourth Step: Validation of Invariant Constituents and Themes

The fourth step of the study was the verification of the invariant constituents and themes established from the third step of the analysis (Moustakas, 1994). The step was

completed to confirm the invariant constituents and themes, comparing and associating the participants' responses with the newly formed study results. Two questions were again suggested by Moustakas (1994) in line with the fourth step of the analysis: (a) Are they expressed explicitly in the complete transcription? (b) Are they compatible if not explicitly expressed? If they are not explicit or compatible, they are not relevant to the participant's experience and should be deleted (p. 121).

Fifth Step: Individual Textural Descriptions

The fifth step of the analysis was the creation of the individual textural descriptions (Moustakas, 1994). In the fifth step of the analysis, the authenticated invariant constituents and themes were used to create the individual textural descriptions of the participants. Again, verbatim examples of the interviews were vital in examining and determining the findings from each of the participants.

Sixth Step: Individual Structural Descriptions

The sixth step of the method was the identification of the individual structural descriptions (Moustakas, 1994). Experiences shared by all nine participants was used along with their responses supporting the uncovered invariant constituents and themes. This step allowed me to validate the overall results of the study in line with the thematic categories and main research question of the study.

Seventh Step: Composite Description

The final step was conducted to summarize the results of the study. The composite descriptions report the “meanings and essences of the experience, representing

the group as a whole” (Moustakas, 1994, p. 121). From the said definition, the overall experiences of the participants were again discussed.

Evidence of Trustworthiness

The researcher utilized validity and reliability methods, and Lincoln and Guba's (1985) four criteria (e.g., credibility, transferability, dependability, and confirmability) to ensure the trustworthiness of the study. According to Shenton (2004), trustworthiness of qualitative research generally is often questioned because their concepts of validity and reliability cannot be addressed in the same way as other research. The credibility of the study is referred to as internal validity which pertains to the researcher's confidence in the authenticity of the data being reported. In the study, this was achieved by reporting the data directly based on the interviews of forensic psychologists who conduct CST evaluations with minority defendants. Their experiences regarding how cultural competence impact their understanding of racial/ethnic biases on minority defendants became the main source of data. The techniques employed to solidify the credibility of the study results was member checking and data saturation with the nine participants. Participants were provided with the opportunity to review their responses to interview questions and make the necessary changes and edits as deemed relevant. For external validity, the researcher provided detailed descriptions of the phenomenon for the readers to have their own ideas on the extent of the generalizability of the study findings. The researcher aimed to attain reliability of the study by documenting of all the data including field notes and memos. Transferability was achieved though the meaningful description of both the study setting and the forensic psychologists as the participants. Transferability

is the possibility for the findings to be applied to another context or setting for future research studies. Another criterion was the dependability of the study which refers to how stable the data is over time and over conditions. In this study, an audit trial was completed which contained the decision-making process of the researcher as the study was being completed. Last, confirmability was achieved by analyzing and presenting the actual written responses of the participants and not the personal biases of the researcher.

Presentation of Findings

In this section, the results of the phenomenological analysis are presented. Only the themes receiving the greatest number of references from the analysis are listed as the major themes of the study. The themes that followed major themes were considered as the other important findings of the study (e.g., minor themes). Subthemes were also included to better explain and elaborate on the ideas and concepts of the major and minor themes of the study. The themes identified within this study are thoroughly presented and discussed in the section. With a total of nine participants, some themes may need further research to improve or increase the trustworthiness of the established data.

The main research question of the study explored the lived experiences of forensic psychologists who conduct CST evaluations regarding how cultural competence impact their understanding of racial/ethnic biases on minority defendants. Two thematic categories emerged from the analysis of the nine interview transcripts to fully address and discuss the main research question. From the thematic analysis, 22 themes were generated which all pertain to the impact of racial/ethnic biases on minority defendants and impact of cultural competence of forensic psychologists. Table 2 contains the display

of all the themes uncovered from the phenomenological analysis of the interviews with the forensic psychologists.

Table 2

Display of Themes Addressing the Main Research Question of the Study

Thematic Categories (TC)	Themes	Subtheme/s*	Excerpts
Impact of Racial/Ethnic Biases on Minority Defendants	Experiencing both conscious and unconscious attitudes/beliefs/assumptions/opinions about a group (or groups) of people based upon their perceived race or ethnic background	*Racial Profiling	“Making judgements about an individual, consciously or unconsciously, based on the color of a person’s skin or perceived or stated ethnicity.”
	Engaging in problematic practices/behaviors when conducting CST evaluations on minority defendants	*Misinterpretation of testing results, interviewees responses to questions, and behavior displayed during the interview *Stereotyping *Implicit and explicit bias *Cultural competence regarding English as a second language, cognitive impairments or mental illness, and malingering/feigning	“The way they describe the actions or behaviors of their examinees and interpreting what those actions/behaviors mean based on implicit biases about race or ethnicity.”
	Experiencing racial or gender bias as a forensic psychologist	*White privilege *Assumptions about abilities based off race or gender	“Assumptions about my abilities were made based on my race.”
Impact of Cultural Competence of Forensic Psychologists	Altering the views and beliefs of racial biases on minority defendants	*Being aware of cultural differences and values *Continuing education on cultural competence *Impact of mental health on CST evaluations	“How is this person experiencing the process, how do their learned values differ from mine and how will that affect response patterns...”
	Referrals for CST evaluations on minority defendants	*Retained by the defense legal team *Retained by the prosecution legal team	“Most of my CST evaluations have been ordered by the court.”
	Receiving guidance from academic resources and colleagues	*Referencing current literature *Seeking advice from colleagues who are more culturally competent about a racial/ethnic group *Using assessment tools with cultural “norms” *Personal reflection techniques	“Consultation, supervision, peer supervision, self-assessment measures, reviewing the research on bias in forensic evaluations, continuing education, training seminars and webinars, etc.”

