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# The Impact of Racial Stereotyping on Juror Perception of Criminal Offenders

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# Walden University

College of Social and Behavioral Sciences

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2017

Abstract

The Impact of Racial Stereotyping on Juror Perception of Criminal Offenders

by

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MPA, Albany State University, 2008

BBA, Georgia Southwestern State University, 2006

Dissertation Submitted in Partial Fulfillment

of the Requirements for the Degree of

Doctor of Philosophy

Public Policy and Administration

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## Abstract

For decades, research has consistently demonstrated that minorities are overrepresented in the prison population, yet relatively little is known about whether juror perceptions about race and criminal culpability may impact this problem in the United States. Using Hill's folk theory of race and racism as the theoretical foundation, this cross sectional study examined the relationship between perceptions of the race of the defendant and the verdicts to be handed down. Data were collected from a convenience sample of 25 people who self-reported having served on a jury or were eligible for jury service within the past 5 years in a southwest Georgia community. The instrument used was original and designed to capture basic demographics of the respondents and perceptions about traits of the criminal defendants and their criminal culpability. Data were analyzed using descriptive statistics and chi-square tests to examine whether participants' perceptions of race, income, and education of the defendant were statistically associated. Income and educational ranges were assigned to the defendants. Findings revealed 76% of respondents believed that baggy clothes are predictors of criminality. Furthermore, 72% of participants associated baggy pants with African Americans. It is possible that a correlation exists between associating African Americans with baggy pants and baggy clothes with criminality. Chi square results indicate that participants' beliefs of whether defendants were "likely or extremely likely" to commit criminal offenses based on race, education level, and income of the defendants were not statistically significant. These findings may be important to court systems in terms of better understanding race relations in the United States as it relates to justice system equality.

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## Dedication

I dedicate this work to my mother and my children, who have unselfishly allowed me to accomplish my dreams and still managed to love me anyhow. I will always love you.

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I am thankful first and foremost to my Father in Heaven, God Almighty, for blessing me with such a wonderful opportunity and the tenacity to fulfill a lifelong dream. I would like to thank my dissertation chair, Dr. Dianne Williams, and my committee members, Dr. Michael Klemp-North and Dr. Olivia Yu, for their patience, feedback, and support. I would also like to thank Dr. Felecity Burns, Dr. Clara Sheffield, and Evelyn Severson-Stubbs for their continued support and motivation throughout this entire process. I am grateful for the participants in this research and the trust they placed in me to exercise honesty and integrity during the survey process. Lastly, I am forever grateful to my mother and children--the reason I strive for excellence.

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## Chapter 1: Introduction to the Study

### **Introduction**

“To protect and to serve” is a catch phrase that has been associated with many policing systems around the world. In actuality, this phrase epitomizes the ultimate goal of every association that functions within the realm of the criminal justice system. If there were ever a purpose to define its existence, this phrase would do just that. The task of keeping society safe is a tedious and challenging journey that requires trained and dedicated individuals to carry out such a mission. Yet, as with any other organization, the criminal justice system has its fair share of problems as well. Grant (2002) stated that law enforcement officials, in particular, have a responsibility to “serve the community, safeguard lives and property, protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder, and respect the constitutional rights of all to liberty, equality, and justice” (p. 12). Therefore, it is important that law enforcement officials perform their duties with due diligence and fairness.

Although the main purpose of the criminal justice system is to ensure the safety of all citizens and seek justice where justice is due, not all citizens feel they are safe nor do they feel that justice is administered fairly to everyone. Some feel that the criminal justice system is biased, making decisions and implementing policies based on extralegal factors such as ethnicity and race (Amaker & D’Alemberte, 1992). Wernsman (2009) stated that the implementation of the unequal practices by nonminority officials in the

criminal justice system is a response to the freedom that minorities experience today compared to slavery days.

According to an article in the *ABA Journal* (Amaker & D'Alemberte, 1992), in order to alleviate the issues surrounding prejudicial attitudes and behaviors in the criminal justice system, legislation needs to be reviewed and reformed. A lack of people of color on juries and judicial benches, as well as unpunished incidents of police brutality against people of color, are some of the many issues that result in disparate treatment in a criminal justice system that is in desperate need of legislative review (Amaker & D'Alemberte, 1992). For example, the Rodney King trial, which occurred years after the Civil Rights Movement in the 1990s, was a reminder to many that prejudice and racism were still issues (Amaker & D'Alemberte, 1992). Many people feel that the issue has still not been fully resolved.

There have also been a number of concerns raised regarding disparities in the administration of the death penalty for Caucasian Americans compared to African Americans (Garcia, 2008; Kim, 2011). According to Garcia (2008), it is a lot easier to convict people of color than it is to convict nonminorities even in the absence of hard evidence. The lack of hard evidence when handing down a death penalty sentence to an African American offender is evident in the case of Troy Davis. Davis, a potentially innocent African American male, was executed on September 21, 2011 in Savannah, Georgia for the 1989 murder of a Savannah police officer (Kim, 2011). Years after the initial conviction, seven of the nine eyewitnesses recanted statements and some admitted

to being pressured by attorneys in the interrogation room (Kim, 2011). In 2009, the U.S. Supreme Court issued an order for an evidentiary hearing (Kim, 2011). Neither a gun nor any other physical evidence connected Davis to the murder (Kim, 2011). However, prosecutors were able to convince the jury that the statements of the witnesses were sufficient enough to convict Davis (Garcia, 2008; Kim, 2011). Despite the fact that the testimonies from eyewitnesses were recanted, all appeals to overturn the death penalty for Davis were denied, resulting in his execution by lethal injection (Kim, 2011).

Situations such as the verdicts of the Rodney King and Troy Davis trials compel people to question the ethics of the criminal justice system and its administrators. Although the United States is believed to have one of the best criminal justice systems in the world, concerns surrounding ethics and ethical behavior within the system arise on a daily basis (Grant, 2002). Society has placed an expectation on the criminal justice system to perform in an ethical manner and set such an example for society to follow. Ethical behavior includes, but is not limited to, using only the force necessary to apprehend individuals, avoiding conflicts of interest, acting fairly to all individuals, and maintaining integrity at all times (Grant, 2002).

It is the absence or perceived absence of ethics in the criminal justice system that raises the issue of racism in the administration of justice. With the recent spawn of events, including police shootings and civilian attacks on police officers, racial tensions concerning the criminal justice system are seemingly increasing. In this study, I will

examine public perceptions that may adversely impact the decision making processes of potential jurors.

### **Background of the Problem**

Perhaps, the main issue that fuels inequality in the criminal justice system is the stereotypes that individuals hold regarding others, whether it is due to race, religion, ethnicity, or socioeconomic status. Herrera and MacLin (2006) stated:

Stereotypes can be thought of as the mental representations that people have for members of a group (e.g., racial or ethnic groups, gender, etc.). These mental representations typically exaggerate the differences between groups and minimize the differences of people within the same group. In addition, the group being stereotyped (the out-group) tends to be viewed more negatively and as more homogeneous than the in-group, which is perceived more positively and as more heterogeneous. Research has shown that people have well-defined stereotypes for racial/ethnic groups... (p. 197)

Stereotypes are common for all individuals. However, when these stereotypes are negative, it is possible that they can adversely impact society as criminal stereotypes introduce bias into the criminal justice system (Herrera & MacLin, 2006). Although racism has been an issue since the antebellum era, perhaps there are other issues that contribute to these stereotypes, such as media portrayals (Pilgrim & Smith, 2000). For example, Pilgrim and Smith (2000) stated that the media places more attention on the

crimes committed by ethnic minorities. Therefore, the question is raised of whether media fuel prejudice and/or racism.

In order to answer this question, we must first define the terms *prejudice* and *racism*. Many people use the words prejudice and racism interchangeably. However, the two are not the same. Prejudice, according to Ponterotto, Porter, and Utsey (2008), is a negative bias towards a particular group of people. In contrast, racism is “based on beliefs and reflected in behaviors that accept race as a biological entity and maintain racial groups, other than one’s own, are intellectually, psychologically, and/or physically inferior” (Casas, as cited in Ponterotto, Porter, & Utsey, 2008, p. 339). Indeed, some researchers argue that racism does exist in the criminal justice system in the form of police brutality, racial profiling, and the overrepresentation of minorities in prison (Amaker & D’Alemberte, 1992; Garcia, 2008; Gumbhir, 2007; Hill, 2009, Risse & Zeckhauser, 2004).

Racist behaviors in the criminal justice system have adverse effects that can result in mental and emotional challenges for minorities (Amaker & D’Alemberte, 1992). According to Leigh (as cited in Amaker and D’Alemberte, 1992), “The fact is that minorities do not trust the court system. They don’t trust it to resolve their disputes or administer justice fairly” (p.1). Not only are the court systems made up of predominantly Caucasian judges and other Caucasian law officials, but all-Caucasian juries are also a common part of the system and their decisions could also bring significant burdens to bear on criminal defendants (Amaker & D’Alemberte, 1992; Eigenberg et al., 2011;



Goldman, 2011; Kazoleas, Kawakami, & Schuller, 2009; Lane, 2009; Reddick, Nelson, & Caufield, 2009). During a 1994 American Bar Association sponsored summit on racial and ethnic issues in the criminal justice system, Assistant Attorney General Deval Patrick advised the audience that the feelings of oppression experienced by minorities at the hands of law enforcement could eventually lead to them setting their own rules, losing respect for the law, and increasing violence (Reske, 1994).

Rattansi (2007) stated that racist and prejudicial acts are made invisible by being kept quiet and out of the media, giving the illusion, to some, that it no longer exists. However, of interest is the fact that the majority of the violent crimes that are in the news involve people of color, mostly African Americans (Rattansi, 2007). This can be detrimental as some perceptions are shaped based on what the rest of society sees and hears (Rattansi, 2007). Perceptions are normal among all individuals and vary a great deal. Perceptions, right or wrong, exist in all facets of life, and can be based on things such as financial status, health status, and relationship status. For example, an individual may form an opinion on the financial status of others based on the car they drive or the house they live in. Moreover, many perceptions are based on just that: external factors (Hill, 2009). Sometimes, perceptions based on external factors are accurate, and sometimes they are not. But when they are not accurate, this can be harmful, especially if the perception is negative.

Negative perceptions can be harmless until an individual's actions are influenced by them. According to Hill (2009), negative perceptions can be used, directly or

indirectly, to oppress people of color. In the folk theory of race and racism, Hill stated that individuals who do not consider themselves to be racist (or prejudiced) may still behave in a racist or prejudicial manner without intending to discriminate or being aware of their actions. More attention is placed on actual perceptions about others rather than why these perceptions exist in the first place. For example, African Americans are cognitively associated with crime (Crutchfield, Fernandes, & Martinez, 2010; Wilson, Salinas, & Buckler, 2009; Youman, 2006;). So it is possible that in some instances jurors hold negative perceptions about criminal defendants without realizing that discrimination will result.

To be more specific, certain crimes have been (and continue to be) associated with certain races (Becker, Jipson, & Katz, 2001). Property crimes are more associated with African Americans (Kovandzic, Sloan, & Vieraitis, 2004). This perception could be the reason why many nonminority women clutch their purses when they are in the presence of an African American male on the streets (Lowe, 2000). Lowe (2000) stated that this action is a precaution that many women take, even if they are unaware of their own actions. Dalmage (as cited in Lowe, 2000) says:

When you ask a white woman why she is clutching her purse in the presence of a black man, she says she's not clutching it, just rearranging the contents. To admit to her racism would mean questioning her own identity. Caucasians talk about it secretly and blacks talk about it all the time. (p. 1)

Some hold their purses near their bodies while others stare at the ground to avoid eye contact (Lowe, 2000). And still some will walk faster, move closer to the street (searching for an escape route) or stop and let African American men walk pass them. This act can be offensive, especially for those who have no intentions of stealing, yet are categorized and stereotyped by others because of their race.

