

Chapter 11

Without Justice for All: An Ethnic-Minority Psychology Perspective on Bias in the Criminal Justice and Legal System

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Recently, there has been renewed interest in the effects of race and ethnicity on criminal justice and legal outcomes due to several widely publicized cases in which White police officers have killed Black men during stops or other encounters. For example,

- On July 17, 2014, police in Staten Island, New York, tried to arrest 43-year-old Eric Garner for selling untaxed cigarettes. Garner denied that he was engaging in illegal activity. Four officers tackled him, and Officer Daniel Pantaleo applied a chokehold, which has long been banned by the New York Police Department. Garner, who was asthmatic, cried, "I can't breathe" several times before he had a heart attack and died (Reuters, 2014).
- On August 9, 2014, Officer Darren Wilson had a confrontation with an unarmed 18-year-old, Michael Brown, while Wilson was inside his police SUV and Brown was outside of it on a street in Ferguson,

Missouri. Brown ran away from the vehicle, and Wilson pursued him on foot. Brown turned back toward Wilson, and Wilson fired his gun at him, hitting him six to eight times, including a shot in the forehead that killed him. Wilson claimed that Brown was "charging" toward him and "looked like a demon" (DOJ, 2015a, p. 14). Several witnesses claimed that Brown had his hands up in a gesture of surrender, although there was considerable variability in reports about Brown's hand position, as well as how quickly he was approaching Wilson (DOJ, 2015a).

- On November 22, 2014, 12-year-old Tamir Rice was playing with a toy gun in a park in Cleveland, Ohio. A local resident called the police but said that the gun looked like a fake. However, the police launched an aggressive response, and when Rice took a step toward an approaching police car, he was shot and killed by Officer Timothy Loehman. Following Rice's death, he was described by the president of the local police union as "menacing . . . He's a 12-year-old in an adult body" (Lowery, 2015).
- On April 7, 2015, 50-year-old Walter Scott was pulled over by Officer Michael Slager of North Charleston, South Carolina, due to a broken tailpipe. Scott ran away from the officer, who, after failing to stop him with a Taser, shot at him back eight times. After Scott, who was unarmed, fell to the ground, the officer appeared to place an object near his dying body (Schmidt & Apuzzo, 2015).

Although the specific circumstances of these cases vary, they share a number of common features. In each case, the police responded strongly to a relatively minor potential infraction by a Black man. The Black suspect's reaction then was interpreted as dangerous and threatening, leading to the use of lethal force against an unarmed person.

Another common feature of these cases involves the lack of sanctions for the police officers. Grand juries declined to indict the officers involved in Garner's and Brown's deaths. Likewise, the Department of Justice (DOJ, 2015a) concluded that Wilson's actions did not violate federal criminal civil rights law, although, in a separate investigation of the Ferguson Police Department, it found evidence of "clear racial disparities that adversely impact African Americans" (DOJ, 2015b, p. 2). In its initial response to a federal lawsuit, the city of Cleveland claimed that Rice caused his own death "by the failure . . . to exercise due care to avoid injury" (Lowery, 2015, n.p.). Only in Scott's death was there prompt institutional and legal action; Slager was fired from the police department and charged with murder based on a video that clearly showed him shooting Scott in the back (Schmidt & Apuzzo, 2015).

Not surprisingly, all these cases have caused considerable public outcry. Brown's death led to months of protests in Ferguson. Several of the

protests turned violent and resulted in property damage, at least in part due to the aggressive police response, which included the use of tear gas and rubber bullets (El-Enany, 2015). Likewise, there were large-scale protests in New York City when the grand jury failed to issue an indictment in the death of Garner (Goodman & Baker, 2014). In addition to local events, there have been protests and marches related to these cases throughout the world (El-Enany, 2015). Several social media campaigns, including #BlackLivesMatter, #ThingsITellMyBlackSon, #CrimingWhiteWhite, and #IfTheyGunnedMeDown, have been created to increase awareness of police officers' use of force against minorities and disproportionate response to criminal behavior by minority versus White individuals, as well as biases in the media's portrayal of Black shooting victims (Bonilla & Rosa, 2015).