Thematic Category 1: Impact of racial/ethnic biases on minority defendants

The first thematic category of the study was the impact of racial/ethnic biases on minority defendants. The interviewed participants had both similar and varying perceptions and experiences of the effects racial/ethnic biases has on minority defendants. As a result, both major and minor themes emerged. Nine of the nine participants reported similar definitions of racial/ethnic bias as being both conscious and unconscious attitudes/beliefs/assumptions/opinions about a group (or groups) of people based upon their perceived race or ethnic background and was able to provide an example of it. One subtheme followed: racial profiling. Meanwhile, another six participants shared their experiences with having racial/ethnic and gender biases inflicted onto them from others. Two subthemes followed: White privilege and assumptions about abilities based off race or gender. Another four of the participants added how their colleagues and/or themselves were engaging in problematic practices/behaviors when conducting CST evaluations on minority defendants. Four subthemes followed: misinterpretation of testing results, interviewees responses to questions, and behavior displayed during the interview, stereotyping, implicit and explicit bias, cultural competence regarding English as a second language, cognitive impairments or mental illness, and malingering/feigning. The breakdown of the major themes, minor themes, and number of references are displayed in Table 3.

Table 3

Display of Themes Addressing Thematic Category 1

Themes	Number of References
Experiencing both conscious and unconscious attitudes/beliefs/assumptions/opinions about a group (or groups) of people based upon their perceived race or ethnic background <i>*Racial Profiling</i>	9
Engaging in problematic practices/behaviors when conducting CST evaluations on minority defendants <i>*Misinterpretation of testing results, interviewees responses to questions, and behavior displayed during the interview</i> <i>*Stereotyping</i> <i>*Implicit and explicit bias</i> <i>*Cultural competence regarding English as a second language, cognitive impairments or mental illness, and malingering/feigning</i>	4
Experiencing racial or gender bias as a forensic psychologist <i>*White privilege</i> <i>*Assumptions about abilities based off race or gender</i>	6

Note: **Subtheme/s*

Major Theme 1: Experiencing both conscious and unconscious attitudes/beliefs/assumptions/opinions about a group (or groups) of people based upon their perceived race or ethnic background

The first major theme of the study was the experience of observing racial/ethnic bias and how this shaped their definitions of racial/ethnic bias. Specifically, the participants shared specific examples of racial/ethnic bias and racial profiling towards minorities. The participants explained how minorities are perceived by their White counterparts within various aspects of their lives: presuming an African American man is going to be violent, believing that all African Americans can play basketball, believing that Black people are all lazy, and someone who speaks a dialectic (e.g., Black English) and comparing how they speak to their level of intelligence.

Subtheme 1: Racial Profiling. The subtheme that emerged was racial profiling. The interviewed forensic psychologists stated how someone can discriminate based on race/ethnic backgrounds. Participant 5 shared an example of how someone can be treated unfairly or inappropriately based on assumptions about his/her race or ethnicity. This participant commented, “Black and minority defendants receiving Capital Punishment as a sentence exponentially more often than when compared to White peers who have been convicted of the same crimes.”

Major Theme 2: Experiencing racial or gender bias as a forensic psychologist

The second major theme that emerged was forensic psychologists’ experiences with having racial/ethnic and/or gender biases inflicted onto them from others. In particular, forensic psychologists shared how they have been discriminated against due to

their gender, age, race, and religious background. The participants revealed how they felt hurt, misunderstood, judged, and unaccepted when being discriminated against.

Participant 8 shared their experiences dealing with racial/ethnic bias. This participant commented, “I have never “fit in” with any racial/ethnic group. I’m too White to be Black, too Black to be White, not Latina enough to be Latina. I’ve always been the “Other,” which was my identity for a long time. I have felt very lonely, unaccepted, excluded, and very much an outsider.”

Subtheme 1: White privilege. The first subtheme was White privilege. One participant admitted that he had not experience racial/ethnic bias because of his race, education, and class. Participant 6 simply commented, “I believe I have not experienced racial/ethnic bias because I am a White male with an education, which means higher class. I believe I have “White male privilege” that I will need be aware of.”

Subtheme 2: Assumptions about abilities based off race or gender. The second subtheme that followed was making assumptions about one’s abilities based off race or gender. The participants expressed how assumptions were made about their abilities based on their race or gender. Participant 3 shared their experiences on how it felt to be discriminated against due to their race, “Assumptions about my abilities were made based on my race. It was unfair and upsetting. It hurt.” Meanwhile, Participant 9 related their personal experiences and how gender bias impacted them. The participant stated, “I found it infuriating when my opinions were dismissed in a professional setting, and was told I was being an emotional woman, rather than that my opinions were voiced strongly and well-reasoned.”

Minor Theme 1: Engaging in problematic practices/behaviors when conducting CST evaluations on minority defendants

The only minor theme that emerged was the engagement in problematic practices/behaviors when conducting CST evaluations on minority defendants. In particular, the forensic psychologist shared how their colleagues and/or themselves displayed the following behaviors: (1) misinterpretation of testing results, interviewees responses to questions, and behaviors displayed during the interview; (2) stereotyping; (3) implicit and explicit bias; and (4) a lack of cultural competence regarding English as a second language, cognitive impairments or mental illness, and malingering/feigning. The participants revealed that their colleagues showed a lack of cultural competence and biases when conducting CST evaluations on minorities.

Subtheme 1: Misinterpretation of testing results, interviewees responses to questions, and behavior displayed during the interview. The first subtheme was how forensic psychologists may misinterpret a minorities actions/behavior. Participant 4 simply commented, “The way they describe the actions or behaviors of their examinees and interpreting what those actions/behaviors mean based on implicit biases about race or ethnicity.”

Subtheme 2: Stereotyping. The second subtheme that followed was stereotyping. One participant expressed how they have experienced colleagues ignore pertinent information that could provide insight into a minority’s actions/behaviors. Participant 5 commented, “If a colleague ignores piles of school records and IQ testing/adaptive functioning measures in favor of saying the Black or other minority

person is feigning cognitive impairment or malingering incompetency. I have had to testify that “I’m pretty sure no 8 year old starts faking bad on an IQ test to be in special education classes their entire educational career” more times than I ever thought I would—all regarding second opinions on Black defendants.”

Subtheme 3: Implicit and explicit bias. One subtheme that emerged was implicit and explicit bias. One participant shared their experiences working with colleagues whom actions aligned with implicit and explicit bias. Participant 1 stated, “I know one forensic psychiatrist who tends to ask defendants of color if they were in a gang. A forensic psychologist colleague recently indicated that an African American defendant was brought to the exam by a “Black male” (which was completely irrelevant to the forensic question).”