Notwithstanding historic trends, policies such as the Equal Opportunity Act and Affirmative Action, as well as desegregating factors such as interracial relationships, are beginning to erase the racial divides, prejudice, and racial behaviors which are being expressed in a more subtle manner (Butz & Plant, 2009; Hill, 2009). Butz and Plant (2009) stated that this subtle behavior could be the result of social pressures (as a result of Civil Rights Legislation) or the personal acknowledgement of a changing world and its standards. Whatever the motive, prejudice and racial behaviors are influenced by external and internal factors. For example, in situations that require an individual to respond quickly, the inability to regulate prejudice may be a sign that the motivation to behave in a nonprejudicial manner is based on external factors, such as being in the presence of others (Butz & Plant, 2009).

Regardless of the issue at hand, when external motivators are the driving force, prejudicial attitudes are hard to control (Robins, 2012). For example, in the case *Texas v. Johnson* (1989), Judge Stevens expressed intense emotions, including teary eyes, a red face, and a different tone of voice during the discussion of the right to burn the American flag, as Judge Stevens served in the military during World War II (Robins, 2012).

Because of the judge's personal beliefs and patriotism for his country, it was difficult for Judge Stevens to render an unbiased decision (Robins, 2012). In the end, the judge could not make a decision outside of the scope of his personal beliefs (Robins, 2012). On the other hand, when actions are based on internal motivators, the ability to act in a nonprejudicial manner is not as difficult (Robins, 2012). In the same case, other justices were driven by internal motivators, giving them the ability to render an unbiased decision. Justice Kennedy (as cited in Robins, 2012) wrote, "The hard fact is that sometimes we must make decisions we do not like. We make them because they are right, right in the sense that the law and the Constitution, as we see them, compel the result" (p. 1227).

For individuals who suppress prejudicial actions based on external motivators, such as public opinions, other methods of expressing prejudicial behaviors are sought. For some, the criminal justice system may be their outlet for exhibiting prejudicial behaviors. Perhaps, according to Augoustinos et al. (1997), it is at this point that prejudicial thoughts and behaviors worsen and institutionalized racism begins to manifest. Augoustinos et al. (1997) argued:

Institutionalized racism often involves assimilationist goals of incorporating minority groups within the dominant group, and pathologising of minority groups, so that their valid needs do not receive full recognition. It could be argued that institutionalized racism is actually the predominant form of racism, with significant effects on groups as well

as individuals. Since it is complex, deeply entrenched and largely invisible, it is a particularly worrisome manifestation of racism. (p. 27)

This belief is supported by the likes of Beckett and Murakawa (2010), who stated that antidiscrimination laws cause many to believe that racism is “waning, aberrant, and located in the bad intentions of individual actors” (p. 696).

Despite antidiscrimination laws, in the eyes of many minorities, the criminal justice system is filled with individuals with negative perceptions, racial prejudices, or biases, which, according to ongoing research, can translate into systematic discrimination (Armaline & Ostertag, 2011; Beckett & Murakawa, 2010). According to Hochberg (1956), from a psychological standpoint, perceptions are formed because of certain characteristics and are cognitively formed quickly (Galotti, 2014). Barnett (2003) stated that perceptions are shortcuts for recalling stored information in the brain’s memory to be used in new situations as they arise. Psychologists and neuroscientists have discovered two vision systems that govern perceptions (Koch, 2010). The first system controls the visual perceptions needed to identify objects, while the second system controls the actions manifested as a result of these visual perceptions (Koch, 2010). This is significant to this study because a juror’s decision of guilt or innocence may very well be the result of perceptions governed by visual characteristics rather than evidence presented or the quality of defense at trial.

It was against this backdrop that through this study, I attempted to determine if the preconceived perceptions of jurors influence their determination of guilt or innocence

for criminal defendants or if their decisions were based on other extralegal factors, such as income and educational background.

### **Statement of the Problem**

Every individual has perceptions of self and of others. However, when perceptions are based on prejudicial mindsets, these perceptions can be manifested in behaviors, and others could possibly be adversely affected by these perceptions and behaviors (Herrera & MacLin, 2006). As mentioned earlier, prejudice is a negative stereotype regarding people of a group (Ponterotto, Porter, & Utsey, 2008). Stereotypes refer specifically to perceptions about people (Barnett, 2003). Some believe that negative perceptions have too much influence on every aspect of society, especially on the criminal justice system (Herrera & MacLin, 2006). Yet others argue the impact of prejudicial perceptions in the criminal justice process not only come from law enforcement and administrators, but also from jurors in their influence on the verdict (Edelman, 2006).

Juror perceptions of criminal defendants directly affect the final decision, whether it is a positive or negative impact (Edelman, 2006). When jurors' decisions are influenced by prejudice, their verdicts and sentencing decisions have profound consequences of injustice. The legal principle "innocent until proven guilty" may not necessarily apply to all criminal defendants, and if so, this may cause the lives of many criminal defendants to be adversely affected. Research in the area of juror perceptions of criminal defendants and its impact is not as prevalent as other areas concerning

inequalities in the criminal justice system. Hence, the purpose of this study was to determine how people's preconceived perceptions based on the defendant's race and other factors impact sentencing of criminal defendants based on biased beliefs. Jurors are only involved in the sentencing of criminal cases.

### **Research Questions/Hypotheses**

RQ1: Does the race of the defendant impact juror perception of guilt or innocence in criminal cases?

$H_01$ : There is a relationship between the race of the defendant and juror perception of guilt or innocence in criminal cases.

$H_a1$ : There is no relationship between the race of the defendant and juror perception of guilt or innocence in criminal cases.

RQ2: Do extralegal factors, such as the defendant's perceived income and/or educational background, impact juror perception of guilt or innocence in criminal cases?

$H_02$ : There is a relationship between extralegal factors and juror perception of guilt or innocence in criminal cases.

$H_a2$ : There is no relationship between extralegal factors and juror perception of guilt or innocence in criminal cases.

### **Significance of the Study**

With the finding of this study, I am attempting to contribute to the existing body of knowledge surrounding the alleged inequalities in the criminal justice system. During

a time where society is revisiting the role of racial disparities in the decision making process, it is necessary to examine the influence of juror perceptions as their role is just as significant as an attorney or judge in this process. This research is well placed because in it I examined the notion how individuals outside of the system, such as jurors, can have just as much influence on the justice system as those inside the system, such as law officials and attorneys.

This study can be fruitful to the larger discussion overall. The significance of this study arises from the existing gap in the literature concerning the impact of juror perceptions of criminal defendants. The findings may impact the criminal justice process through addressing the issues of careful jury selection and court administration in an effort to reduce the impact of racial prejudice in the jury verdict.

### **Limitations**

There were three limitations to this quantitative study. The first limitation was that I did not speak any other language besides English fluently. Therefore, only English speaking individuals were included in the study. The study was also limited to a single geographical area, limiting the generalization of the findings to other geographical areas. Another limitation was that I was also aware that participants may feel the need to respond in a certain manner as some participants may fear negative consequences or reactions to their responses. To alleviate this, I assured the participants that their responses would remain confidential and their participation would remain anonymous.

### **Summary**



Alleged inequalities in the criminal justice system have been an issue for many years, yet there are some who feel the system has yet to be modified to ensure equality for all (Amaker & D'Alemberte, 1992). Admitting that a problem exists is the first step in solving a problem. This is a problem that many feel has yet to be resolved. Although stereotypes and perceptions are things that everyone possesses, possessing negative ones can be injurious, such as assuming an individual is guilty based on certain characteristics. Negative perceptions such as these contribute to the alleged racial disparity that may exist in the criminal justice system (Rattansi, 2007).

### **Overview of Remaining Chapters**

In Chapter 2, I will provide an analysis of the most relevant literature related to the topic of this study. The theoretical framework was based on folk theory of race and racism (Hill, 2009). This theory focuses on the contradictions regarding the necessity of racial categorization and explains how such categories are used for racial discrimination rather than advancement and research (Hill, 2009). This theory also explains how perceptions and stereotypes are consciously and subconsciously incorporated into everyday life (Hill, 2009).

In Chapter 3, I will provide the methodology used to collect data relative to the research. A cross-sectional quantitative approach was used to determine if the hypotheses were correct. In Chapter 4, I will discuss the collection of data and the data analysis. Chapter 5 will contain the results, conclusions, and my recommendations from this study and for future studies.

## Chapter 2: Literature Review

### **Introduction**

The purpose of this study was to determine if the race of the criminal defendant impacts juror perception of criminality, and ultimately, the juror's decision making processes in criminal cases. Several factors help to shape the way individuals perceive others, including the Internet, television, and newspapers (Pilgrim & Smith, 2000). These perceptions are manifested through behaviors, thoughts, actions, and choices (Pilgrim & Smith, 2000). It is important to understand how perceptions have shaped the criminal justice system throughout its entire existence, and inadvertently, how perceptions are possibly shaped now by the history of the criminal justice system. In this section, I will provide a background of the effects of perceptions concerning criminal defendants; a statistical evaluation of jury selections; the impact of perceptions on the jury decision making process; and the history of the overrepresentation of minorities in the criminal justice system, which may have contributed to juror perceptions of guilt or innocence of criminal defendants, as well as a discussion on the theoretical framework of folk theory of race and racism.

### **Defendants and the Criminal Justice System**

The ultimate goal of the criminal justice system is to make society safer by keeping criminals off the streets, while simultaneously helping these same criminals to right their wrongs through punishment and rehabilitation. However, this is not always the case as some criminals who are released recidivate. According to statistics,

recidivism has been an issue that has existed prior to the 21st century (Fifty-six Percent, 2006). Between the years 1990 and 2002, 56% of violent felons were repeat offenders (Fifty-six Percent, 2006). During this same timeframe, sex offenders were four times more likely to commit the same crime upon release compared to other felons (Recidivism is Higher, 2003). Percentage wise, this meant that sex offenders were 5.3 times more likely to repeat the same crime, while other felony offenders were only 1.3 times more likely to repeat their same crime (Recidivism is Higher, 2003).

Croisdale (2007) stated that repeat offenders have been labeled in several different ways, including persistent offenders and chronic offenders. Some studies break down the label of repeat offenders based on the number of repeat crimes committed within a certain timeframe (2007). Society has demanded protection from repeat offenders and regardless of the label, efforts have been initiated to resolve this issue (2007). Bowker (1995) stated that this issue can be resolved if law enforcement officials maximize the statutes in place to deal with repeat offenders. Many states have created policies known as *Three Strikes Laws* in an effort to combat recidivism and repeat offenders (Kovandzic, Sloan, & Vieraitis, 2004). Washington was the first state to enact this legislation in 1993 (Kovandzic, Sloan, & Vieraitis, 2004). By 1996, there were a total of 23 states with Three Strikes Laws (Kovandzic, Sloan, & Vieraitis, 2004). Some states incarcerated criminal offenders after their third criminal offense without the possibility of parole, while other states would offer the possibility of parole after a specified amount of time spent in prison, normally 25 years (Kovandzic, Sloan, &

Vieraitis, 2004). Other states became tougher on repeat offenders, enacting Two Strikes legislation (Kovandzic, Sloan, & Vieraitis, 2004).

Wood (2008) stated that reentry into society after imprisonment presents challenges, such as difficulties finding employment, and can lead to repeat offending. This assertion is similar to a study conducted by Pager (2002), which indicated that African Americans were 20% less likely to receive a call back for employment as compared to Caucasians. Challenges such as these may very well be the reason for the high percentage rates of recidivism. However, it is important to understand why these challenges exist in the first place.

Stereotypes and perceptions of criminal defendants (and offenders) may contribute to recidivism. When an individual is cognitively perceived as a criminal, it is hard to believe he or she is rehabilitated (Youman, 2006). This can lead to an “all eyes on me approach” where certain individuals believe they are always being watched upon release because they are expected to recidivate. And while many efforts have been made to resolve the issue of recidivism, there are some who question the issue of the repeat offenders who have yet to be caught again (Youman, 2006). In a study conducted by Youman (2006), the author stated “Whites were more likely to ‘get away with crime’ in the year after release back into the community” (p. 65). This, according to Youman, stems from racial profiling. As with any study, generally speaking, the issue of bias arises, as well as the possibility of participants being dishonest. However, statistics indicate that the majority of research in this area is highly reliable and valid.