The deaths of Garner, Brown, Rice, and Scott reveal several ways that race and ethnicity can affect criminal justice and legal processes. These issues can be productively examined through the lens of ethnic-minority psychology. In this chapter, we will review research examining how race and ethnicity affect police officers' decisions to shoot, jury decision making in noncapital and capital cases, and sentencing determinations. We also will consider the impact of racial diversity on juries and the influence of discrimination by the police and courts on racial and ethnic minorities' attitudes toward the justice system. Finally, we will discuss potential interventions and "next steps" for researchers. Throughout the chapter, we will emphasize how ethnic-minority psychology can help us to understand and address biases in the criminal justice and legal system.

THE NATURE AND SCOPE OF THE PROBLEM

Police Shooter Bias

In 1999, a 22-year-old Guinean immigrant named Amadou Diallo was shot 41 times by police in New York City after reaching for his wallet, which police mistook for a gun (Cooper, 1999). This incident prompted psychologists and others to ask the question: Are police officers more likely to shoot unarmed Black suspects, and if so, why? Unfortunately, official government data concerning the breakdown of police shootings as a function of suspect race are limited. The Bureau of Justice Statistics (BJS, 2001) released a report on justifiable homicides committed by police, which revealed that, in 1998, Black suspects were killed by police about four times more often than were White suspects. Recently, investigative journalists at ProPublica (2014) analyzed police homicides recorded by the Federal Bureau of Investigation (FBI) between 2010 and 2012 and found that young Black men were approximately 21 times more likely to be killed by police than were their White counterparts. However, the authors of the report noted some limitations of the analysis, including incomplete reporting to

the FBI and a lack of information regarding the circumstances of each shooting.

Social psychological theory suggests that police officers are more likely to shoot Black suspects than White suspects because of stereotypes associating Black individuals with violence, dangerousness, and aggression (Correll, Hudson, Guillermo, & Ma, 2014). A study providing a direct measurement of these stereotypes found that police officers rated Black faces as more criminal than White faces and provided higher ratings of criminality to faces with more stereotypically Black features, such as wide noses, dark skin, and thick lips (Eberhardt, Goff, Purdie, & Davies, 2004). Because stereotypes are more likely to influence behavior when decisions must be made quickly and without deliberation (Fiske & Neuberg, 1990), associations between race and criminality are likely to play a role when an officer must make a split-second decision about whether to shoot a suspect.

A growing body of experimental research has tested this prediction. Correll, Park, Judd, and Wittenbrink (2002) developed a research paradigm involving a first-person shooter task in which participants press a "shoot" or "don't shoot" key in response to a picture of a Black or White target holding an object that is either a gun or a harmless object, such as a cell phone or camera, superimposed on a realistic background. Bias in shooting behavior was found in both reaction times (i.e., how long it took participants to make a "shoot" or "don't shoot" decision) and error rates (i.e., how often they mistakenly pressed "shoot" for a harmless object or "don't shoot" for a gun). Participants were faster to press "shoot" for armed Black targets and "don't shoot" for unarmed White targets and slower to respond to their stereotype-inconsistent counterparts. In addition, they were more likely to mistakenly shoot unarmed Black targets than unarmed White targets. Although most research on shooter bias has compared responses to Black and White targets, Sadler, Correll, Park, and Judd (2012) expanded this scope to investigate Asian and Latino targets as well. Their results were similar to earlier findings, such that both college-aged participants and police officers were faster to shoot an armed Black target and slower to decide not to shoot an unarmed Black target compared to White, Latino, and Asian targets. In addition, police officers were faster to shoot and slower to decide not to shoot Latino targets compared to Asian and White targets, and White targets compared to Asian targets. These patterns suggest that shooter bias may reflect relative differences in the perceived criminality and dangerousness of various race and ethnic groups.