Subtheme 4: Cultural competence regarding English as a second language, cognitive impairments or mental illness, and malingering/feigning. One participant shared an experience of forensic psychologists/psychiatrist taking short cuts to reach a shared response. Participant 7 stated, “Once, I saw a psychiatrist completing a CST evaluation in a hallway right before he was supposed to present his findings to the court. In New York, two evaluators are required for a CST case and they have to agree on their final decision on competency. These evaluations are supposed to be done independently, but sometimes they are done together so it can be easier for them to come up with an agreed opinion, which may not be in the best interest of the person receiving the CST evaluation.” Participant 4 commented, “My experience has been that people whose

English is a second language or who are not from the dominant/majority (White) culture are more likely to be seen as incompetent and less likely to be restorable.”

Thematic Category 2: Impact of cultural competence of forensic psychologists.

The second thematic category was the impact of cultural competence practices of forensic psychologists. From the thematic analysis of the interviews, three major themes and nine subthemes emerged. The majority of the participants reported using coursework, clinical supervision, and workshops/seminars, and receiving guidance from academic resources and colleagues as efforts to remain culturally competent when evaluating minorities. All participants reported having experience conducting CST evaluations on minority defendants. However, three participants reported less than 50% of their CST evaluations being conducted on minority defendants: Participant 3 with 40%; Participant 6 with 33%; and Participant 7 with 15%. The other six participants report over 50% of their CST evaluations being conducted on minority defendants: Participant 1 with 70%; Participant 2 with 40 to 50%; Participant 4 with 60%; Participants 5 with 75%; Participant 8 with 90%; and Participant 9 with 50%. All the participants referrals were due to a combination of referrals from the court, defense, and/or prosecution teams. Table 4 contains the display of the themes in relation to the effects of the cultural competence practices of forensic psychologists.

Table 4

Display of Themes Addressing Thematic Category 2

Themes	Number of References
Altering the views and beliefs of racial biases on minority defendants <i>*Being aware of cultural differences and values</i> <i>*Continuing education on cultural competence</i> <i>*Impact of mental health on CST evaluations</i>	9
Referrals for CST evaluations on minority defendants <i>*Retained by the defense legal team</i> <i>*Retrained by the prosecution legal team</i>	6
Receiving guidance from academic resources and colleagues <i>*Referencing current literature</i> <i>*Seeking advice from colleagues who are more culturally competent about a racial/ethnic group</i> <i>*Using assessment tools with cultural “norms”</i> <i>*Personal reflection techniques</i>	9

Note: **Subtheme/s*

Major Theme 1: Altering the views and beliefs of racial biases on minority defendants

The first major theme of the study was the altering in view and beliefs of racial biases on minority defendants. Specifically, participants were able to combat racial biases towards minorities with the following: (1) being aware of cultural differences and values; (2) completing continuing education courses on cultural competence; and (3) impact of mental health on CST evaluations. Participants explained how the above methods helped them to keep themselves accountable for their actions/behaviors when conducting CST evaluations on minorities.

Subtheme 1: Being aware of cultural differences and values. The first subthemes that emerged was being aware of cultural differences and values between the evaluator and the individual being evaluated. Participant 2 simply stated, “My values impact how I conduct evaluations. My values embrace working quickly, thoroughly, treating clients respectfully, and completing evaluations anchored by the science.” Participant 4 provided other examples of being aware of culture in the context of a forensic evaluations. This participant stated, “I believe it is important to be aware of culture in the context of a forensic evaluation—how is this person experiencing the process, how do their learned values differ from mine and how will that affect response patterns, interpreting a person’s response style in the context of their experiences. (Examples: keeping in mind that an African American individual who describes a distrust of the police may not have psychotic paranoid ideation—they may be reality based; or encountering a person who believes the judge and the district attorney work together may

have a cynical view of the legal system as a result of years of perceived mistreatment rather than a lack of factual understanding).”

Subtheme 2: Continuing education on cultural competence. The second subtheme that followed was the participants receiving continuing education on cultural competence. All participants shared the avenues they have received continuing education on cultural competence and whether it was voluntary, mandated, or both. Participant 6 stated, “A mix of both, but more so mandated by university and the states I practice within. However, I have taken some voluntarily over the years.” Participant 7 commented, “Workshops and continued education courses through the American Academy of Forensic Psychology and the American Psychological Association. New York State where I practice does not require continued education courses in cultural competence.”

Subtheme 3: Impact of mental health on CST evaluations. The third subtheme that followed was the impact of mental health on CST evaluations. As the participants shared, the evaluatees state of mental health should be considered when completing CST evaluations on all persons. Participant 5 commented, “Behaviors or beliefs in some cultures may be accepted as normal/spiritual and in others considered psychiatric illness. It’s important to know something about the minority defendant’s culture- through research ahead of time and/or directly asking them about it. Anxiety, irritability, depression, etc. can make a defendant appear as disinterested and uncooperative, when they are actually symptoms stemming from chronic interpersonal traumas.” Meanwhile, Participant 6 highlighted the importance of being mindful to an evaluatees’ mental health

when conducting CST evaluations on minority defendants. This participant stated, “For example, if I have an evaluatee that states they have not worked in a while, I will assume that they could have done more to find a job versus just being unemployed for so long. However, I realize that I may not be fully appreciating that people with mental health issues cannot sustain a full-time job. I need to be more mindful of this.”

Major Theme 2: Referrals for CST evaluations on minority defendants

The second major theme that emerged was how forensic psychologist are referred to complete CST evaluations on minority defendants. All participants reported having experience conducting CST evaluations on minority defendants. However, three of the nine participants interviewed shared that less than 50% of their referrals for CST evaluations are on minority defendants. Participants also reported most of their CST evaluations are court ordered versus being retained by the defense or legal teams. Participant 3 simply stated, “In my state competency evaluations are typically conducted at the order of the Court rather than by either party.” Meanwhile, Participant 6 stated, “In Indiana I am appointed by the court, but in Kentucky I am selected by the defense attorney, whereas in Ohio its more 50/50 between the two.”

Subtheme 1: Retained by the defense legal team. The first subtheme that emerged was how frequent forensic psychologist are retained by the defense legal team. Four of the nine participants reports being retained by the defense legal team: Participant 3 reports less than 10%; Participant 4 reports 10%; Participant 5 reports 60%; Participant 6 reports 38%; and Participant reports 95%.