## **Predictors of Criminality**

Stereotypes and perceptions also contribute to predictors of criminality. Although it may never be possible to predict exactly who will become a criminal offender, many researchers and experts have tried to establish predictors of criminality based on certain personal characteristics and other attributes (Highland, 2008). Race, age, and social class have always been indicators of predicting who is more likely to commit violent and/or nonviolent criminal acts (Highland, 2008). Many theorists believe that crime rates are higher among the disadvantaged, the lower class, and certain ethnic groups, particularly among African Americans and economically disadvantaged people (Highland, 2008). This is indicated in a theory known as social disorganization (Highland, 2008). This theory also notes that crime rates are higher in inner city neighborhoods, or the ghettos, where much of societal destruction exists (Highland, 2008).

Many experts have stated that cultural background plays a major role in the desire to exhibit criminal behavior (Merton, as cited in Highland, 2008). This is indicated by Merton (as cited in Highland, 2008) as the author states that individuals incapable of obtaining materialistic things tend to commit criminal acts in order to obtain it, and that this is only applicable in areas, such as property crimes, but not criminal acts, such as murder. Other characteristics of criminality include psychological disorders and a sense of detachment from society, where individuals do not feel attached to family, work, or recreational activities and lack respect for social values and norms, such as the law (Highland, 2008).

Some criminal offenders have been characterized based on drug usage (Highland, 2008). Other criminal offenders have been labeled as having no self-control due to a lack of parental discipline as a child (Highland, 2008). While many characteristics have been noted, no definite characteristics or backgrounds can be used when trying to predict who will engage in criminal activities as individuals from all backgrounds, including races, genders, income levels, and ethnicities have committed a crime.

### **Voices of Concern**

When assumptions based on characteristics and backgrounds are made, racial disparities become an issue. Racial disparity has drawn much attention, particularly from minorities. Citizens have voiced their opinions for decades regarding this issue and criminal defendants have begun to speak out concerning their views on the racial disparities within the criminal justice system (Knight, 2004). Morgan (as cited in Knight, 2004) stated, “The voices of prisoners are seldom heard as contributors to the evaluation of imprisonment. Official discourse is hostile to their accounts...prisoner autobiography should receive more systematic attention as a contribution to the penological archive” (p. 23).

If society is to accurately evaluate the criminal justice system, the views of criminal defendants must be taken into consideration. In such instances where racial disparity may exist, it is imperative to hear both from the side of the law enforcement official and from the side of the defendant in an effort to decide whether further

investigations need to be conducted to determine if racial disparity does exist. The absence of this practice can lead to mistrust in the system.

According to Huggins (2012), African Americans are more concerned with and less trusting of law enforcement officials. African Americans often feel harassed and discriminated against by police officers (Huggins, 2012). This assertion is similar to a prior argument by Amaker and D'Alemberte (1992) who stated that African Americans lack trust in the court system. Both assertions address the concern that African Americans lack confidence in most, if not all, facets of the criminal justice system. Incidents such as the Rodney King beating have helped to influence the lack of confidence that minorities, particularly African Americans, have in the system.

Juveniles have even started speaking out about feeling mistreated by the criminal justice system. In a 2000 study conducted by Hurst et al. (as cited in Huggins, 2012), the researchers found that a significant difference existed between Caucasian and African American attitudes towards law enforcement officials, with African Americans reporting a less favorable attitude, although results indicated the race of the officer was not a leading predictor. Several factors contribute to this notion, such as the frequency of being stopped more than Caucasians (Ayres, 2008). Terms such as *driving while black*<sup>1</sup> have become a symbol of frustration as a result of the alleged disparate treatment many minorities face. Supporting this, Ayres (2008) stated that African Americans are three times more likely to be stopped than Caucasians for every 10,000 residents in Los Angeles, California alone.

Even across the seas in other countries on other continents, minorities are expressing discontent with their criminal justice system. Hood, Shite, and Seemungal (as cited in Knight, 2004) found that African Americans in England felt they were discriminated against in the courts because of the color of their skin. Upon completion of the investigation, Knight (2004) was able to confirm that minorities have restricted confidence in the service providers, which is the equivalent of the United States' prison and probation systems.

### **Juries and the Jury Selection Process**

There was once a point in time where juries were used on an as needed basis; however, jurors are used on a regular basis today (Lindstrom & Neumer, 2005). This was due mostly to the large number of criminal defendants who plead guilty (Lindstrom & Neumer, 2005). Today, however, jurors are just as important as the judge or the attorney as the role jurors play in the courtroom is significant. A juror's prejudices or biases will affect a defendant one way or another as a jury must determine innocence or guilt, which can influence the severity or lenience of the penalty in some cases (Lane, 2009). For a defendant, the burden of proof of his or her innocence is not only for the benefit of the judge, but for the jury as well (Lane, 2009). This, in and of itself, can be stressful as some criminal defendants believe they receive disparate treatment from jurors in addition to other administrators in the criminal justice system (Amaker & D'Alemberte, 1992). Because of this perception, some criminal defendants believe they have to work harder to prove their innocence (Lane, 2009).



According to Bowers (as cited in Kowaluk, 2010) in capital cases, jurors, in particular, do not always perform their role based on the constitutional standards set forth by the U.S. Supreme Court. In a follow-up study of Bowers' initial research conducted by Bowers, Steiner, and Sandys (1998), it was noted that capital case jurors often make early decisions on the death penalty for cases, such as murder, as some jurors even feel that murder is automatic grounds for the death penalty. Additionally, jurors often render verdicts that may result in death penalties while still preoccupied with the defendant's responsibility and guilt for the crime (Kowaluk, 2010). This assertion has also been supported by the American Bar Association (Kowaluk, 2010). There are several factors that may influence a juror's decision once they enter the courtroom and a trial has begun, including strength of the opening and closing arguments and evidence presented throughout the trial. However, it is also possible that there are several extralegal factors that may influence a juror's decision before they even enter the courtroom.

### **Juror Capability**

According to Edelman (2003), many jurors often bring "pre-existing schemas and attitudes toward the offender" into the courtroom (p. 2). And although jurors may question their own ability to be rational, only the courts can actually determine whether bias exists (Rose, 2005). In the jury selection process, a series of questions are asked to determine if a juror is capable of rendering a fair and bias free decision (Rose, 2005). However, it is impossible to evaluate the truthfulness in a potential juror's responses and the answers are essential factors in the jury selection process (Rose, 2005). This assertion

is supported by Higgins (1998), who stated that jurors may not always be truthful about their own personal biases.

Higgins (1998) also stated that personal beliefs and attitudes are very reliable predictors of how jurors will vote. This is critical since prior to serving as a juror, many members of society express dissatisfaction with the criminal justice system (St. Amand & Zamble, 2001). They believe the system is too lenient in the penalties rendered to criminal offenders (St. Amand & Zamble, 2001). This belief will no doubt impact a juror's attitude and decision making process. On the other hand, surveys conducted on different levels of punishment revealed that the public was either more lenient than or equal to the justice system with respect to the punishment rendered (St. Amand & Zamble, 2001). This is due partly to the public's lack of knowledge about the criminal justice system. Bringing this lack of awareness into the courtroom can be, in some way, detrimental to society, to criminal defendants, as well as to administrators of justice as the level of punishment may or may not fit the crime.

### **Selection Process and Characterization**

Concerns have also surfaced with regards to the jury selection process. Most of these concerns surround the issue of jury duty based on race (Eigenberg et al., 2011; Kazoleas, Kawakami, & Schuller, 2009). In the *Batson v. Kentucky* case of 1986, the Supreme Court prohibited prosecutors from excusing jurors solely on the basis of race (Rose, 2005). However, to date, there are still concerns as to whether jurors are still being dismissed from jury service on the basis of race (Kazoleas, Kawakami, & Schuller,

2009). Eigenberg et al. (2011), for example, stated that African American jurors have previously stated that they are more likely to be dismissed from jury duty, raising questions about the lack of adequate racial representation in the jury pool which can result in racial disparity.

For example, the verdict from the Rodney King trial in 1992 drew lots of attention and raised many questions regarding the fairness in decisions made by a jury. The jury was comprised of 10 Caucasians, one Hispanic and one Asian. Although deliberation took several days, the end result was not favorable for the African American defendant. Several riots broke out over the course of several weeks with unfortunate consequences including many fatalities, injuries and incarcerations. Washington D.C. Public Defender Angela Davis (as cited in Amaker and D'Alemberte, 1992) stated:

The comment of one of the jurors, 'I'll sleep well tonight,' showed they're not really concerned about Rodney King....The 'Gorillas in the Mist' comment didn't affect the jurors at all. To say he was in control the entire time, moaning like a bear, he might attack any minute—how racist can you be? It's sad. I think the climate is already so negative. Two administrations have neglected urban areas and people of color—people are suffering economically, socially... The beating is okay because he was running from the police. It's kind of an official statement that we don't value your life, the system doesn't care. We don't care if you're beaten to death...I'm very pessimistic, depressed about it. (pp. 3 & 4)

In a study conducted by Haney and Lynch (2011), results showed that racial prejudice was more prevalent in Caucasian male jurors, who were more likely than women and nonwhite jurors to render verdicts that could result in a death sentence for African American offenders. Higgins (1998) states that men are more uncompromising whereas women are more lenient and tend to see things from a “Wait a minute. That’s not fair” standpoint (p. 2).

For many years the jury pool in many death eligible cases has been disproportionately comprised of “White, male, older and more religiously and politically conservative” jurors (Haney & Lynch, 2011, p.2). Researchers argue, therefore, that in comparison to penalties rendered to Caucasians, and with all other factors such as evidence and similar criminal records being equal, the penalties rendered to African American offenders by Caucasian jurors result from stereotypes that African Americans possess a pre-existing tendency to be violent and criminally inclined (Haney & Lynch, 2011; Lane, 2009; Wilson, Salinas, & Buckler, 2009). A juror’s lack of understanding of the complexity of capital jury sentencing instructions does leave jurors with no option but to lean on their biases which would have existed prior to entering the courtroom (Haney & Lynch, 2011).

### **Predicting the Juror’s Vote**

Racial disparity in a juror’s decision making process, according to Lane (2009), is also due in part to the biases and prejudices that Caucasian jurors possess with regards to African American defendants. Studies show that Caucasian jurors are more likely to

show empathy for Caucasian defendants who were raised in a dysfunctional family, yet show a lack of empathy for African American defendants with similar childhood conditions exist (Lane, 2009). This assertion is also supported by Haney and Lynch who stated (2011):

Moreover, because the creation of empathy for the offender usually through the presentation of a mitigating narrative in the penalty phase of the case is important in convincing jurors to vote for life over death, black offenders may be especially disadvantaged at the hands of typically white jurors. We know that empathy is more likely to be felt for those who are perceived as similar to one's self, and for this reason it is less likely to be extended to offenders who are perceived as fundamentally 'other', not only because of what they have been convicted of doing but also because of their racial characteristics. (p. 4)

There is also existing research that shows that African American jurors are less likely to convict a criminal case defendant than Caucasian jurors, especially in cases where the defendant is African American (Abshire & Bornstein, 2003; Higgins, 1998). Even in civil trials, African Americans are more likely to sympathize with the plaintiff (Abshire & Bornstein, 2003; Higgins, 1998). Abshire and Bornstein (2003) argued that this pattern is a reflection of African American dissatisfaction with the criminal justice system, leading to a desire to side with individuals who they feel are up "against the system" (p. 473).

Many researchers argue that the race of the victim heavily influences the verdict rendered and the severity of the punishment (Becker, Jipson, & Katz, 2001; Edelman, 2003; Haney & Lynch, 2011; Lane, 2009). Compared to other races, offenders guilty of crimes against Caucasian victims are more likely to receive a more severe penalty, including the death penalty (Edelman, 2003; Haney & Lynch, 2011; Lane, 2009). This is especially common in death eligible cases, where African American offenders, compared to other races, are more likely to receive the death penalty if the victim is Caucasian (Haney & Lynch, 2011). In cases where the victim is African American, the offender is more likely to receive a less severe punishment for the crime committed (Edelman, 2003). Notwithstanding, research has shown that the race of the defendant is more influential than the race of the victim, although both are driving forces that simultaneously impact juror decisions (Edelman, 2003; Haney & Lynch, 2011; Lane, 2009). Along the same lines, in a study conducted by Abshire and Bornstein (2003), results indicated that Caucasian jurors are likely to consider eyewitness testimony for the prosecution as more credible than that of eyewitnesses for the defense. The race of the eyewitness had little effect on the jury's final verdict, but the defendant in the simulated murder trial, was African American.

