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Implicit Bias, Juror Decision Making, and Emerging Jury Systems

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Implicit Bias Generally

- Implicit biases are automatic and non-conscious attitudes and stereotypes we hold towards members of certain groups. The **vast majority** of Americans hold these biases, including judges (Rachlinski et al., 2009).

Research example: The Shooter Bias

- Empirical studies of this bias measure reaction time and accuracy in decisions to shoot.

Are you ready to play?

- Pick up your imaginary guns

- Your guns each have a trigger and a safety

- **Rules**: Pull the trigger as fast as you can when you see a man with a gun. Hit the safety as fast as you can when you see a man with an object that is not a gun.

Too Slow!

-10 points

Your score: -10

6082

Red Rock Diner

Good Shot!

+10 points

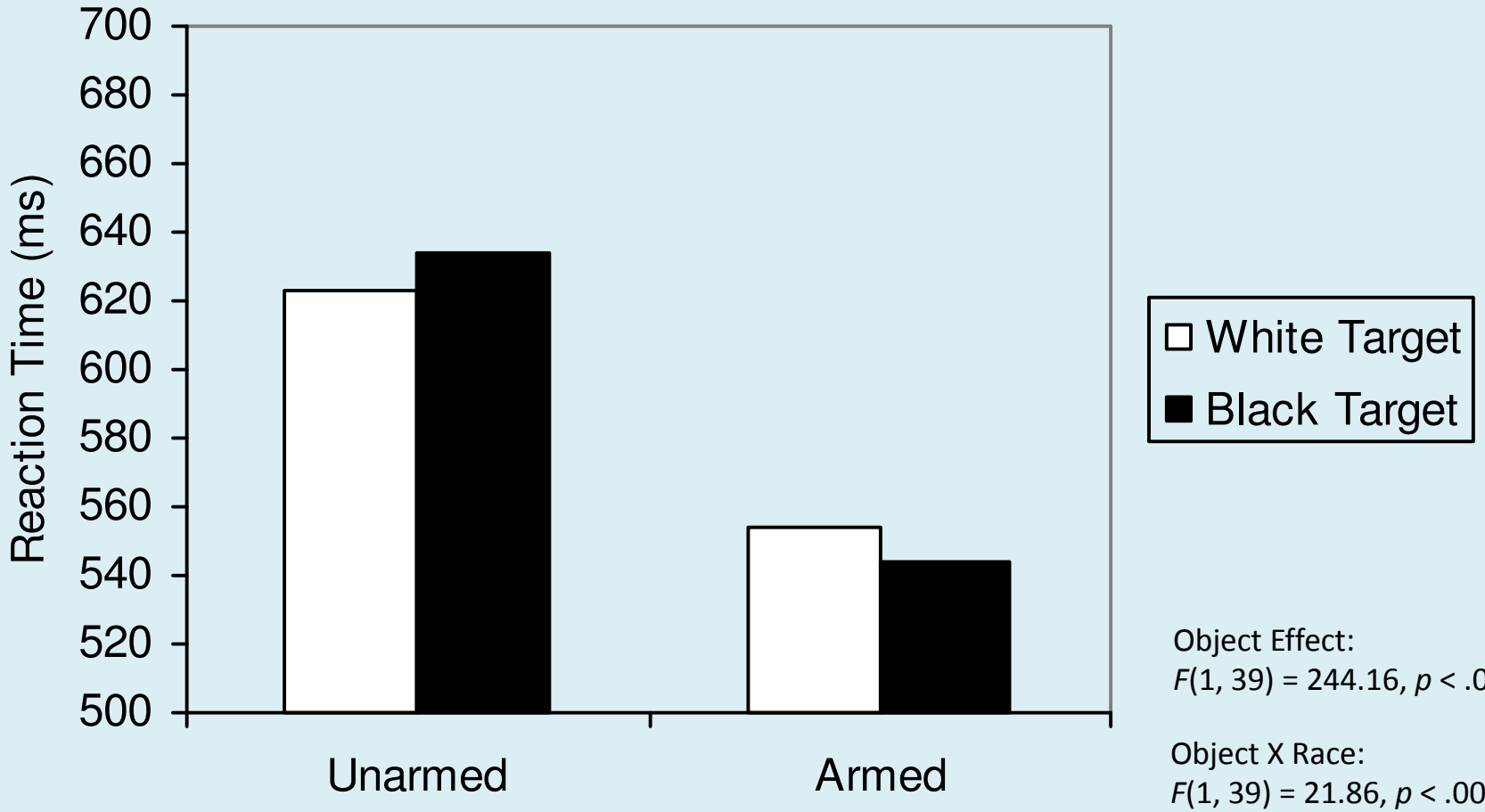
Your score: 0

You shot a good guy!