Subtheme 2: Retrained by the prosecution legal team. The second subtheme that emerged was how frequent forensic psychologist are retained by the prosecution legal team. Four of the nine participants reports being retained by the prosecution legal team: Participant 3 reports 2%; Participant 5 reports 20%; Participant 6 reports 5%; and Participant 7 reports 5%.

Major Theme 3: Receiving guidance from academic resources and colleagues

The third major theme that emerged was the guidance and advice coming from academic resources and colleagues. All participants interviewed reported receiving guidance from academic resources and colleagues as efforts to remain culturally competent when evaluating minorities. Participant 2 commented, “I keep up with the research literature about the particular topic, I ensure that I educate myself about potential cultural issues when dealing with all clients.” Participant 8 echoed, “Consultation, supervision, peer supervision, self-assessment measures, reviewing the research on bias in forensic evaluations, continuing education, training seminars and webinars, etc.”

Subtheme 1: Referencing current literature. The first subtheme was participants referencing current literature used to guide how they interpret evlautees responses to CST evaluation questions. Participant 1 stated, “Continue training on related issues, keep up to date on related literature, ask the defendant about their experiences and upbringing-don’t make assumptions, etc.”

Subtheme 2: Seeking advice from colleagues who are more culturally competent about a race/ethnic group. The second subtheme that emerged was participants seeking advice from colleagues who are more culturally competent about a

particular race/ethnic group. Participant 7 shared their experiences and commented, “I have evaluated individuals from different cultures that I know nothing about (e.g., 100 evaluations in the arctic circle on Eskimo’s). To learn more about this culture I sat in on several CST evaluations conducted by someone who knew more about the culture so I could learn from them and gain a better understanding of the culture I was having to evaluate.”

Subtheme 3: Using assessment tools with cultural “norms.” The third subtheme uncovered was the assessment tools forensic psychologists use with minorities that show cultural “norms.” Five of the nine participants interviewed stated they use culturally competent assessment tools when evaluating minorities. Participant 6 commented, “I use the Inventory of Legal Knowledge (ILK), sometimes MMPI-2-RF, and the Kaufman Brief Intelligence Test 2nd edition (KBIT-2). Other times I use the Competency to Stand Trial Interview, which ask various elements regarding someone ability to stand trial. The MMPI-2-RF has some African American and Hispanic “norms” but the ILK does not.” Meanwhile, Participant 9 stated, “My use of assessments is driven by the individual aspects of the person I’m evaluation. For instance, if I have cognitive concerns, I would administer the WAIS-IV, if I have personality concerns I would administer the MMPI-2RF/3, if I have cognitive effort concerns the VIP, if I have psychopathy feigning concerns the SIRS-2. If the individuals were raised and educated in the United States and Speak English- then yes, I would consider them to be culturally appropriate assessment tools.”

Subtheme 4: Personal reflection techniques. The fourth subtheme that emerged was the use of participants personal reflection techniques used when conducting CST evaluations on minority defendants. Four of the nine participants shared how they used personal reflections to help guide them during their CST evaluations with minorities. As Participant 6 shared, “I do not believe there are good metrics to minimize biases within CST evaluations. Therefore, I choose to use personal reflection as my guide in combatting biases.” Participant 8 shared their experience and commented, “I can admit that using translators during these evaluations can be challenging and time-consuming, which results in feelings/emotions I am embarrassed and ashamed to admit. I have recognized and acknowledged these feelings with supervisors, and we have discussed it at length. It is not fair to the patient to have an evaluator who would prefer an English-speaking patient, as this person deserves and is legally entitled to receiving the highest quality of care and respect as a human being. All of the methods I mentioned above have helped me reflect on those feelings, reframe my mindset, and ultimately allow me to become more culturally sensitive and competent in my practice.”

Chapter Summary

The fourth chapter of the study contained the results from the phenomenological analysis of the nine interviews with forensic psychologist. The purpose of this qualitative phenomenological research was to investigate how forensic psychologists’ lived experiences help them to understand racial/ethnic bias when conducting CST evaluations on minority defendants. Moustakas’ (1994) modified van Kaam method led to the generation of 22 themes, all addressing the lived experiences of forensic psychologist

who conduct CST evaluations regarding the impact of racial/ethnic biases on minority defendants and impact of cultural competence of forensic psychologists. Two thematic categories were uncovered from the interviews to fully answer the main research question.

In terms of the Impact of racial/ethnic biases on minority defendants, the following behaviors were observed: (1) experiencing both conscious and unconscious attitudes/beliefs/assumptions/opinions about a group (or groups) of people based upon their perceived race or ethnic background; and (2) engaging in problematic practices/behaviors when conducting CST evaluations on minority defendants.

Meanwhile, several participants also reported experiences of racial or gender bias as a forensic psychologist regarding misinterpretation of testing, interviewees responses to questions, and behavior displayed during the interview, stereotyping, implicit and explicit bias, and cultural competence regarding English as a second language, cognitive impairments or mental illness, and malingering/feigning. In response to the second thematic category or the impact of cultural competence of forensic psychologists, three major themes emerged. The majority of the interviewed forensic psychologist were able to acknowledge using culturally competent practices by attending continued education courses, graduate school courses, and receiving guidance from colleagues who are more competent with a particular racial/ethnic group both voluntarily and/or mandated. Further, other crucial experiences uncovered from the analysis were the percentage of referrals for CST evaluations on minority defendants and the percentage retained by the defense. In the final chapter, the themes will be discussed along with the literature

presented in the second chapter. The recommendations of the researcher, implications of the results, and the conclusions are also found in the final chapter.

Chapter 5: Discussion, Conclusions, and Recommendations

Introduction

The purpose of this qualitative phenomenological research is to study the lived experiences of forensic psychologists who conduct CST evaluations in order to gain understanding into their perceptions on the impact racial/ethnic bias has when completing CST evaluations on minority defendants. Over the recent decades, the cultural landscape within the United States has shifted significantly. As this cultural shift continues and the population diversifies, more forensic psychologist will most likely be asked to evaluate someone within a minority ethnic group. It is a forensic evaluators' responsibility to seek, develop, and maintain cultural competence. Forensic psychologists must remain sensitive to deliberate and automatic prejudices race/ethnicity could have within the forensic evaluation process. Although researchers have studied many forms of bias, there is limited research conducted on the impact of racial/ethnic bias when conducting CST evaluations of minority defendants, which is why this study is so important.