It is important to note that most of the research investigating shooter bias has involved undergraduate, and occasionally community, samples. In a study by Correll et al. (2007), actual police officers as well as community participants performed the first-person shooter task. Results revealed that police officers were more accurate and faster than community members overall, and they showed less bias in their decisions to shoot. However,

similar to community members, they exhibited bias in response times such that they were faster to respond to stereotype-congruent trials—that is, to shoot armed Black targets and not shoot unarmed White targets. Thus, due to their greater training and experience, police officers may not always be influenced by suspect race to the extent that laypeople are, but they do show some biases (see also Plant & Peruche, 2005; for more discussion about training, see later in this chapter).

Correll and colleagues (2014) proposed that because police officers are experienced at making decisions to shoot, they may have more cognitive (mental) control over the task than laypersons, which may help them prevent stereotypes from influencing their behavior. As a result, police officers would be expected to show little or no shooter bias, so long as they are able to maintain that control. However, when police officers are in situations that deplete their cognitive resources—for example, if they feel threatened or are fatigued—they may not be able to exercise control. For example, Ma et al. (2013) found that police recruits made more race-based errors in shooting decisions when they had gotten less sleep. In addition, there may be differences in shooter bias between police officers who regularly engage with the general public ("beat cops") and officers assigned to special units that focus on particular crimes (e.g., gang units). Whereas beat officers must learn to quickly distinguish between dangerous and nondangerous individuals, special units officers may not develop such skills and in fact may come to associate minorities with crime. Consistent with this analysis, a recent study found that beat officers did not show evidence of shooter bias, but special units officers were more likely to shoot Black suspects, showing levels of bias similar to community members (Sim, Correll, & Sadler, 2013). Based on this research, it may be most accurate to conclude that police officers often—but not always—show less shooter bias than laypeople.

Moderators and mediators. A number of factors (called *moderators*) can increase or decrease the relationship between suspect race and decisions to shoot; likewise, shooter bias can reflect several underlying psychological processes (called *mediators*). As discussed earlier in this chapter, shooter bias may stem from stereotypic associations between Black individuals, crime, and danger. As a result, shooter bias is stronger when Black targets have more stereotypical features (Kahn & Davies, 2011). It also is stronger when stereotypes are primed (i.e., made more cognitively accessible). In one study, participants read news stories about Black or White criminals prior to performing the shooting task (Correll, Park, Judd, & Wittenbrink, 2007). Participants who read about Black criminals showed higher levels of shooter bias, whereas participants who read about White criminals exhibited no shooter bias.

Stereotypes about race and crime may help people process information that is consistent with those stereotypes, but hinder the processing of

information that does not correspond to those stereotypes. Illustrating these processes, Payne (2001) primed participants with pictures of a Black or a White face, followed by pictures of a gun or a tool. Participants were quicker to classify the second picture as a gun when they were primed with a Black face. Further, when response time was limited, participants were more likely to classify a tool erroneously as a gun after being primed with a Black face. These results imply that cognitive associations between weapons and Black individuals influence the way that people perceive potential suspects.

Extending this work, Correll, Wittenbrink, Crawford, and Sadler (2015) recently examined whether shooter bias may involve differential processing of visual information about Black and White targets. They found that participants were quicker to gather visual information in stereotype-consistent trials (i.e., Black targets with weapons, White targets with tools) than in stereotype-inconsistent trials. In other words, participants' expectations led them to determine the nature of visual stimuli (e.g., shapes, features, or colors) more quickly when those stimuli were consistent with their expectations, enabling them to reach a decision of "shoot" or "don't shoot" faster. Notably, giving participants more time to act did not lead them to correct their initial biases. The researchers conducted another study involving an eyetracker, which showed that in stereotype-consistent trials, participants ended their visual search more quickly, requiring less time to look at the object (weapon or tool) because their expectations helped to determine the nature of the object.