-40 points

Your score: -40

Shooter Bias in Latencies

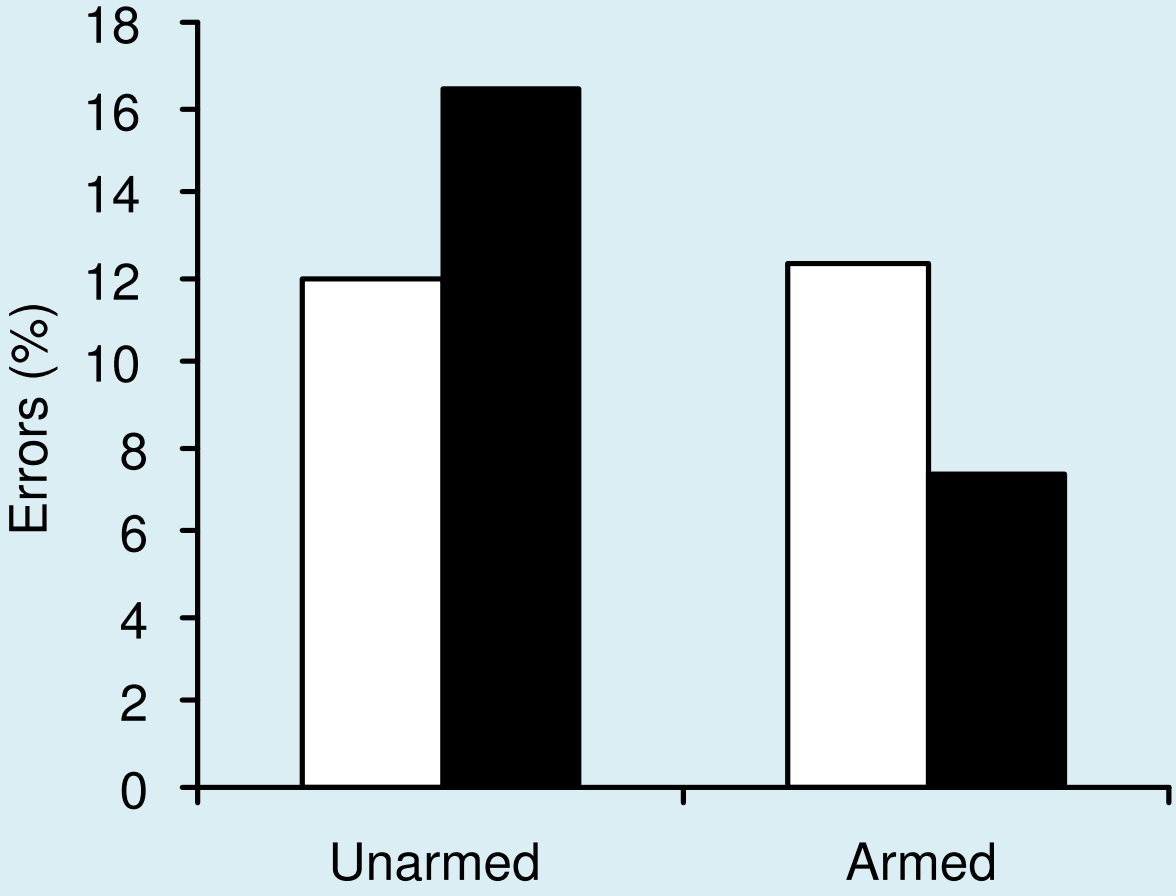


Object Effect:
$F(1, 39) = 244.16$, $p < .001$

Object X Race:
$F(1, 39) = 21.86$, $p < .001$

Correll, Park, Judd, & Wittenbrink (2002)

Shooter Bias in Errors



Object Effect:
$F(1, 38) = 6.42$, $p < .02$

Object X Race:
$F(1, 38) = 17.83$, $p < .001$

Correll, Park, Judd, & Wittenbrink (2002)

Implicit Bias in Criminal Law: Four Jury-Focused Studies

- Evidence Evaluation and Skin Tone (Levinson & Young, 2010)
- Implicit Associations of Black Guilt (Levinson, Cai & Young, 2010)
- Presumption of Innocence Bias (Young, Levinson & Sinnett, 2011)
- Implicit Value of Life: The Death Penalty (Levinson, Smith & Young, 2013)

Project 1: Evidence Evaluation and Skin Tone

- Participants read about an armed robbery of a mini-mart by two armed men.