Phenomenological research aims to capture the essence of the phenomenon under study by selecting participants who have experienced the phenomenon (Yin, 2014). The phenomenological research design is centered around understanding the lived experiences of individuals. The study was established to gain a better understanding of the impact racial/ethnic bias has on forensic psychologists who conduct CST evaluations on minority defendants. In order gain insight on how racial/ethnic bias affects forensic psychologists, each participant was provided with questions to help address the research

question. The following research question was examined: How do lived experiences help forensic psychologists understand racial/ethnic bias when conducting CST evaluations?

In order to answer the research question, a group of participants were collected who met the criteria of being a forensic psychologist, have at least one year of direct experience conducting CST evaluations on minorities and are currently employed at a place where CST evaluations are conducted (e.g., mental health institutions, private practice, or independent contractors), and are 18 years or older. I used a qualitative phenomenological approach as the research design. After the interviews and collection of data were complete, I examined patterns and themes among the participants. This research study was established to gain insight on the impact racial/ethnic bias has on forensic psychologists who conduct CST evaluations on minorities. Participants provided many details to interview questions that allowed for the research question to be supported. Each participant that was interviewed was a forensic psychologist, has experience conducting CST evaluations on minorities, are currently employed at a place where CST evaluations are conducted, and were over the age of 18. Responses to interview questions were review by each participant to make sure they did not want to add any more information. Since the interviews were conducted via email, interview responses already came transcribed in the participants own words. Transcripts were reviewed numerous times to determine the pertinent responses related to the research question. The modified van Kaam method by Moustakas (1994) was used when grouping the experiences gathered from the 9 forensic psychologists. This method helped me list the important points of the participants experiences which is known as the

horizontalization process of the analysis. The invariant constituents and themes were found by answering two questions proposed by Moustakas, which helped to determine the clusters and themes that were used for the study.

Participants described the impact racial/ethnic biases had on minority defendants and how cultural competence of forensic psychologists played a role. Both major and minor themes were found after interviewing participants. The major theme was that minority defendants were impacted by racial/ethnic biases. Negative effects were also found and included racially profiling minorities, difficulty understanding racial/ethnic bias due to having White privilege, making assumptions about someone based off their race and/or gender, and engaging in problematic practices/behaviors when conducting CST evaluations on minority defendants. A positive impact was that due to continuing education on cultural competence and receiving guidance from academic resources and colleague, forensic psychologists can positively alter their views and beliefs of racial/ethnic biases on minority defendants. It was also found that being aware of cultural differences and values and using personal reflection techniques can help decrease racial/ethnic biases towards minorities. The results of the study also included subthemes to help gain a better understanding of the concepts found. The next session will outline a more detailed review of the results.

Interpretation of the Findings

In this study to address the research question, the following interview questions were asked to each participant;

1. How would you define racial/ethnic bias?

- a. Can you give me a specific example of racial/ethnic bias?
2. Overall, how do you think racial/ethnic bias impacts CST evaluations conducted on minority defendants?
3. Have you ever personally experienced racial/ethnic bias?
 - a. Describe an experience where you personally experienced racial/ethnic bias and what that experience meant to you.
4. Do you think some of your colleagues have demonstrated racial/ethnic bias towards minority defendants within the context of their CST evaluations and/or findings?
 - a. If so, why do you consider your colleague action/attitude/behavior to be racially/ethnically bias?
5. Have you received continued cultural competence education?
 - a. If so,
 - i. Who provided this continued education?
 - ii. Was it voluntary or were you required to complete continued cultural competence education courses?
6. Do your personal cultural values play a role in how you conduct CST evaluations on minority defendants?
 - a. If so, how?
7. What methods do you use to combat biases when conducting CST evaluations?
 - a. Do you use these same methods to combat biases when conducting CST evaluations on minority defendants?

8. Do you think mental health of the defendant plays a significant role when conducting CST evaluations on minority defendants?
 - a. If so, how?
9. Approximately what percentage of CST evaluations have you conducted on minority defendants?
 - a. Within this approximate percentage, what is the percentage of time you were working alongside the defense legal team?
 - b. Within this approximate percentage, what is the percentage of time you were working alongside the prosecution legal team?
10. List the assessment tool you use the most and describe why you use this assessment tool the most?
 - a. Do you consider this assessment tool to be culturally competent? Why or Why not?
11. Is there anything else you would like to share with me before the conclusion of this interview?

Research Question

The research question explored in this study was the lived experiences of forensic psychologists and the impact racial/ethnic bias has when they are conducting CST evaluations on minority defendants. Although researchers have studied many forms of bias, there is limited research on the impact racial/ethnic bias has on forensic psychologists who conduct CST evaluations of minority defendants. Participants all

reported the negative and positive effects of racial/ethnic bias and the impact it has on minority defendants who undergo CST evaluations.

Two thematic categories were found to address the research question. From the thematic analysis, 22 themes (five major, one minor, 16 subthemes, and two thematic categories) were generated that relate to the impact of racial/ethnic bias within CST evaluations on minority defendants and the impact of cultural competence practices of forensic psychologists.

Thematic Category 1: Impact of racial/ethnic biases on minority defendants

The first thematic category of the study was the impact of racial/ethnic biases on minority defendants. Participants had both similar and varying perceptions and experiences of the effects racial/ethnic biases has on minority defendants. As a result, both major and minor themes emerged. Nine of the nine participants reported similar definitions of racial/ethnic bias as being both conscious and unconscious attitudes/beliefs/assumptions/opinions about a group (or groups) of people based upon their perceived race or ethnic background and was able to provide an example of it. Six of the nine participants shared their experiences with having racial/ethnic and gender biases inflicted onto them from others. Another four of the participants added how their colleagues and/or themselves were engaging in problematic practices/behaviors when conducting CST evaluations on minority defendants.

Major Theme 1: Experiencing both conscious and unconscious attitudes/beliefs/assumptions/opinions about a group (or groups) of people based upon their perceived race or ethnic background. The first major theme of the study

was the experience of observing racial/ethnic bias and how this shaped their definitions of racial/ethnic bias. Specifically, the participants shared specific examples of racial/ethnic bias and racial profiling towards minorities and explained how minorities are perceived by their White counterparts within various aspects of their lives. For example, believing that all Black people are lazy.