### **The Influence of the Media**

The media also plays a big role in the formation of biases and prejudices (Pilgrim & Smith, 2000). Television, radio, and the Internet, to name a few, define the way members of society value not only themselves but others, as well. Ironically, society is

driven by negativity, according to Williams (2010), who stated that people care more about the consequences of bad events rather than the possibility of good outcomes. Thus, it is no surprise that serious crimes such as murders, rapes, terroristic acts, etc. are always quick to make headlines. Perhaps, these situations also have a direct impact on jurors, making it even more difficult to separate personal opinion from the facts presented in the courtroom.

### **Folk Theory of Race and Racism**

The theoretical underpinning of this study's argument that racial stereotyping impacts juror decisions was drawn from Hill's (2009) folk theory of race and racism. Folk theory of race and racism argues that racial categorizing is more than scientific research and medicine (Hill, 2009). It is manifested consciously and/or unconsciously in everyday language and actions (Hill, 2009). This theory argues that racial categorization is preferred, as it contributes to the production and reproduction of prejudice and racist language, thoughts, and actions (Hill, 2009).

Although most would say that prejudice and racism are no longer in existence, others feel that they are just as prevalent today as they were centuries ago during slavery days (Hill, 2009). Birchard and Reid (2010) stated that in an effort to maintain the illusion that prejudice perceptions and racism no longer exists, "individuals may attempt to persuade themselves and others that racism is an unlikely situational explanation" (p. 480). Perhaps, it is possible that a new form of slavery has emerged, no longer in the form of the whip and chain but now existing in a more subtle form and driven by the pen

and paper (Hill, 2009). This may be evident in many institutions of social control, including the criminal justice system, where many alleged racial disparities in the justice system have been an issue of concern for quite some time now (Feld, 2003).

### **What Constitutes Racism**

The underlying question surrounding the issue of racism is really what constitutes racism. Is it imagined or does it actually exist? How do individuals on both sides of the spectrum perceive it? Do they fully understand just what it is? Is it unconsciously manifested in their actions? In Jane Hill's (2009) folk theory of race and racism, the author stated that "folk theory" is an idea of cognitive anthropologists used to describe the norms of the world, including all parts of society. Folk theorists classify everything based on race. They believe that racial categories are necessary for research and advancements in several areas, such as medicine and criminal investigations (Hill, 2009). Hill (2009) stated that this idea is contradictory, for discriminatory purposes, because racial categories are preferred, not essential, and tends to make invisible the evidence that reveals the contradictions of the idea. This idea also states that education and interracial marriages will help to decrease the existence of racism but individual beliefs, such as prejudice, are natural conditions of the human mind and cannot be controlled (Hill, 2009). Thus, this would imply that prejudice mindsets should be accepted by society as a normal behavior.

Hill's (2009) folk theory of race and racism is centered on the belief that many Caucasians share a common set of ideas about race and racism. Hill (2009) stated,



“...attend to so much that is irrelevant, erase so much that is important, and create so many traps and pitfalls that it is probably impossible to develop anti-racist projects within their framework” (p. 6). According to folk theory of race and racism (Hill, 2009), one of the pitfalls of “folk theory” is the idea of prejudice and the fact that since it is a natural condition of the mind, it gives the right to focus more on the actions of others instead of focusing on personal practices. According to Hill, prejudice is formed from within and cannot be changed by people or conditions on the outside. Furthermore, Hill stated that prejudice and racism are practiced subtly but are evident in everyday language (2009). For example, stating that Latinos do not value education presents a view of Latinos that is considered prejudicial by some (2009).

However, there is a difference in prejudice and racism. Whereas prejudice is more natural, racism is considered a learned behavior. This view is supported by Nelson Mandela (1995) who stated that hating someone based on external factors such as skin color is a learned behavior. According to Norton and Sommers (2006), racism is defined in a manner that will not categorize the individual as being racist or appearing to stereotype individuals based on race. White-on-black racism is considered the prototype for racism and has been for several decades now (Youman, 2006). But, because racism is less noticeable today in the public realm, many people say it no longer exists. However, Armaline and Ostertag (2011) stated that racism has transformed since the Civil Rights Era (where prior to this time period, racial slurs and physical violence were publically noticeable) and has taken on a more systematic approach:

To be blunt, this means that we cannot simply look for policies that say, for instance, ‘African Americans should be policed and imprisoned because they are African American.’ Instead, we might look, for example, to the criminalization and incarceration of racially oppressed populations through less overtly ‘racist’ language, ideologies, policies, and practices. (p. 268)

### **Diversion of Racism**

Most critics argue that with the election of the nation’s first African American president also came the demise of prejudicial attitudes (Armaline & Ostertag, 2011). Seeing such diversity in powerful political seats, including former Secretary of State Condoleezza Rice and Supreme Court Justice Clarence Thomas, gives the illusion that the “color-blind” ideology has taken form, thanks to affirmative action. But what such appointments and elections have done is actually divert much of the nation’s attention from the fact that prejudice and racism still exists in many institutions, particularly the criminal justice system, where the African American incarceration rate is surreal in comparison to the rates of other race. (Armaline & Ostertag, 2011). According to Alexander, as cited by Armaline and Ostertag (2011):

- ...(a) it has helped to render a new [racial] caste system largely invisible;
- (b) it has helped to perpetuate the myth that anyone can make it if they try;
- (c) it has encouraged the embrace of a ‘trickle down theory or racial justice.’;
- (d) it has greatly facilitated the divide-and-conquer tactics that

gave rise to mass incarceration; and (e) it has inspired such polarization and mass media attention that the general public now [wrongly] assumes that affirmative action is the main battlefield. (p. 270)

Hill (2009) stated that the numbers in incarceration and unemployment rates, to name a few, are a reflection of discrimination rather than equality. According to Alexander (as cited in Armaline & Ostertag, 2011), there are several issues of racial disparity from which affirmative action may divert attention. Of particular importance for the purpose of this study are the issues of racial disparity surrounding the criminal justice system and its possible influence on juror perceptions of criminal defendants. In order to understand this perspective, it is important to examine the history of the criminal justice system and the history of alleged racial disparity evidenced by the overrepresentation of minorities in the criminal justice system (Amaker & D'Alemberte, 1992; Garcia, 2008; Gumbhir, 2007; Hill, 2009, Risse & Zeckhauser, 2004). This could have contributed to possible negative perceptions of African Americans and other minority defendants. According to Koch (2010), perceptions are based mainly on visual constructs, which would imply that a juror's preconceived notions about criminal defendants are based on immediate observations and not evidence presented nor the quality of defense at trial. Therefore, juror perceptions may very well be based on prior knowledge of historical information, as Barnett (2003) stated that individuals approach new situations based on information already stored in the memory.

### **A History Lesson on the System**

Understanding the history of the criminal justice system is necessary in order to understand its possible contribution to a juror's perceptions of criminal defendants. The current mission of the U.S. Department of Justice (USDOJ) focuses on the assurance that all individuals, regardless of race, ethnicity, or religion will receive reasonable and unprejudiced administration of justice. This idea, in fact, is what the USDOJ was initially founded on: equality for all. However, many have argued that the administration of justice in this nation has been everything but fair as inequality in the justice system has been exposed through all sorts of media, including television, radio, and the Internet. Roettger (2008) stated that racial inequality does exist in the criminal justice system, and is evident in areas such as criminal sentencing. Although many criminologists have argued that the numbers are too small to make a difference, a statement by Crutchfield, Fernandes, and Martinez (2010) argued otherwise:

We cannot help but wonder, though, if the minority driver pulled over a few extra times by profiling officers, or the Latino sentenced just a bit more time in prison, or the African American with just a slightly higher probability of receiving a capital sentence would agree that small effect sizes can be dismissed as inconsequential. (p. 904)

According to Kennedy (as cited in Giacomassi, Turner, & Vandiver, 2006), race was an underlying factor in the emergence of the American criminal justice system. In an article by Curley, Giacomassi, and Vandiver (2003), the authors stated that the

formation of the criminal justice system can be traced back to the Slave Code, a system created during slavery to control slaves, including freed slaves. McNair (2001) similarly stated that during slavery, criminal law was created for the main purpose of controlling the slaves if they posed a threat to the Caucasian society. Although the laws that were in place applied to all individuals of all races, stricter enforcement and punishment was rendered to the slaves, such as capital punishment (McNair, 2001). According to Hill (2009), such racial cultures are rationalized and justified. Thus, the alleged discrimination would worsen, reflected in the current overpopulation of minorities in the criminal justice system.

Eventually, the need for more law enforcement gradually grew. Prior to the 1930s, law enforcement and other aspects of the criminal justice system were not as structured. Thus, much of the policing that took place (actually created during the colonial era) was a citizen-based initiative (Blakely, 2008). Night watches were organized in major cities such as Philadelphia and New York City, with day watches being implemented later (Blakely, 2008). Policing was conducted on a personal level and more interaction took place between law officials and the citizens in the communities (Blakely, 2008). At the time it appeared that citizen-based policing was all that communities really needed except when more complex scenarios occurred or investigations or arrests needed to be made (Blakely, 2008).

Although racial discrimination was not a major subject of debate or discussion during this time, it was still an issue. In 1909, W.E.B. Dubois created the National

Association for the Advancement of Colored People (NAACP). The overall mission of the NAACP organization was and is to erase discrimination on the basis of race (NAACP, 2012). Notwithstanding Dubois' efforts, between 1890 and 1910, several states in the South began to change their laws with the intent to increase the laws' control and effectiveness on African Americans (Galliher & Sennott, 2006). As such, in the 1901 essay, Dubois stated that the criminal justice system was operating similarly to the system that existed during slavery (as cited in Raza, 2011).

Around the 1930s the "personal" criminal justice system began to transform (Blakely, 2008). It was determined by the Federal Bureau of Investigation that more structure and uniformity was needed, and police departments throughout the nation began to follow suit (Blakely, 2008). Prior to the 1930s, much of the policing interaction that took place was among community members (Blakely, 2008). This type of policing changed as law officials were more concerned with the facts and less concerned with interacting on a friendly, personal basis with community members (Blakely, 2008). However, in the South, law enforcement was still "local, political and nonprofessional", thus allowing Caucasians to resort to violence at their discretion without any legal actions being taken against them (Klarman, as cited in Feld, 2003, p. 770).

Although the criminal justice system was being transformed, for minorities, racial inequality was still an issue and more complications began to emerge. The Jim Crow Laws, for example, were created in 1910 as a means of separating races in public facilities, including public transportation (Becker, Jipson, & Katz, 2001). This means of

separation would increase the tension that already existed, as the Jim Crow Laws specifically targeted African Americans. However, California politicians also used the Jim Crow Laws as a means of oppressing Chinese immigrants (Hill, 2009). Indeed, Miller (2010) stated that exclusionary practices, such as those created by the Jim Crow Laws, contributed to the continual practice of racial inequalities in the criminal justice system.

The issue of racial discrimination in the criminal justice system became an issue for national debate during the 1950s and 1960s, as minorities began fleeing the South and relocating to the North. According to Feld (2003), the Supreme Court began to thoroughly reassess the racial inequalities that existed in the criminal justice system. It was around this time that the U.S. established itself as a “color-blind” nation (Raza, 2011). In 1954, the Supreme Court ruled that no state could deny any individual equal protection under the law (Becker, Jipson, & Katz, 2001). However, this was short-lived as massive unemployment and cuts in state aid during the economic reconstruction took place, greatly affecting communities of color (2011). Gilmore (as cited in Raza 2011) states that the majority of individuals criminalized during this time period were imprisoned for crimes that stemmed from the lack of employment. Feld (2003) gave a similar analysis, noting that the economic and structural transformation created a racially isolated and impoverished underclass and increased homicide rates among young African American youths.