- The following slides were then shown to participants for four (4) seconds each…

Mini Mart register from security camera

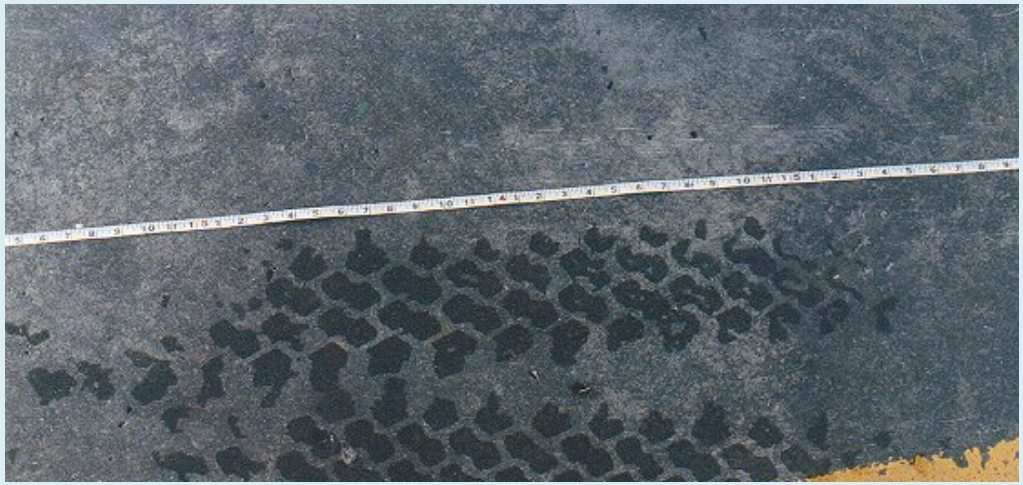


Photo of tire tracks in the parking lot

Photo of suspect from security camera

Guns found in Mini Mart dumpster

Outside of the Mini Mart

Materials

- Participants were then asked to evaluate ambiguous pieces of evidence presented at trial.

- Examples: The store owner identified the defendant's voice in an audio line-up; The defendant recently lost his job; The defendant used to work at this particular mini-mart; The defendant had a used ticket stub for a movie that started 20 minutes before the crime; The defendant is a member of an anti-violence organization

- The Independent Variable…..

Photo of suspect from security camera

Results

- Evidence Judgments: Participants who saw the dark skinned perpetrator were more likely to evaluate evidence as tending to indicate guilty.

Project 2: Implicit Associations of Black Guilt

- In this study, participants completed an Implicit Association Test ("IAT") designed to test implicit associations of Guilty and Not Guilty and acted as mock jurors in a case.

- Also employed standard Race Pleasant/Unpleasant IAT

The Implicit Association Test

- This is one of the most well known (and easily accessible) measures of implicit bias.
  - Greenwald et al. (1998)

- Participants group words and photos together as fast as they can.
  - The speed of the grouping is a proxy for the strength of the association.
  - Classic Example: Black-Bad v. White-Good

Guilty

Not Guilty

Innocent

African American

European American

Guilty

or

African American

Not Guilty

or

European American

Guilty

or

European American

Not Guilty

or

African American

Results

- Participants implicitly associated Guilty and Black compared to Guilty and White (727 v. 800ms)
- These implicit associations predicted evidence evaluations on ambiguous evidence measure
- Results raise the question of whether the presumption of innocence is really an implicit presumption of guilt for Black defendants…

Project 3: Presumption of Innocence Instructions

- Follows up Guilty/Not Guilty IAT to test one way the presumption of innocence may fail to achieve its goal.

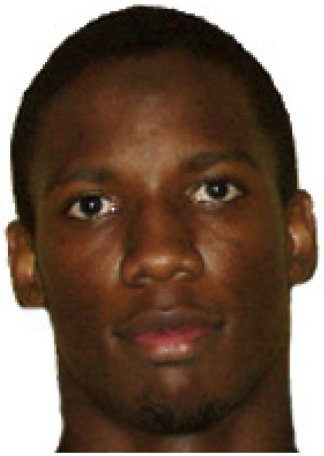
- Hypothesis: Presumption of Innocence primes people's attention for the racial category of Black (just like basketball or Harlem)