Major Theme 2: Experiencing racial or gender bias as a forensic psychologist. In particular, the forensic psychologists shared their experiences with having racial/ethnic and/or gender biases inflicted onto them from others and their feelings following this infliction. The participants revealed how they felt hurt, misunderstood, judged, and unaccepted when being discriminated against.

Minor Theme 1: Engaging in problematic practices/behaviors when conducting CST evaluations on minority defendants. Participants revealed that their colleagues showed a lack of cultural competence and biases when conducting CST evaluations on minorities. In particular, the forensic psychologist shared how their colleagues and/or themselves displayed the following behaviors: (1) misinterpretation of testing results, interviewees responses to questions, and behaviors displayed during the interview; (2) stereotyping; (3) implicit and explicit bias; and (4) a lack of cultural competence regarding English as a second language, cognitive impairments or mental illness, and malingering/feigning.

Thematic Category 2: Impact of cultural competence of forensic psychologists

Most of the participants reported using coursework, clinical supervision, and workshops/seminars, and receiving guidance from academic resources and colleagues as

efforts to remain culturally competent when evaluating minorities. Participants then added the influences of (a) referencing current literature, (b) seeking advice from colleagues who are more culturally competent about a racial/ethnic group, (c) using assessment tools with cultural norms, and (d) using personal reflection techniques. Other major themes receiving six or more references were (a) referrals for CST evaluations on minority defendants and (b) receiving guidance from academic resources and colleagues. All the participants referrals for CST evaluations were due to a combination of referrals from the court, defense, and/or prosecution teams. However, three participants reported less than 50% of their CST evaluations being conducted on minority defendants: Participant 3 with 40%; Participant 6 with 33%; and Participant 7 with 15%.

Major Theme 1: Altering the views and beliefs of racial biases on minority defendants. The participants stated they were able to combat racial biases towards minorities with the following: (1) being aware of cultural differences and values; (2) completing continuing education courses on cultural competence; and (3) impact of mental health on CST evaluations. Participants explained how the above methods helped them to keep themselves accountable for their actions/behaviors when conducting CST evaluations on minorities.

Major Theme 2: Referrals for CST evaluations on minority defendants. All participants reported having experience conducting CST evaluations on minority defendants. However, three of the nine participants interviewed shared that less than 50% of their referrals for CST evaluations are on minority defendants. Participants also reported most of their CST evaluations are court ordered versus being retained by the

defense or legal teams. Participant 3 simply stated, “In my state competency evaluations are typically conducted at the order of the Court rather than by either party.” Meanwhile, Participant 6 stated, “In Indiana I am appointed by the court, but in Kentucky I am selected by the defense attorney, whereas in Ohio its more 50/50 between the two.”

Major Theme 3: Receiving guidance from academic resources and colleagues. Nine of the nine participants interviewed, shared how the guidance and advice coming from academic resources and colleagues helped to increase their cultural competence when working with minorities. Participant 2 commented, “I keep up with the research literature about the particular topic, I ensure that I educate myself about potential cultural issues when dealing with all clients.” Participant 8 commented, “Consultation, supervision, peer supervision, self-assessment measures, reviewing the research on bias in forensic evaluations, continuing education, training seminars and webinars, etc.”

Limitations of Study

There were some limitations to the study. The data was limited as forensic psychologists were the only participants interviewed. Minorities’ experiences may differ from forensic psychologists’ representations, as forensic psychologists could over or understate the impact racial/ethnic bias has on minorities due to their own implicit biases. This limitation could not be avoided since the data collected was provided by forensic psychologists. Therefore, this study was limited due to relaying only on the perceptions of forensic psychologists, who may have different perceptions of how minority defendants are affected by racial/ethnic bias.

Second, the research results focused on a specific population and not the general population. The population was limited to forensic psychologists who have at least one year of direct experience conducting CST evaluations on minorities, are currently employed at a place where CST evaluations are conducted and are 18 years or older. All other participants did not meet criteria for the scope of this study. Participants were recruited from all 50 states in the USA due to having inconsistent state requirements for training and education needed to conduct CST evaluations.

Third, majority of participants within this study were Caucasian, except for participant 8 who identified as Multiracial (Caucasian, African American, and Latina). Participant 8 commented, "I have never "fit in" with any racial/ethnic group. I'm too White to be Black, too Black to be White, not Latina enough to be Latina. I've always been the "Other," which was my identity for a long time." Participant 8 comment helped to highlight the importance of needing "other" racial/ethnic groups as participants within this study because they were able to offer insight on how they view race/ethnicity as a person of color. Additionally, their comment highlighted how having a lack of diverse racial/ethnic groups as participants within the current study created a major limitation.

Another limitation was interviews were conducted via email and not in person. Email interviews are cost effective, allows the researcher to invite participation of large or geographically dispersed samples of people, and decreases the cost of transcribing (Meho, 2006). Additionally, it allows the researcher to interview more than one participant at a time and requires little editing or formatting. One major limitation of using email interview is not having a specific time period to collect data (Meho, 2006).

To address this limitation, I instilled a three-day completion requirement for all participants to adhere to if they agreed to do the study. Participants were given three days, upon receiving the questions, to complete the questions in efforts to allow participant flexibility and potential time for personal reflection. Last, the research was limited due to only interviewing participants who were currently employed at a place where CST evaluations are conducted. Recommendations to address this limitation in future studies are listed in the section below.

Recommendations

While conducting research on this topic I found a lot of information on various forms of bias and the impact of ethnicity on clinicians' decision making. However, there was limited research examining the impact of a criminal defendant's ethnicity upon forensic mental health experts. Racial disparities exist within the criminal justice system and the mental health field. As an African American myself, I felt the need to obtain a better understanding of how forensic psychologists lived experiences help shape their perceptions of racial/ethnic bias when conducting CST evaluations on minorities. Due to the limited amount of research in which forensic psychologists have been considered in relation to the consequences of racial/ethnic bias of minorities, the goal of this study was to contribute additional research on racial/ethnic bias and the effects on minorities, specifically minority defendants who are undergoing CST evaluations. I would recommend that further research be conducted on how each state helps forensic psychologists remain culturally competent, especially those states that do not require mandatory continued education on cultural competence. Additionally, I am

recommending that a yearly continued education on cultural competence training and/or course be mandated for all professionals who are conducting CST evaluations.