Nonetheless, the Civil Rights Era increased the desire to eliminate racial inequalities that existed in all facets of society, including the criminal justice system. This would give minorities a bit of hope as policies and procedures were revised to protect the liberal interests of all individuals, regardless of race. In opposition to this, many National Republicans began demanding southerners to place emphasis on issues regarding race and public policy (Feld, 2003):

From the 1970s to the 1990s, conservative Republican politicians pursued a “southern strategy”, used *crime* as a code word for race for electoral advantage, and advocated harsher policies that have affected juvenile justice throughout the nation. Media coverage increasingly put a black face on youth crime that was exploited for political advantage. (p. 766)

It was no surprise, therefore, when a 1971 article by Arnold in the *American Journal of Sociology* (as cited in Feld, 2003) stated that even minority juvenile offenders experienced discrimination, as more African Americans, with similar criminal records and prior offenses as Caucasians, were more often institutionalized instead.

Around the 1970s the incarceration rate that was once consistent during the first half of the 20th century began to increase dramatically (Pager, 2002). Between the first half of the 1970s and the first half of the 1990s, the incarceration rate nearly doubled each decade (Pager, 2002). Silberman (as cited in Giacomassi, Turner, & Vandiver, 2006) stated that the crime statistics of the 1970s reflect an overrepresentation of African Americans in the criminal justice system. During the 1980s, the number of federal



correctional facilities nearly doubled, as well as the number of these facilities nationwide increased from 30 to 55 between 1970 and 1987 (Bowman, 2011).

Not surprisingly, the 1980s and 1990s focused much attention on the illegal use of drugs where the racial disparities existed in the severity of the punishment rendered for the usage of illegal drugs (Miller, 2010). During the 1980s, the nation began a “war on drugs” initiative in an effort to crack down on the illegal use of drugs (Becker, Jipson, & Katz, 2001). Cummings (2009) stated that a sentencing disparity exists between crack cocaine, a drug allegedly used primarily by minorities and the economically disadvantaged, and traffic cocaine, used primarily by Caucasian suburbanites. Becker et al. (2001) argued that crack users receive a harsher penalty than cocaine users, and although there is evidence that Caucasians used crack cocaine as much as minorities, the assumption of usage by race resulted in more severe punishment for African Americans. This idea supports Roettger’s (2008) assertion that inequalities on the basis of skin color in the criminal justice system have affected more than just African Americans. And it is this evolution of alleged racial disparity in the criminal justice system that has contributed to the negative perceptions that exist today with regard to African Americans and their propensity to commit a crime.

### **Racial Profiling**

It is evident that racial disparity issues have been subjected to debate for decades. One of the focuses of the debate is racial profiling and how it relates to alleged juror bias against criminal defendants. Racial profiling is defined as a police initiated action based

on physical attributes such as race and/or other demographics, regardless of whether or not any evidence links the person to the crime (Gumbhir, 2007; Hill, 2009; Lever, 2004; Risse & Zeckhauser, 2004). Risse and Zeckhauser (2004) stated that racial profiling is different from routine airport screenings, which is the new norm since the 9/11 attacks, since all passengers can expect to be searched for safety reasons. However, racial profiling is not a routine most people can expect to be a part of, such as random traffic stops engaged primarily on the basis of race, executed in an attempt to seize drugs and/or illegal weapons (Risse & Zeckhauser, 2004). Even if there are some individuals who resent being searched at the airport and feel they are being profiled, the experience of being stopped by a police officer in the middle of the night can be a more stressful experience (Lever, 2004). Lever (2004) stated:

But I am inclined to think that being stopped on the motorway at night is likely to be a scarier experience. Police in the United States carry guns, and are known to use them. By the side of the motorway no one can really tell what is going on. A wrong move, the inability to hear or understand what is being said, a fit of coughing or a panic attack can all lead to violence and tragedy. (p. 94)

This view is similar to a statement by Gloria Ladson-Billings (as cited in Hill, 2009):

“Your race is what you are when the cops pull you over at two o’clock in the morning.”

(p. 13)

Although many people have complained about being a victim of racial profiling, unfortunately for them, proving its existence has been quite the challenge. Unless brutality or abusive behavior, including but not limited to derogatory remarks and physical force, accompany racial profiling, it rarely makes headlines and is even harder to prove (Risse & Zeckhauser, 2004). For instance, in 2003, an Asian American woman was murdered by a San Jose police officer after calling for help with opening a locked door (Hill, 2009). Upon arrival, the officer saw the woman holding a vegetable peeler; because she was not fluent in English, she did not understand the officer when asked to put down the vegetable peeler (Hill, 2009). As a result, he shot her; the grand jury chose not to indict the officer because he claimed self-defense (Hill, 2009). The Asian American community was outraged at the verdict, believing that the woman was a victim of racial profiling (Hill, 2009).

The fact that many neighborhoods (primarily urban) are segregated makes attempts to prove the existence of profiling even more challenging. In particular, many police officers canvas urban neighborhoods, comprised mostly of populations of color, in an effort to combat the War on Drugs, thus making residents of these neighborhoods the main targets for arrests (Risse & Zeckhauser, 2004). However, focusing much of the attention on these areas gives residents of suburbia or college campuses a greater opportunity to deal drugs without getting caught (Armaline & Ostertag, 2011). According to Hill (2009), residential segregation is an initiative that began during the early 1900s when programs for housing were made available to Caucasians only.

When racial profiling is mentioned, many people connect it directly to street-related activities such as routine traffic stops. However, it is possible that a new form of racial profiling is emerging. Because the incarceration rates, as well as sentencing rates, for minorities is often higher than the rates for Caucasians, it is arguable that racial profiling is taking on a new form inside of the courtroom. Hill (2009) stated that choices and perceptions about individuals are based on racial categorization. Racial profiling is due largely in part to the preconceived notion that African Americans and other minorities are the typical criminals (Armaline & Ostertag, 2011). Marable (as stated in Hill, 2009) stated that people of all color have similar discriminatory experiences. Thus, in the courtroom, it is possible that before any evidence is presented a decision about the guilt or innocence of a criminal defendant is reached based simply on physical characteristics such as race.

### **Crime Identification**

This makes the issue of perception even more critical to jury duty since the belief that African Americans simply commit more crimes than any other race may very well be a perception that jurors carry with them inside the courtroom. However, different types of crimes have been associated with different races (Becker, Jipson, & Katz, 2001). For example, in a study conducted by Soest et al. (2003), Caucasians comprised 69.6% of the heinous crime offender population, while African Americans comprised 50% of the less heinous crime offender population. Heinous crimes are described as crimes committed with rage, intense violence and sadism, such as degrading victims and intensely violent

murders (Soest et al., 2003). Those who commit heinous crimes are more likely to use multiple weapons and sexually assault their victims (Soest et al., 2003). Their characteristics include being impoverished, childhood victims of physical, sexual, and emotional violence, and victims of familial drug and alcohol abuse (Soest et al., 2003). On the other hand, perpetrators of less heinous crimes are more likely to murder their victims with less intensity (Soest et al., 2003). They often exhibit characteristics such as school behavioral problems, bullying, and juvenile criminal histories (Soest et al., 2003). Soest's study was limited by the lack of in-depth information about the criminals due to their execution.

It has also been argued that African Americans are more often associated with property crimes rather than violent crimes, although African Americans make up over half of all murder cases (Highland, 2008; Kovandzic, Sloan, & Vieraitis, 2004; Soest et al., 2003). Hockett, Saucier, and Wallenberg (2008) stated that of all known hate crimes, Caucasians committed approximately 61% of them, with 37% of their victims being African Americans. Hate crimes are violent acts committed against individuals that are perceived to be members of a certain social group (Hockett, Saucier, & Wallenberg, 2008).

Caucasian males are also associated more with the crime of rape (Addington & Rennison, 2008). In a report by the National Crime Victimization Survey (NCVS), Caucasian males comprised 62.6% of the convicted rapist population and 60.5% according to the Uniform Crime Reporting Program's National Incident-Based Reporting

System (as cited in Addington & Rennison, 2008). On the other hand, African Americans are linked more to homicides, according to statistics that show that African Americans are incarcerated at higher rates than any other race in this area (Youman, 2006). African Americans and Hispanics have been linked to gang memberships for many years. But, according to Tapia (2011), the minorities, impoverished, and/or males are overrepresented in the gang population.

Many studies have linked childhood dysfunction, such as exposure to domestic violence and neglect, to the criminal behavior exemplified during adulthood (Soest et al., 2003). Still, the majority of children with this type of childhood do not become criminally violent in their adulthood (Soest et al., 2003). However, notwithstanding the statistical reality, even with this being said, many people still link certain crimes to certain race and demographics (Edelman, 2006). Also, there is evidence that certain penalties are stiffer for certain crimes (Becker, Jipson, & Katz, 2001). In an article by Buckler, Wilson, and Salinas (2009), the authors stated that “symbolic racism theory” suggests that African Americans are not socially, politically nor culturally fit to operate in society or self-sufficient like Caucasians. Symbolic racism and negative stereotypes about African Americans have also been linked to a preference for harsher punishment in the criminal justice system (Buckler, Wilson, & Salinas, 2009).

### **The Impact of Stereotyping**

These negative stereotypes could, arguably, have a harmful impact as African Americans, along with other minorities, are often incarcerated more than Caucasians

under similar circumstances (Youman, 2006). This statement is supported by Crutchfield, Fernandes, and Martinez (2010) who stated that African American offenders are more likely to possess stereotypically dangerous characteristics that increase their chances of incarceration by 62% when compared to Caucasian offenders. These stereotypes can heavily influence a juror's verdict decision. Gould and Leo (2010) stated that once judges and jurors become consciously or unconsciously biased or prejudiced, the criminal justice system becomes tainted, leaving little room for innocently convicted individuals to establish their innocence.

Kazoleas, Kawakami, and Schuller (2009) stated that individuals recognizing they may be biased against Blacks (African Americans) may not fully understand how and to what extent their biases affect their judgments. Moreover, even acknowledging the problem does not guarantee that they will correct the action (2009). This could be due largely in part to the fact that jurors are granted anonymity, which according to Hill (2009), allows racism and discrimination to circulate more freely. In a study conducted by Hill, a prerecorded audio was played while two different individuals (of different nationalities) were shown on the screen. Participants were asked to describe the voice patterns for each individual on the screen. Although the audio played was the same for both individuals, participants described different accents for the voice recording. This observation indicates that many individuals may subconsciously form perceptions of individuals based on what they see. This concept may apply to jurors inside the courtroom, as well.

The ultimate goal of incarceration is to rehabilitate criminal offenders.

Incarceration serves the purpose of taking the “bad guys” off the streets and rehabilitating them. Although it is believed by many that the more individuals in jail, the less crime on the streets, other remedial efforts, such as job growth, reduction in drug use and handgun access are linked to a substantial reduction in crime rates (Pager, 2002). Two separate studies during the 1970s through the 1990s indicated that increases in incarceration rates over the past three decades only accounted for about 25% of the actual reduction in crime (Pager, 2002). This idea would imply that the majority of the actual criminals have yet to be incarcerated if incarceration is not reducing the crime rate at a considerable pace compared to the rise in the prison population. Senator Jim Webb (2009) stated, “At the same time, we’re putting too many of the wrong people in prison, while not solving the problems to bring safety to our communities” (p. 164). Youman (2006) stated that a 2005 report from the National Criminal Victimization Survey indicated that victims identified 54% of the perceived race of their offender as Caucasian, yet African Americans comprise much of the prison population.

Many of the studies conducted in the past state that racial disparity does not exist (Armaline & Ostertag, 2011). They argue that African Americans simply commit more crime. However, Crutchfield, Fernandes, and Martinez (2010) stated that this is true for some jurisdictions but not all and is an analysis that has been used to represent all jurisdictions. These authors also argue that in order to obtain a justifiable analysis of the possibility of racial disparity in the criminal justice system, one must study multiple



jurisdictions, as well as the multiple steps in the criminal justice system, such as the decision to arrest, decision to prosecute, bail hearing or sentencing, to name a few (2010). Simply put, every aspect of the criminal justice system should be taken into careful consideration as racial disparity may exist in one area of the system and not the other, including the jury selection process.