Jury box in Moot Courtroom

Jurors Watch Jury Instruction Video

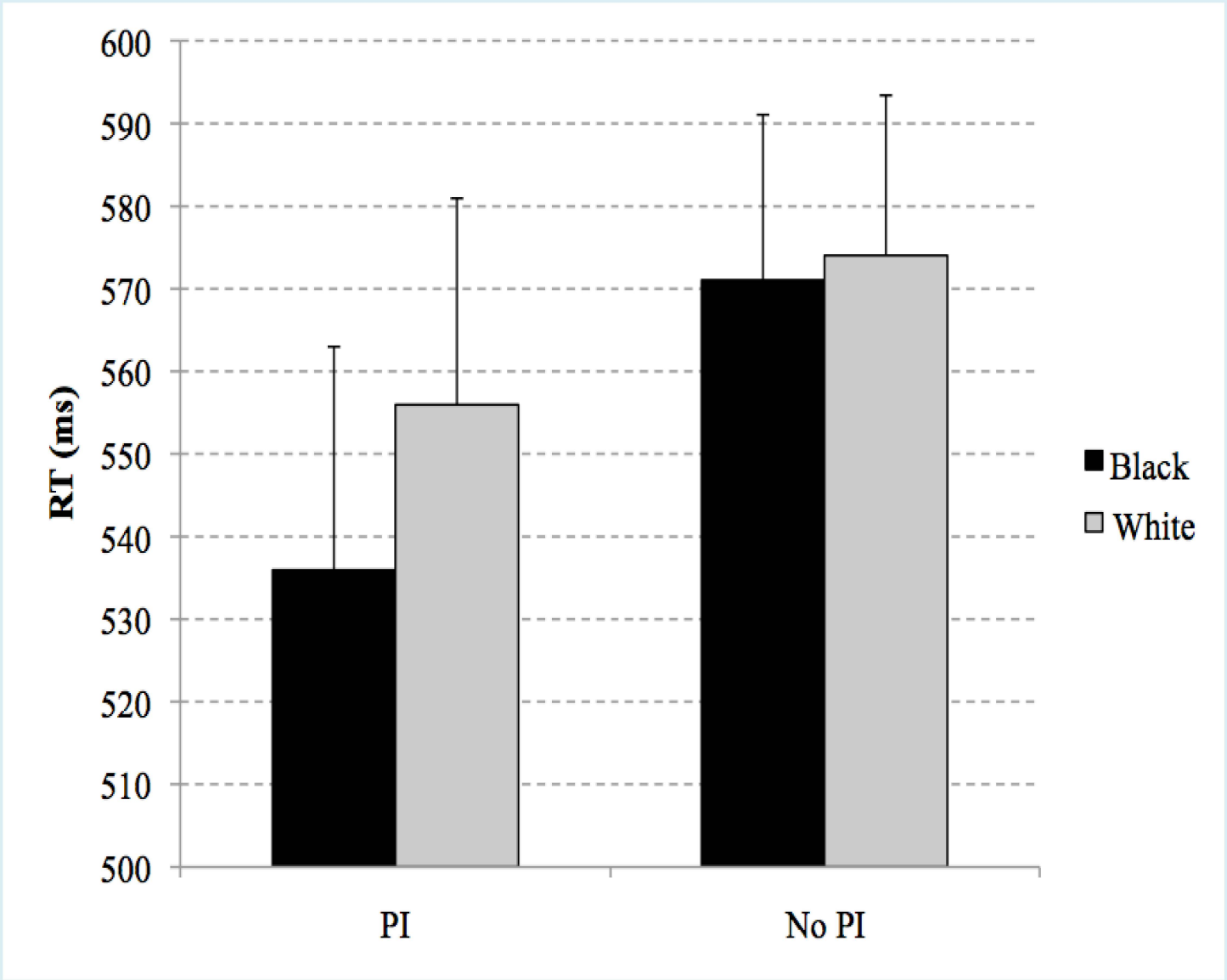
Half of the jurors receive instructions w/ the presumption of innocence and burden of proof (the other half with a matched length filler instruction)

Immediately after receiving the instructions, participants completed the following measure on laptop computers placed at their seats…



Results

- The Presumption of Innocence primed people's attention for black faces. Participants who received presumption of innocence instructions were significantly faster to identify a dot preceded by a Black face (536 ms) than a White face (556 ms), while participants who did not receive PI instructions were equally fast to find the dot regardless of if was preceded by Black or White face (571 ms vs 574 ms), $F(1,61)=4.44$, $p<.039$, $r=.26$.