Secondly, I would recommend broadening the participant pool. As noted earlier there were a total of nine participants, themes with references below a 5 may need further research to improve or increase the trustworthiness of the established data. In this study there were primarily Caucasian persons who participated in the study. In future studies it will be beneficial to further expand on how minorities and Caucasians perceive racial/implicit bias, and if they respond to questions differently. Also, despite my attempts to recruit participants from other racial/ethnic backgrounds, ultimately, I was unsuccessful and was not led to a reason as to why this happened. Future studies could also investigate this further to determine if there is reason why participants from other racial/ethnic backgrounds chose not to participate in this study and/or respond to the study recruitment flyer.

Third, will be to interview minorities who have received CST evaluations directly. As noted in my limitations, forensic psychologists have different perspectives on how they view things as opposed to minority defendants. In this research the gender of the forensic psychologists interviewed was not disclosed, additional research will be beneficial if the gender of forensic psychologists is studied to see how gender/sex play a role in how they are affected by racial/ethnic bias.

Fourth, the study focused on forensic psychologists who lived in the United States. Further research will be beneficial on how forensic psychologists understand racial/ethnic bias within other countries (e.g., United States versus United Kingdom). It

would be interesting to explore if their cultural values and experiences with racial/ethnic biases are the same. Last, as noted in my limitations, only participants who were currently employed at a place where CST evaluations are conducted were interviewed. Future research should remove this requirement to allow space to explore if there are any differences among forensic psychologists who are currently employed at a place where CST evaluations are conducted versus those who are not. Specifically, taking a closer look as to why forensic psychologists have chosen to no longer be employed at places where CST evaluations are conducted (e.g., overworked, witnessing racial biases, not feeling supported, etc.). Future studies should also consider taking a closer look at forensic psychologists who keep records of their CST evaluation outcomes to determine if racial/ethnic bias towards minorities are present within their evaluation outcomes.

Implications

This study helps promote positive social change by creating awareness of racial/ethnic factors that affect CST evaluations, creating education opportunities for psychology professionals, teachers/professors, and persons of all racial/ethnic backgrounds, and increasing insight which could hopefully lead to less bias within CST evaluations. The study looked at the phenomenon through the view of the forensic psychologists and their perceptions and experiences on how their understanding of racial/ethnic bias affects CST evaluations conducted on minority defendants. The findings of this study provide significant data on various levels. These findings can be used to create personalized training and educational opportunities for persons of all racial/ethnic and professional backgrounds who work with minorities. The results of

this study found forensic psychologist to experience racial/ethnic bias in their behavior towards minority defendants when there is a lack of cultural competence practices.

Obtaining a better understanding of the types of cultural competence trainings and education this is available to forensic psychologists can help identify any gaps of information that is needing to be taught to assure all forensic psychologists have a greater understanding of cultural competence practices when working with minorities. In addition, requiring mandatory continued education on cultural competence within the 50 states could help decrease the effects of racial/ethnic bias on minorities. Therefore, I am recommending a yearly continued education on cultural competence training and/or course be mandated for all professionals who are conducting CST evaluations to help increase awareness, insight, and hopefully less bias within CST evaluations. It is a forensic evaluators' responsibility to seek, develop, and maintain cultural competence. However, adding their personal responsibility with standardized mandatory continued education on cultural competence could prove to be very beneficial to forensic psychologists and the minorities they work with. This information can also help with understanding the impact racial/ethnic bias has on minority defendants and help psychology professionals, teachers/professors, and persons of all racial/ethnic backgrounds gain insight on things to look for to prevent themselves from inflicting racial/ethnic bias onto minorities.

Conclusion

In conclusion, the purpose of this qualitative phenomenological research is to study the lived experiences of forensic psychologists who conduct CST evaluations in

order to gain understanding into their perceptions on the impact racial/ethnic bias has when completing CST evaluations on minority defendants. As the research was being conducted, it was unclear if predictors of racial/ethnic bias vary across forensic psychologist who are required by their state to complete continued education on cultural competence and those who are not required by their state. There is an essential need to understanding the impact racial/ethnic bias has on minority defendants and understanding if cultural competence plays a role.

Participants in the study were willing to respond to all interview questions to help gain a better understanding of how minority defendants are affected and how they can become better forensic evaluators in the future. All participants voiced how being aware of cultural differences and values and receiving guidance from academic resources and colleagues played an important role in combating racial/ethnic bias when conducting CST evaluations on minorities. This study provided many conclusions that were made to help forensic psychologists. Additionally, it offers a guide to help other researchers by providing them with a direction to explore and increase awareness of racial/ethnic bias towards minorities and assist psychology professionals, teachers/professors, and persons of all racial/ethnic backgrounds in understanding the importance of mandatory continued education on cultural competence.

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Appendix A: Interview Questions

12. How would you define racial/ethnic bias?
 - a. Can you give me a specific example of racial/ethnic bias?
13. Overall, how do you think racial/ethnic bias impacts CST evaluations conducted on minority defendants?
14. Have you ever personally experienced racial/ethnic bias?
 - a. Describe an experience where you personally experienced racial/ethnic bias and what that experience meant to you.
15. Do you think some of your colleagues have demonstrated racial/ethnic bias towards minority defendants within the context of their CST evaluations and/or findings?
 - a. If so, why do you consider your colleague action/attitude/behavior to be racially/ethnically bias?
16. Have you received continued cultural competence education?
 - a. If so,
 - i. Who provided this continued education?
 - ii. Was it voluntary or were you required to complete continued cultural competence education courses?
17. Do your personal cultural values play a role in how you conduct CST evaluations on minority defendants?
 - a. If so, how?
18. What methods do you use to combat biases when conducting CST evaluations?