The U.S. justice system has recognized the existence of racial bias in the juror panel, and has implemented strategies to curb this problem via jury selection procedures such as preemptory challenges (Kazoleas, Kawakami, & Schuller, 2009). However, such remedies are scarce and the issue of racial bias in different phases of the justice system still remains a concern (2009). Hill (2009) stated that racism is sometimes practiced in such a subtle manner that it can be hard to recognize. It is because of these issues that the need for political alliances among diverse racial groups may be necessary (Marable, as stated in Hill, 2009). It is also necessary for individuals to learn to “read between the lines.” Although many jurors may deny being racially biased, it is important that they address current personal perceptions and racial attitudes because of the impact these have on criminal defendants inside the courtroom and the long term effects, or “once in the system always in the system.”<sup>2</sup>

Examining the role that the race of criminal defendants plays with regard to juror perceptions is no easy task and has proven to have its challenges and limitations. Past researchers have employed different methods in examining the role of race and juror perceptions. A study was conducted by Abshire and Bornstein (2003) investigating

African American and Caucasian jurors' sensitivity to the cross-race effect. At different segments, small groups of participants listened to an audiotape of a murder trial on a tape player. The recording consisted of normal courtroom conditions, including but not limited to, a judge's instructions, witness testimonies, and opening and closing arguments from the defense and prosecution teams. Participants were instructed to listen as if they were actual jurors in the trial and render a decision at the conclusion of the trial. At the end of the trial, a picture of the defendant was shown to the participants. Photos were also shown of the judge and attorneys. The victim's photo was never shown.

As with any study, there were some issues with this study. The researchers had no control over the strength of evidence presented by either side during the trial. Thus, it was recommended that future studies should manipulate the strength of the evidence (for whichever side necessary) to determine if the race of the eyewitness impacts the verdict. Another issue was the lack of jury deliberation. Each participant rendered his or her verdict on an individual basis and did not deliberate with any other participants within the group. A future suggestion by the researchers was to address the possibility of allowing participants to deliberate and render a decision.

In 2003, Edelman conducted a study to examine the role of defendant's race, as well. The researcher used the Capital Jury Project (CJP) to select only Caucasian jurors from the states that met the sampling criteria of a significant number of capital trials and a diversified region. The CJP provided interview data from 1,100 capital jurors from 14 states. Selected capital trials were chosen based on whether or not they made it through

the guilt and sentencing phase. Cluster sampling methods were used to select the jurors from these selected trials. Once selected, interviews were conducted by the researcher.

Some issues with this study included the fact that only African American criminal defendants were included in the dataset. According to Edelman (2003), including both African American and Caucasian criminal defendants in future studies would allow a deeper and more realistic examination. Another issue was the lack of an overall victim evaluation to determine if the victim's description played a role. Also, the jurors' ability (or inability) to recall their initial reaction during the trial limited the study.

The folk theory of race and racism stresses the idea that prejudice and/or racist language, thoughts, and actions exist even when individuals are unaware of their behavior (Hill, 2009). A judge rendering a sentencing decision "function mainly to perform actions rather than to represent the truth," (p. 40). Thus, such functional behavior can manifest in every facet of life and produce unfavorable consequences, such as racial discrimination. The overrepresentation of minorities in the criminal justice system is a prime example of the adverse affect that may result from biased opinions and behaviors (Youman, 2006).

### **Summary**

Racial disparity is present in several aspects of the criminal justice system. Of particular importance for this research is the possibility of racial disparity that may exist in juror verdicts for criminal defendants. In the next section, I will discuss the methodology that was employed to determine if a relationship exists between juror

perception of and/or extralegal factors related to the criminal defendant, such as race, income, and educational background.

## Chapter 3: Research Method

### **Introduction**

My review of the literature showed that minorities are disproportionately represented in the nation's prison system (Buckler, Wilson, & Salinas, 2009; Crutchfield, Fernandes, & Martinez, 2010; Haney & Lynch, 2011; Kazoleas, Kawakami, & Schuller, 2009). In this study, I examined how a person's race plays a role in ordinary people's determination of the person's guilt or innocence. Additionally, other factors, such as income bracket and level of education, were evaluated in an effort to determine if race is a factor, if it is the only factor, or if it is the dominating factor that influences juror perception. It was my hope that this study would open new areas of research to promote equality for all individuals directly and indirectly involved in the criminal justice system. The sections which follow will discuss the research design strategy, methodology, threats to validity, and expected findings.

### **Research Design and Rationale**

The research methodology that I employed in this study was quantitative and nonexperimental. A cross sectional research design was used to collect data at a specific point in time. Survey research studies are typically employed in data collection for a cross sectional research design (Creswell, 2003). According to Creswell (2003), a survey provides a numeric description of trends. Cross sectional designs are beneficial because they provide the researcher with the ability to collect data quickly and efficiently (2003). A cross sectional design is descriptive in nature because it does not manipulate the

variables but, instead, is used to describe various situations and characteristics that exist in an environment (Trochim, 2006).

In this study, I looked at several variables at one time, including race, income, and education, in an effort to determine the impact, if any, these factors have on the outcome variable, as well as the relationships that may possibly exist between these factors. A multivariate analysis, which focuses on relationships between two or more variables, was employed to determine if a relationship exists between race and juror perception, as well as other extralegal factors, such as income and education and juror perceptions (Rosenberg, 1968). In a relationship where one factor may influence the other, dependent and independent variables are present (1968). In this study, race and other extralegal factors, such as income and education of the criminal defendant, were the independent variables and juror perception of criminal defendants' guilt or innocence was the dependent variable.

This study aimed to answer the following RQs through a quantitative approach:

RQ1: Does the race of the defendant impact juror perception of guilt or innocence in criminal cases?

RQ2: Do extralegal factors, such as the defendant's perceived income and/or educational background, impact juror perception of guilt or innocence in criminal cases?

I hypothesized that perceptions of criminal defendants based on their race dominate the jury's decision making process in criminal cases. I also hypothesized that extralegal factors, such as the perceived income and/or education, impact juror perception of criminal defendants as well.

## **Methodology**

### **Population**

I selected the sample from the general population (which included some past jurors) in the southwest Georgia jurisdiction of the United States. According to the U.S. Census Bureau (2014), the southwest region of Georgia is primarily a rural area and does include a metropolitan area. Currently, there are 14 counties that make up the geographical region (2014). The selected sample represented the entire region because it had a rural and urban demographic makeup and a sizable minority population. The units of analysis consisted of individuals who had actually served on a jury, as well as those who were eligible to serve on a jury for criminal cases in general from 2009 through the time of the study. The population came from individuals eligible to serve on a jury in the region, as well as jurors who have actually served on a jury of a criminal case(s) during the period January 1, 2009 to the time of the study, who were available, eligible (based on criteria), and agreed to participate at the time of the survey.

### **Sampling and Sampling Procedures**

I collected data for this study from a convenience sample. In convenience sampling, participants are included based on their availability (Creswell, 2003). The

sample was comprised of 25 individuals, all local residents of southwest Georgia, at the time when the survey questionnaire was distributed in the parking areas of a grocery store in Miller County, southwest Georgia. Participants may or may not have had prior juror experience. However, participants were required to be eligible to serve on a jury, and I instructed participants who did not have experience as a juror to provide their opinions regardless. According to a survey administered by Goodman (2008), the income, race, and ethnicity of grocery shoppers are a great reflection of the general population.

The number of participants in a survey is dependent upon the nature of the study itself. It is possible that whereas some studies require more participants, other studies may provide valid results with less. Although political polls may only include a few thousand participants, the numbers are usually reflective of millions of people. Thus, the sample size I used in this study could be indicative of the southwest Georgia region as well. Generalizing findings can be difficult with convenience sampling (Creswell, 2003). This is due to regional and national trends not being exactly alike. However, I did not allow just anyone to participate in the study as all participants were required to either have served on a jury or be eligible to serve.

### **Procedures for Recruitment, Participation, and Data Collection**

I took all necessary precautions and followed the requirements as set forth by Walden University. No special groups, such as prisoners or children, were included in the study population. Prior to distributing surveys, I contacted the public facility for permission to administer questionnaires at the location. Upon approval, I set up at the



location and issued 25 questionnaires. I explained to each participant the purpose of the survey and answered any questions they may have had. I also assured the participants that their answers would be completely confidential and the surveys would remain anonymous. I was watchful of the participants to ensure they were not influenced by others when completing the survey. Upon completion of the surveys, I immediately reviewed the responses to ensure all questions were answered in their entirety.

I conducted the study on a Tuesday between the hours of 11:00 a.m. and 1:00 p.m. The grocery store parking lot selected is situated near a restaurant, bank, gym, physical therapy facility, health department, city hall, county office, local store, postal office, and a doctor's office. The location and the times were selected to capture incoming traffic to the grocery store from these locations during lunch hours (the grocery store also sells delicatessen items) and during a weekday in which the businesses were all open.

### **Data Analysis Plan**

I used a survey to collect data from the participants. The survey consisted of 25 questions necessary to determine if a relationship existed between the race, income, and/or education of the defendant and the juror's perception of guilt or innocence of the defendant. Prior to participation, participants were required to review a consent form and confidentiality clause. After the data were collected, I analyzed it. In quantitative analysis, data are processed in an effort to present and interpret the data in a numerical format (Creswell, 2003).

In order to determine if a relationship existed between the race, income, and/or education of the defendant and the juror's perception of the guilt or innocence of the defendant, I employed a multivariate analysis. The multivariate analysis indicated whether or not the juror's perception influenced any of these independent variables. From there, I created a contingency table to explore the relationship between the variables. I performed line-by-line analyses from the completed surveys. All surveys were evaluated and synthesized into units consistent with the surveys. A cluster of themes was created to reveal any common patterns or trends that emerged. Because the sample may not have reflected equal representation of each race, percentages were necessary to make the comparisons. The computer application Statistical Package for the Social Sciences (SPSS) was used to ensure accurate results.

Concerning the content of the instrument, I asked the participants questions to answer to determine if the null hypotheses should be accepted or rejected. The internal validity of the survey instrument was centered on questions asked to determine if the external factors of defendants, such as race and clothing, influenced juror perceptions. I included clear and easy to understand questions on the survey. A majority of the questions were close-ended and designed to provide concise yes or no answers.

### **Threats to Validity**

As with any research design, there were limitations to this study. Some of the limitations included the possibility of participants giving inaccurate information or having difficulty interpreting questions on the questionnaire. Another threat would be the

use of an instrument that produces biased data. I attempted to alleviate the production of biased answers by assuring the participants that all answers would be kept anonymous and confidential. Although I had no control over the answers that were provided on the surveys, I worked diligently to create an environment where the participants would feel relaxed and comfortable with being open and honest.

In order to ensure credibility, I worked cautiously in order to avoid selection of a biased sample. This was attempted by setting up booths at the appointed location with prompts requesting that all individuals ages 18 and up complete a questionnaire. Although I was sure to select a sizable sample, the primary focus was on the quality of the data and not the quantity. According to Patton (2002), credibility is dependent on the fullness of the data gathered, coupled with the researcher's ability to be analytical. After completing the survey, participants were able to review the data they provided for fairness and accuracy by being allowed to review their marked responses and being able to ask me for clarity, if necessary.

The external validity of this research was moderate. External validity is the degree to which the same results can be generalized in another experiment (Myers, 2014). Generalizing the results was challenging because not all demographics of the participants resemble the national trends. Testing the data repeatedly for accuracies and eliminating errors can improve external validity (2014). To ensure an acceptable level of external validity, the researcher must remain neutral and not allow ego or preconceived ideas to thwart the study's authenticity (2014). I accomplished this by remaining neutral and

refraining from conversing with the participants while they completed the survey other than to answer any questions they had. I also accomplished this by instructing the participant on the steps necessary to complete the questionnaire and refraining from any and all conversations outside the scope of the study. I also encouraged the participants to answer questions truthfully and assured them that their responses would in no way produce repercussions.

### **Ethical Issues**

I was required to submit the IRB application and supplemental documents, such as the survey instrument, consent form, and confidentiality clause to the IRB committee for review and approval prior to administering the surveys. The IRB approval number for this study is 09-25-15-0157420. A primary purpose of the IRB process is to ensure the research is functioning in an ethical manner. I guaranteed that all information would be kept confidential, and codes were given to participants to ensure anonymity. I explained to the participants that their participation was voluntary and that no repercussions were expected to occur from their participation or refusal to participate. The goal of improving equality in the criminal justice system outweighed the risks associated with this study, such as being held criminally liable. I reviewed all responses immediately upon completion of the questionnaire by the participant.