600
590
580
570
560
550
540
530
520
510
500
RT (ms)
PI
No PI
Black
White

Project 4: Capital Punishment-- The "Value of Life" IAT

- We attempted to bridge data on death penalty in the US with new social cognition methods:

- Worth: Merit, Worthwhile, Worthy, Value, Valuable

- Worthless: Drain, Expendable, Worthless, Waste, Valueless

Worth

or

African American

Worthless

or

European American

Worth

or

African American

Worthless

or

European American

Valuable

Worth

or

African American

Worthless

or

European American

Expendable

Results- Part I

(1) Jurors possess strong to moderate implicit racial biases

- This held for Value of Life IAT, too

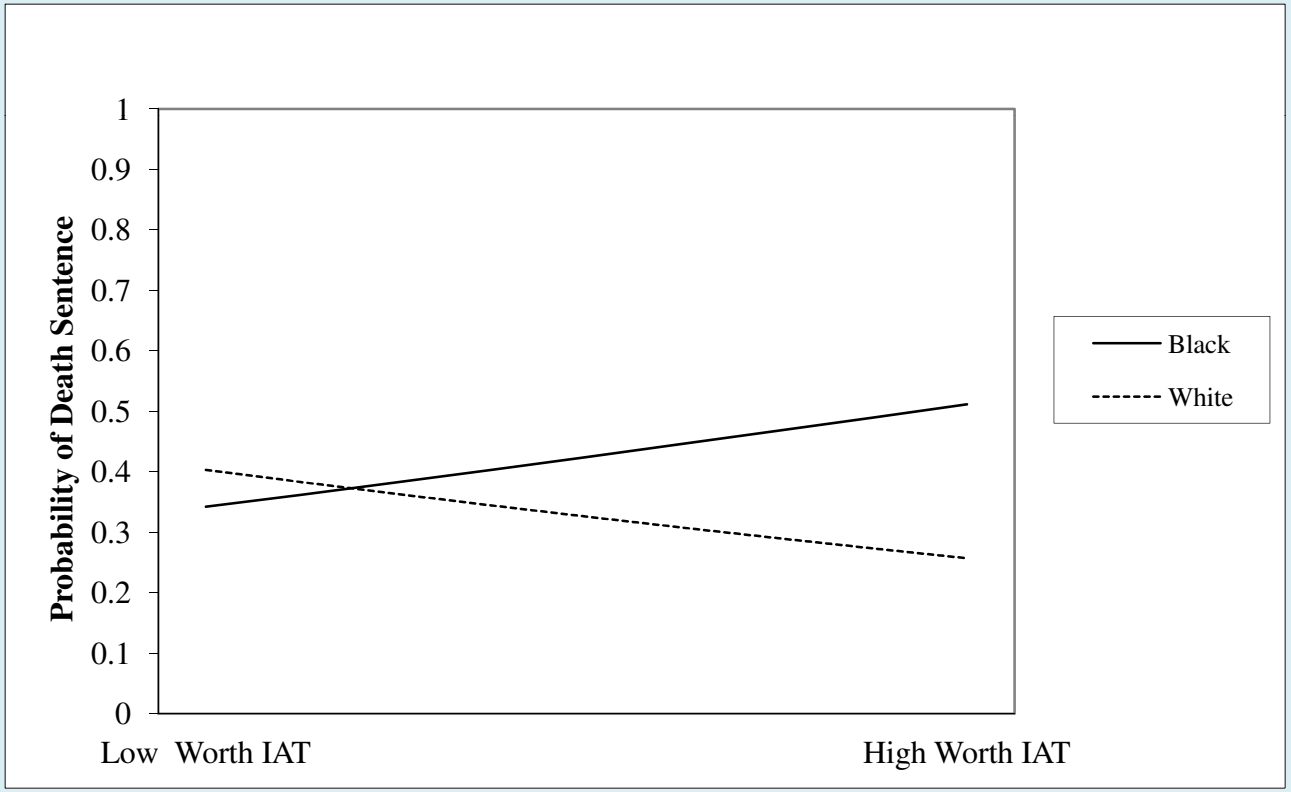
(2)Death Qualification leads to more white, more male juries

(3) Death Qualified jurors hold greater implicit and explicit biases than non-Death Qualified jurors

This finding was explained by the exclusion of non-White jurors by the process of Death Qualification