- a. Do you use these same methods to combat biases when conducting CST evaluations on minority defendants?
19. Do you think mental health of the defendant plays a significant role when conducting CST evaluations on minority defendants?
 - a. If so, how?
20. Approximately what percentage of CST evaluations have you conducted on minority defendants?
 - a. Within this approximate percentage, what is the percentage of time you were working alongside the defense legal team?
 - b. Within this approximate percentage, what is the percentage of time you were working alongside the prosecution legal team?
21. List the assessment tool you use the most and describe why you use this assessment tool the most?
 - a. Do you consider this assessment tool to be culturally competent? Why or Why not?
22. Is there anything else you would like to share with me before the conclusion of this interview?

Appendix B: Demographic Questionnaire

1. How old are you?
2. What race/ethnic group do you identify as?
3. What is your educational background?
4. What is your level of licensure (e.g., PhD, LCSW, LMFT, LPC, etc)?
5. How long have you conducted CST evaluations?
6. What avenue are you using to conduct CST evaluations (e.g. mental health institutions, private practice, independent contractor, etc.)?
7. Do you keep a personal/professional log regarding the outcomes of your professional opinions after conducting CST evaluations?

Appendix C: Recruitment Flyer

VOLUNTEERS NEEDED FOR
RESEARCH STUDY ON

Examining the lived experiences of Forensic Psychologists who conduct Competency to Stand Trial Evaluations (CST) on Minority Defendants. Melissa Arnold is a doctoral student at Walden University, and is conducting this research study as a part of her doctoral degree requirement. The researcher is looking for forensic psychologists' from all demographic backgrounds, who are 18 years or older, have at least one year of direct experience conducting CST evaluations on minorities, and are currently employed at a place where CST evaluations are conducted (e.g. mental health institutions, private practice, or independent contractors). Volunteers will be asked to provide written responses to questions on the impact lived experiences has on CST opinions. The research aspires to understand how forensic psychologists' lived experiences help them to understand racial/ethnic bias when conducting competency to stand trial evaluations on minority defendants. As a participant in this study, you will be asked to provide written responses to questions via email. Participants will be given three days, upon receiving the questions, to complete the questions in efforts to allow participant flexibility and potential time for personal reflection.

If you are interested, please can contact me by phone (314) 250-6618 or email at Melissa.arnold@waldenu.edu. Thank you!

Appendix D: Informed Consent

You are invited to take part in a research study about the lived experiences of forensic psychologists who conduct competency to stand trial evaluations (CST) on minority defendants. The researcher is inviting forensic psychologists' from all demographic backgrounds, who are 18 years or older, have at least one year of direct experience conducting CST evaluations on minorities, and are currently employed at a place where CST evaluations are conducted (e.g. mental health institutions, private practice, or independent contractors) to be in the study. This form is part of a process called "informed consent" to allow you to understand this study before deciding whether to take part.

This study is being conducted by a researcher named Melissa Arnold who is a doctoral student at Walden University.

Background Information:

The purpose of this study is to examine how forensic psychologists' lived experiences help them to understand racial/ethnic bias when conducting CST evaluations on minority defendants.

Procedures:

This study involves the following steps:

- Complete a confidential demographic questionnaire via email (5 minutes)
- Provide written responses to questions via email (30 minutes)
- Review emailed responses to questions to make corrections if needed (10 minutes)
- Email the researcher one more time after providing the written responses to questions to request the researcher's interpretations and share your feedback

Here are some sample questions:

1. Do you think some of your colleagues have demonstrated racial/ethnic bias towards minority defendants within the context of their CST evaluations and/or findings?
 - a. If so, why do you consider your colleague action/attitude/behavior to be racially/ethnically bias?
2. Have you received continued cultural competence education?
 - a. If so,
 - i. Who provided this continued education?

- ii. Was it voluntary or were you required to complete continued cultural competence education courses?
3. Do your personal cultural values play a role in how you conduct CST evaluations on minority defendants?
 - a. If so, how?
4. What methods do you use to combat biases when conducting CST evaluations?
 - a. Do you use these same methods to combat biases when conducting CST evaluations on minority defendants?

Voluntary Nature of the Study:

Research should only be done with those who freely volunteer. So, everyone involved will respect your decision to join or not. If you decide to join the study now, you can still change your mind later. You may stop at any time. The researcher seeks 10-12 volunteers for this study. The researcher will follow up with all volunteers to let them know whether or not they were selected for the study.

Risks and Benefits of Being in the Study:

Being in this study could involve some risk of the minor discomforts that can be encountered in daily life, such as stress or revealing things that are personal. With the protections in place, this study would pose minimal risk to your wellbeing.

If you find yourself in psychological distress during or after this study please refer to SAMHSA Treatment Referral Helpline, 1-877-726-4727, to get general information on mental health and locate treatment services in your area.

This study offers no direct benefits to individual volunteers. The aim of this study is to benefit society by creating awareness of racial/ethnic factors that affect CST evaluations and create education opportunities for psychology professionals, teachers/professors, and persons of all racial/ethnic backgrounds.

Payment:

There will not be any payment or thank you gifts provided to participants.

Privacy:

The researcher is required to protect your privacy. Due to the researcher collecting written responses via email, she will know who is participating and thus can only keep participants and their data confidential. The researcher will not use your personal information for any purposes outside of this research project. Also, the researcher will not include your name or anything else that could identify you in the study reports. If the researcher were to share this dataset with another researcher in the future, the researcher

is required to remove all names and identifying details before sharing; this would not involve another round of obtaining informed consent. Data will be kept secure by using codes in place of names and email encryptions. Data will be kept for a period of at least 5 years, as required by the university.

Confidentially:

The researcher will make every effort to maintain confidentiality. However, there are certain exceptions to confidentiality, noted below, with which you should be aware before you volunteer to become a participant in this study.

- If you report information indicating that a child, disabled, or elderly person is suffering abuse or neglect
- If you report information indicating criminal activity
- If you pose a threat of harm to yourself or another person

Contacts and Questions:

You can ask questions of the researcher by phone (314) 250-6618 or email Melissa.arnold@waldenu.edu. If you want to talk privately about your rights as a participant or any negative parts of the study, you can call Walden University's Research Participant Advocate at 612-312-1210. Walden University's approval number for this study is **03-22-21-0744907** and it expires on **March 21, 2022**.

You might wish to retain this consent form for your records. You may ask the researcher or Walden University for a copy at any time using the contact info above.

Obtaining Your Consent

If you feel you understand the study and wish to volunteer, please indicate your consent by replying to this email with the words, "I consent."