### **Summary**

In this cross sectional quantitative research study, I explored and examined the possible relationship that may exist between the race of a defendant and how this affects

a juror's perception of guilt. This was accomplished by exploring and examining representative random clusters of the general public, in the southwest region of the state of Georgia. This study provided a realistic perspective of racial discrimination that may or may not exist in the criminal justice system. The descriptive data showed whether or not the inferences made in the literature review support, weaken, or invalidate my hypotheses.

## Chapter 4: Results

### **Introduction**

The purpose of this study was to determine if race and other extralegal factors, such as income and educational background, influence juror perceptions of criminal defendants. To determine this, I formed two RQs:

RQ1: Does the race of the defendant impact juror perception of guilt or innocence in criminal cases?

RQ2: Do extra legal factors, such as the defendant's perceived income and/or educational background, impact juror perception of guilt or innocence in criminal cases?

I hypothesized that the race of the criminal defendant would have a greater impact on jury verdicts than the quality of the defense and/or evidence presented at trial. I also hypothesized that other extralegal factors, such as income and educational background, also influence juror perception of guilt or innocence. There were two alternative hypotheses: (a) that race does not influence juror perception and (b) extralegal factors do not influence juror perception. In this chapter, I will discuss the data collection technique, findings, and a summary of answers to research questions.

### **Data Collection**

I administered surveys to the general public in a local grocery store parking lot in Miller County in southwestern Georgia. The survey was conducted and completed by the participants on the same day within a 2-hour time span, so all data were collected in 1

day. There were no deviations from the data collection plan presented in Chapter 3. I set up tables at the front of the grocery store parking lot, displayed the sign requesting participation from all eligible individuals, and presented the consent form and confidentiality clause to interested participants. All questionnaires distributed in the parking lot were completed. The sign was visible enough that incoming shoppers at the grocery store were able to read it and make an informed decision about participating in the study as well as their eligibility to participate. All participants were given the opportunity to ask questions and/or voice concerns.

I used the convenience sampling method in the study. This type of sampling gives all individuals an equal chance of being selected to participate in a study based on their availability (Creswell, 2003). Per the 2014 Census Bureau data, the demographic makeup of southwest Georgia greatly resembles the national demographic makeup in many areas including, but not limited to, certain areas of race, gender, educational background, and household income levels (U.S. Census Bureau, 2014).

### **Findings**

The researcher distributed 25 survey questionnaires. There were 14 females and 11 males who completed the survey (see Table 1). Of this, there were 16 Black (African American) participants and nine White (Caucasian) participants (see Table 2). There was one individual of Hispanic or Latino origin. The ages were categorized into three groups: 18-25, 26-39, and 40 and up. There were four participants between the ages of 18 and 25, seven between the age of 26 and 39, and 14 participants ages 40 and up (see Table 3).

Table 1

*Participant Demographics*

Response	%	<i>n</i>
Gender		
Females	56	14
Males	11	44
Race		
Blacks	64	16
Whites	36	9
Age		
18-25	16	4
26-39	28	7
40 and up	56	14

Table 2

*The Propensity of Certain Races to Commit a Crime*

Response	%	<i>n</i>
Yes	12	3
No	68	17

Table 3

*The Greater Influence: Race of the Defendant or Evidence Presented at Trial*

Participant Response	%	<i>n</i>
Past Juror		
Yes	50	3
No	50	3
Undecided	0	0
Potential Juror		
Yes	26.3	5
No	42.1	8
Undecided	31.6	6



Income categories were broken down into five categories. Of these, six participants had a household annual income of less than \$20,000, 12 had a household annual income between \$20,000 and \$49,999, four had a household annual income between \$50,000 and \$74,999, and three had a household annual income over \$100,000. There were no participants with a household annual income between \$75,000 and \$99,999. Educational categories were broken down into six categories. Of these, two participants possessed less than a high school diploma, 10 possessed a high school diploma or GED, eight had some college, four possessed a Bachelor's Degree, none possessed a Master's Degree, and one possessed a professional degree.

With RQ1, I examined the race of the criminal defendant and juror perception. A bivariate analysis was used in an effort to determine if a relationship existed between the independent variable, race of the defendant, and dependent variable, juror perception of criminal defendants' guilt or innocence. Table 2 presents the results of the participants' responses to the likelihood of certain races being more likely to commit a crime. Only six of the 25 participants had actually served on a jury prior to participation in the study. In anticipation of this, I presented survey questions tailored towards both past jurors and potential jurors. When asked if the race of the defendant carried more weight than the evidence presented at trial, participants were required to answer the question one of two ways: if a past juror, "did the race of the defendant carry more weight," or if a potential juror, "would the race of the defendant carry more weight?" Results are presented in Table 3. I also asked participants if the race of the defendant had impacted

or would impact the determination of guilt or innocence, and if so, to what degree. Table 4 presents these results.

Table 4

*Impact of the Defendant's Race in Determination of Guilt or Innocence for all Respondents*

Response	%	<i>n</i>
No Impact	32	8
Not Much Impact	24	6
Undecided	20	5
Moderate Impact	24	6
Much Impact	0	0

With RQ2, I examined the relationship between the income and educational level of criminal defendants and juror perception of criminal defendants. Results were categorically broken down to examine the participant responses based on specific levels of income and education. Table 5 and Table 6 present the results of this examination.

Table 5

*The Propensity of Defendants to Commit a Crime Based on Income*

Response	%	<i>n</i>
Less than \$20,000		
Extremely Unlikely	36	9
Somewhat Unlikely	0	0
Neutral	28	7
Likely	16	4
Extremely Likely	20	5
Between \$20,000 and \$49,999		
Extremely Unlikely	20	5
Somewhat Unlikely	12	3
Neutral	56	14
Likely	12	3
Extremely Likely	0	0
Between \$50,000 and \$74,999		
Extremely Unlikely	28	7
Somewhat Unlikely	12	3
Neutral	52	13
Likely	4	1
Extremely Likely	4	1
Between \$75,000 and \$99,999		
Extremely Unlikely	44	11
Somewhat Unlikely	0	0
Neutral	52	13
Likely	4	1
Extremely Likely	0	0
Over \$100,000		
Extremely Unlikely	44	11
Somewhat Unlikely	0	0
Neutral	48	12
Likely	8	2
Extremely Likely	0	0

Table 6

*The Propensity of Defendants to Commit a Crime Based on Education*

Response	%	<i>n</i>
Less than High School		
Extremely Unlikely	20	5
Somewhat Unlikely	12	3
Neutral	28	7
Likely	12	3
Extremely Likely	28	7
High School Diploma/GED		
Extremely Unlikely	12	3
Somewhat Unlikely	20	5
Neutral	48	12
Likely	20	5
Extremely Likely	0	0
2-Year Degree		
Extremely Unlikely	20	5
Somewhat Unlikely	20	5
Neutral	48	12
Likely	8	2
Extremely Likely	4	1
4-Year Degree		
Extremely Unlikely	20	5
Somewhat Unlikely	12	3
Neutral	56	14
Likely	12	3
Extremely Likely	0	0
Master's Degree		
Extremely Unlikely	40	10
Somewhat Unlikely	12	3
Neutral	36	9
Likely	8	2
Extremely Likely	4	1
Professional Degree		
Extremely Unlikely	48	12

(table continues)

Response	%	<i>n</i>
Somewhat Unlikely	12	3
Neutral	28	7
Likely	8	2
Extremely Likely	4	1

### Summary

In this study, I sought to examine the relationship, if any, of race and/or extralegal factors and their influence on juror perception of criminal defendants. Some of the results suggest that race does not influence juror perception of criminal defendants. The majority of the participants (17 or 68%) indicated that race is not a factor in determining who is capable of committing a crime (See Table 7). The majority of the 19 potential jurors (8 or 42.1%) stated that the race of the defendant would not weigh more heavily in their decision making than the evidence presented at trial. However, of the six past jurors, 50% stated that race did weigh more than the evidence presented at trial. Of the 25 participants, 32% stated that race would not impact their determination of guilt or innocence. However, 24% did state that race would moderately impact their determination of guilt or innocence.

Table 7

*Racial Impact*Impact of Race on Guilt or Innocence

Chi-Square	.760 <sup>a</sup>
Df	3
Asymp. Sig	.859

a. 0 cells (0.0%) have expected frequencies less than 5. The minimum expected cell frequency is 6.3.

Overall results concerning other extralegal factors such as income and/or educational level suggest that extralegal factors also do not influence juror perception of criminal defendants. Of the participants who provided a response other than neutral, the majority indicated that the level of income and education are not indicators of the likelihood that an individual will commit a crime, thus implying that other extralegal factors do not impact juror perception of the guilt or innocence of a criminal defendant (see Table 8).

Table 8

*Impoverished Individuals*Are Impoverished Individuals More Likely to Commit a Crime

Chi-Square	1.040 <sup>a</sup>
Df	2
Asymp. Sig	.595

a. 0 cells (0.0%) have expected frequencies less than 5. The minimum expected cell frequency is 8.3.

Although the majority of the participants indicated that neither race nor other extralegal factors influence juror perception of criminal defendants, some of the individual results indicated that these factors are still capable of influencing juror

perceptions. Some of the participants believed that individuals with an annual income less than \$20,000 were extremely likely to commit a crime (9 or 36%). Some participants also believed individuals with less than a high school diploma were extremely likely to commit a crime (7 or 28%). In Chapter 5, I will interpret the findings in comparison to the literature I described in Chapter 2, discuss the limitations of the study, and provide recommendation for further research. Lastly, in Chapter 5, I will also present this study's potential impact for positive social change.

## Chapter 5

### **Introduction**

According to Barnett (2003), as new situations arise, perceptions are formulated from previously stored data in the brain and become shortcuts for recalling data fairly quickly. Moreover, cognitive psychologists believe these perceptions are formed quickly (Galotti, 2014). For example, in 2013, Jimmy Kimmel conducted surveys with random people concerning their views of Obamacare versus the Affordable Care Act (Savage, 2013). Many people were not in favor of Obamacare but favored the Affordable Care Act (2013). What they failed to realize was the fact that the two are actually one in the same. However, their responses to Jimmy Kimmel were driven by their perceptions of what they believed the two individual healthcare programs to be. Situations such as this one imply that perceptions greatly influence the decisions that people make regarding every facet of life. One area of concern has been the criminal justice system and the alleged negative stereotypes and racism that may exist (Amaker & D'Alemberte, 1992; Beckett & Murakawa, 2010; Garcia, 2008; Wernsman, 2009).

The purpose of this study was to determine if perceptions of individuals impact their determination of the guilt or innocence of criminal defendants. I conducted an examination via a survey to determine if juror perceptions of criminal defendants are influenced by race and extralegal factors, such as income and education. In this study, I used a cross sectional quantitative study design to help make this determination. The use of surveys by the National Crime Justice Reference Service and the National Crime



Victimization Survey is preferred over other research methods and thus, is used more often due to the ability to collect more data, focus on more characteristics, and test more variables at one time.

### **Interpretation of the Findings**

The key findings of the survey indicated that neither race nor extralegal factors, such as income or educational background, influence juror perception of criminal defendants. The majority of participants (68%) indicated that race is not a predictor of the propensity of an individual to commit a crime. Concerning extralegal factors, the results yielded higher percentages of participants who believed income level and educational background do not predict the likelihood of an individual to commit a crime (see Tables 5 and 6). However, as discussed in the literature review, it is common for individuals to say one thing, yet behave differently in reality.

The overall findings of this study that I made were contrary to some of the findings of the literature review in Chapter 2. However, individual findings based on the race of the participant confirmed key points of the literature reviewed in Chapter 2. According to research, African Americans are not as quick to assume defendants to be guilty (Abshire & Bornstein, 2003; Higgins, 1998). Per the results of the survey, most of the African American participants (10 of 16, or 63%) indicated that certain races are not more likely to commit a crime than other races, including the African American race as

well. Survey results also indicated that only 25% of the African American participants believed that the economically disadvantaged were more inclined to commit a crime.