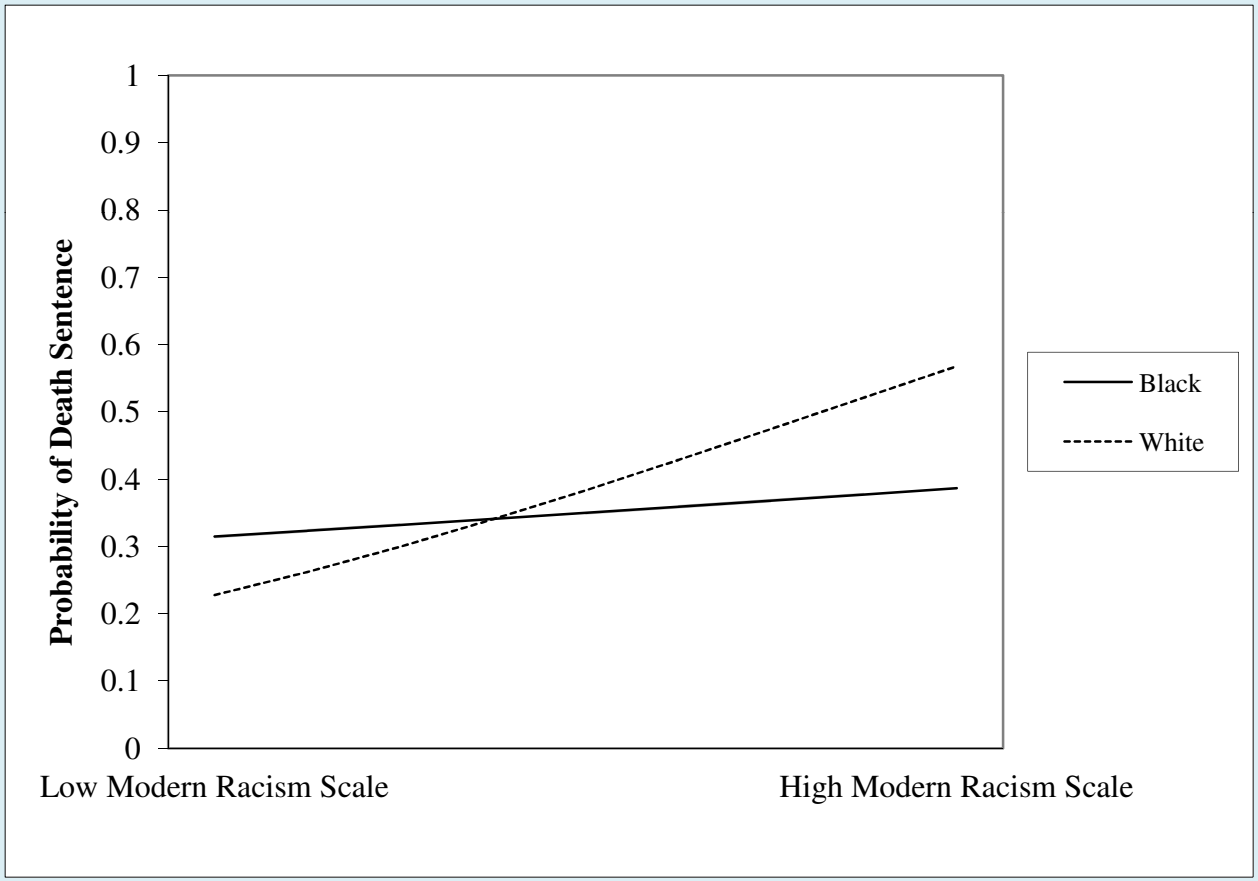
Results- Part II

- No main effects for race of D or V
- Implicit Racial Bias predicts death verdicts based on race of D



Results- Part III

- Explicit Racial Bias predicts death verdicts based on race of V



New Law Participation Systems: Implicit Bias in Japan & Korea

- Should we be concerned about implicit bias in Japan and Korea's new jury-like systems?
- The new systems provide a wonderful opportunity to explore empirically

Implicit Bias Concerns: Justice in Juries

- Foreign Residents & Stereotypes
  - Japan (Brazilian, Chinese, etc.)
  - Korea (more recent)
- The “Less than Human” Underclass
  - Burakumin in Japan
- Other stereotyped groups
  - North Koreans and Korean-Chinese residents (in S. Korea)
  - Koreans in Japan

Proposed Map for Empirical Studies

- Establish the existing of relevant stereotypes among population
- Create stereotype measure for use in mock juries or shadow juries
- Examine whether stereotypes affect decision-making in mock juries or shadow juries
- Test statistical relationship between stereotype measure and decision-making

Thank you.