The folk theory of race and racism states that racial categorization results in prejudice and racist behavior and speech (Hill, 2009). Hill (2009) stated that prejudicial mindsets give individuals the right to focus on the actions and personal situations of others rather than the prejudicial mindset itself. Several questions on the survey in this study warranted responses indicative of prejudicial mindsets. For example, 50% of the Caucasian male participants stated that economically disadvantaged individuals were more inclined to commit a crime. This result runs parallel with the results of Highland (2008) who stated that it is believed by many theorists that crime rates are higher among the economically disadvantaged.

Through the survey, I also asked participants if they believed certain dress codes were predictors of criminality. Although participants may have answered “no” to the original question, the real beliefs are being manifested in through other questions. According to survey results, the majority of participants believed certain dress codes, such as sagging pants, baggy clothes, and hooded apparel, were predictors of criminality. Out of the 17 participants who believed certain dress codes were predictors, 65% (11 of 17) believed sagging pants were a predictor. Furthermore, 76% (13 of 17) believed baggy clothes were a predictor, and 53% (9 of 17) believed hooded apparel was a predictor. Out of the 25 participants, the majority (18 or 72%) associated African Americans with baggy pants. To a certain extent, these results suggest that in some

instances and certain aspects criminal defendants are stereotyped before guilt or innocence has been established.

There were also individual findings contrary to the literature that I reviewed and presented in Chapter 2. Haney and Lynch (2011) stated that racial prejudice is more common among Caucasian male jurors; however, survey results in this study were not consistent with this statement. The majority of the Caucasian male jurors stated that race is not a predictor of who is more likely to commit a crime (4 of 6 or 67%). The same percentage (67%) responded in the negative when asked if the race of the defendant would (or did) impact the determination of guilt or innocence. In addition, the majority also stated that spotting a criminal is not easy (5 of 6 or 83%). Moreover, all of the three Caucasian male jurors who had never served on a jury indicated that the race of the defendant would not carry more weight than the evidence presented at trial. These results partially imply that Caucasian male jurors do not exercise racial prejudice as the majority (4 of 6 or 67%) also indicated that baggy pants are a predictor of criminality.

### **Limitations of the Study**

There were a number of limitations to this study. This study was limited to only English speaking individuals and did not include responses from anyone who did not speak English. This was due to the fact that I did not speak any language other than English fluently. Additionally, the study was limited to the southwest Georgia region only. Although this region has been identified as one which resembles national demographics in certain race, age, education, and household income levels (U.S. Census

Bureau, 2014), not all areas resemble national trends, making it difficult to generalize to other geographic areas whose participant demographic makeup may differ.

Another limitation to this study was the sampling size. The sample included only 25 participants. Also, it was possible that participants were skeptical to respond truthfully to the survey questions due to the sensitivity of the research topic, even though I protected the participants' privacy and ensured the participants no consequences would result from their participation in the study. The survey may have excluded questions necessary to address topical issues that emerged from the research, prompting the need for me to address future recommendations for further research in the area. Also, the survey instrument had limitations, as well.

### **Recommendations**

After completing this study, I have several recommendations for future studies to address juror perceptions of criminal defendants. Future studies are recommended to examine juror perceptions of criminal defendants based on a specific race, such as African American criminal defendants, Caucasian criminal defendants, or another race of criminal defendants. This would allow for a closer examination of juror perceptions of criminal defendants based on race. Future research could also examine specific crimes, such as white collar crimes, to determine if juror perceptions are influenced by the type of crime committed.

Another recommendation for future research would be to study the extent to which public and private attorneys affect juror perceptions of criminal defendants. This

would allow for a closer examination of whether jurors base guilt or innocence on the defendant's legal representation. An additional recommendation is to research characteristics associated with criminal defendants to determine if juror perceptions are influenced by individual characteristics such as age, apparel, and demeanor. Another recommendation would be to use a moot (or simulated) court environment to conduct a study as it will provide more realistic findings due to a more natural setting. As this study included only 25 participants, one final recommendation would be to expand the current study to include more jurisdictions, thereby increasing the generalizability of the study.

### **Implications**

Historically, research has suggested that the overrepresentation of minorities in the criminal justice system is a direct result of prejudicial and racial thoughts and actions that are connected to the alleged inequality, including, but not limited to, lack of diversity on the jury stand and in law enforcement, that exists in the criminal justice system (Garcia, 2008; Kim, 2011; Youman, 2006). Certain results from this study suggest that prejudicial thoughts do exist regarding race and extralegal factors, identifying a need for more research and legislative changes in the jury selection process to promote equality in the criminal justice system.

Based on certain survey findings, it is possible that more research and legislative changes in the jury selection process may be necessary as decisions concerning guilt or innocence greatly impact the lives of criminal defendants. Erroneous classification of criminal defendants may result in adverse long-term effects, such as the inability to find

employment and even housing (Pager, 2002; Wood, 2008). This can lead to higher rates of recidivism. In order to obtain and maintain positive social change, society must develop initiatives that promote equality and implement programs that assist in reducing recidivism, such as job training and educational programs. Legislation should also be revisited to amend policies to ensure equal representation of all races in the jury selection process.

### **Conclusion**

Overall findings from this study suggested that juror perceptions are not influenced by race or extralegal factors, implying that the criminal justice system works in its current form and structure. However, results for several individual categories suggest otherwise. Participants indicated that certain physical attributes are indicative of criminality or guilt. This notion was evident in the George Zimmerman trial, which ended with Zimmerman being acquitted of murdering Trayvon Martin (Tienabeso, Gutman, & Wash, 2013). Zimmerman stated that the slaying of Martin was an act of self defense as he felt threatened by him (2013). Attorneys for Zimmerman portrayed Martin as a suspicious individual (2013). Many have speculated that this was largely due to his race and clothing, which included hooded apparel (2013). A jury, comprised of five Caucasian women and one Puerto Rican, found Zimmerman not guilty (2013). Many people were outraged with the verdict and accused the jury of rendering a decision based on prejudicial and/or racial thoughts as ideas of Martin being racially profiled circumvented the nation prior to, during, and after the trial (2013). Juror B37 referred to

Martin as “a boy of color” and stated that Martin played a significant role in his own death by refusing to walk away when confronted by Zimmerman, who many believed racially profiled Martin (Memmott, 2013; James & Stanglin, 2013). The verdict of the trial indicates that the actions of Martin, not Zimmerman, caused Martin’s death.

According to the folk theory of race and racism, individuals focus on the actions of others instead of personal practices and beliefs and often use prejudicial and/or racial speech in everyday language (Hill, 2009).

Perhaps it is possible that the hypotheses did not support the literature review due to the cultures and geographical location of the researcher and where the surveys were conducted. Indicative of this notion is the fact that although on the surface participants did respond that race nor extra legal factors influence juror perceptions, subquestions suggest otherwise. For example, findings indicated that the majority of participants believed certain physical attributes are indicative of criminality and are more associated with certain races. Thus, it is questions such as these that contribute to the existing body of knowledge.

Focusing on the actions of others takes away the necessity of correcting the actions of self. The use of prejudicial speech in everyday language should not be accepted as the norm. It is the acceptance of such practices that has contributed to the overrepresentation of minorities in the criminal justice system (Rattansi, 2007). This overrepresentation of minorities has raised concerns as to whether or not equality is being granted to all individuals who come in contact with the system (Grant, 2002). Although

racism in the system is not easy to prove, statistics are indicative of racial disparity and inequality (Amaker & D'Alemberte, 1992; Garcia, 2008; Gumbhir, 2007; Hill, 2009, Risse & Zeckhauser, 2004). It is important for society to understand the negative consequences that may result from these alleged practices. These consequences not only affect the incarcerated but society as a whole. Research has shown that it is cheaper to send a student to college than an inmate to prison (Resnick, 2011). However, the United States has more African American inmates in prison than African American students in college (2011). In fact, the United States has one of the highest incarceration rate in the world (2011). Lappe (2003) stated, "Every time you spend money, you're casting a vote for the kind of world you want." If this is correct, then the adage, "you get what you pay for," is true now like never before.



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## Footnotes

<sup>1</sup>. “Driving while black” is a phrase used to describe the views of minorities’ feelings of being stopped by law enforcement officials more than non-minorities.

<sup>2</sup>. “Once in the system always in the system” is a phrase that describes the life after prison for many inmates who experience disenfranchisement and the struggles of finding employment and adequate housing.

## Appendix A: Prescreen Questionnaire

1. Are you over the age of 18?
  - Yes
  - No
2. Are you registered to vote in your county of residence?
  - Yes
  - No
3. Are you a convicted felon?
  - Yes
  - No

## Appendix B: Survey

1. What is your age?
  - 18-25
  - 26-39
  - 40-up
2. What is your race?
  - White
  - Black or African American
  - American Indian and Alaska Native
  - Asian
  - Native, Hawaiian and other Pacific Islander
  - If other, specify: \_\_\_\_\_
3. Are you of Hispanic or Latino Origin?
  - Yes
  - No
4. What is your gender?
  - Male
  - Female
5. What is your household annual level of income? (Please check only one)

Less than \$20,000	
\$20,000-\$49,999	
\$50,000-\$74,999	
\$75,000-\$99,999	
Over \$100,000	

6. What is your highest level of education completed? (Please check only one)

Less than high school	
High School/GED	
Some College	
Bachelor's Degree	
Master's Degree	
Advanced Degree (M.D., Ph.D., J.D., etc)	



7. Are all individuals capable of committing a crime?
  - Yes
  - No
  - Undecided
8. Do you believe males are more likely to commit a crime than females?
  - Yes
  - No
  - Undecided
9. Do you believe certain races are more likely to commit crimes than other races?
  - Yes
  - No
  - Undecided
10. Is it easy to “spot” a criminal?
  - Yes
  - No
  - Undecided
11. What characteristic(s) do most criminal defendants possess? (Please check all that apply)
  - Young
  - Antisocial
  - Old
  - Sneaky demeanor
  - Observant
  - Quiet
  - Incorrect hygiene
  - Other; specify: \_\_\_\_\_
  - None
12. What dress code(s) do you associate with criminal defendants? (Please check all that apply)
  - Baggy clothes
  - Suit and tie apparel
  - Sagging pants
  - Dingy clothes/shoes
  - All black apparel
  - Hooded apparel
  - Other; specify: \_\_\_\_\_
  - None

13. Are economically disadvantaged individuals more likely to commit a crime than middle and upper class individuals?
- Yes
  - No
  - Undecided
14. Based on the income levels listed below, rate the level of likeliness to engage in a criminal activity: (place a check in only one box for each)

Annual Income	Extremely Not Likely	Somewhat Unlikely	Neutral	Likely	Extremely Likely
Less than \$20,000					
\$20,000-\$49,999					
\$50,000-\$74,999					
\$75,000-\$99,999					
Over \$100,000					

15. Based on the level of education listed below, rate the level of likeliness to engage in a criminal activity: (place a check in only one box for each)

Level of Education	Extremely Not Likely	Somewhat Unlikely	Neutral	Likely	Extremely Likely
Less than High School					
High School Graduate					
Two-Year Degree					
Four-Year Degree					
Master's Degree					
MD, PhD, JD, etc					

16. If you are a past juror, did the race of the defendant carry more weight than the evidence presented at trial? If not a past juror, skip and answer question 17.
- Yes
  - No
  - Undecided
17. Would the race of the defendant carry more weight than the evidence presented at trial? (*This question is for potential jurors only.*)
- Yes
  - No
  - Undecided
18. Are public defenders less skilled than private attorneys?
- Yes
  - No
  - Undecided
19. Are criminal defendants who are represented by a public defense attorney more likely to be guilty?
- No more
  - Somewhat more
  - Undecided
  - Much more
  - Very much more
20. What race do you associate with each dress code? (Please check all that apply)

	White	Black	Hispanic	Asian	Other
Baggy clothes					
Suit and tie					
Sagging pants					
Dingy clothes/shoes					
All black apparel					
Hooded apparel					
Other: _____					

21. You have been selected to serve on a jury. How much impact would/did the race of the defendant have on your determination of guilt or innocence?
- No impact
  - Not much impact
  - Undecided
  - Moderate impact
  - Much impact
22. Do you live in one of the following southwest Georgia counties? If yes, please check one.
- Baker
  - Calhoun
  - Colquitt
  - Decatur
  - Dougherty
  - Early
  - Grady
  - Lee
  - Miller
  - Mitchell
  - Seminole
  - Terrell
  - Thomas
  - Worth