A related process that can lead to shooter bias involves feelings of threat from Black suspects. Correll, Urland, and Ito (2006) examined event-related potentials (ERPs)—that is, electrical activity in the brain in response to specific stimuli—in the context of the shooting paradigm. Participants exhibited greater ERPs related to threat in response to Black targets compared to White targets and greater inhibition of the threat response for White targets compared to Black targets. These differences were larger for participants who scored higher on explicit measures of stereotyping (i.e., people who consciously admitted to holding stereotypes regarding Black individuals and criminality). Results suggested that threat response, as indicated by ERPs, may mediate the relationship between racial stereotypes and shooter bias; in other words, the occurrence of the threat response may be responsible for the relationship between stereotypes and shooting decisions.

However, outgroup membership (i.e., belonging to a different group than the target) and interpersonal threat (i.e., feeling threatened by the target) may lead to shooter bias even in the absence of racial stereotypes (Miller, Zaelaskowski, & Plant, 2012). Shooter bias has been found for members of an outgroup that was arbitrarily formed by splitting participants into "red" or "green" groups ostensibly based on a personality test; notably,

participants who reported feeling more threatened by the other group exhibited greater shooter bias. Likewise, threat can lead to shooter bias against Asian suspects, a group that is not typically stereotyped as being dangerous (Miller et al., 2012).

Finally, certain variables related to prejudice can influence the likelihood of engaging in shooter bias. For example, White participants with higher levels of ingroup identification (i.e., people for whom race is more personally salient and important) exhibit higher levels of shooter bias against Black targets, even when factors such as gender, social dominance orientation, cultural stereotypes, and contact with Blacks are controlled (Kerworthy, Barden, Diamond, & del Carmen, 2011). In addition, implicit motivation to control prejudice (that is, a nonconscious desire to avoid being prejudiced and enact egalitarian values) can moderate the effects of stereotypes on shooting decisions. Glaser and Knowles (2008) found that, overall, participants' implicit stereotypes regarding Blacks and weapons were related to faster shooting decisions for armed Black suspects; however, this relationship did not exist for participants who were high in implicit motivation to control prejudice. The strongest relationship between stereotypes and shooter bias was found for participants who had strong racial stereotypes but low motivation to control prejudice. Implicit motivation to control prejudice may play a larger role in situations where cognitive resources are depleted, such as when people are distracted or busy (Park, Glaser, & Knowles, 2008).

In sum, it is clear that race can influence the decision to shoot. Shooter bias can be facilitated by a number of variables, including racial stereotypes, interpersonal threat, ingroup identification, and fatigue. In contrast, it can be inhibited through cognitive control and implicit motivation to control prejudice. The presence or absence of these factors can influence the likelihood that people will be quicker to shoot armed minority individuals, or even to shoot unarmed minority individuals mistakenly. Although more bias has been found for laypeople than police officers, there is reason to believe that police officers' decisions to shoot are influenced by suspect race under certain conditions, such as cognitive depletion. This conclusion maps to the sparse archival data showing that Black men are more likely than White men to be shot by the police. Returning to an earlier example, it is likely that one or more of the psychological processes discussed in this section were involved when police officers shot Diallo; for example, stereotypic associations, feelings of threat, or both could have interfered with the officers' ability to identify the object in Diallo's hands, leading them to mistake his wallet for a gun.

Shooter bias is a complex phenomenon in need of additional research. This call is intensified by recent studies that use more realistic simulations, including video stimuli and a prop gun in which participants pull the trigger to "shoot" and do nothing for a "don't shoot" response (Cox, Devine,

Plant, & Schwartz, 2014; James, Vila, & Daratha, 2013). Findings from these studies suggest that the shooter bias may be less clear-cut than we think. Cox et al. (2014) replicated the finding that police officers were faster to shoot armed Black suspects in trials involving still photos, but found that they were actually slower to shoot them in trials involving videos. In three studies using realistic video stimuli, James et al. (2013) also found that participants took longer to shoot Black targets. Further, error rates revealed that they were more likely to shoot unarmed White targets mistakenly than Black or Latino targets, and to fail to shoot armed Black targets mistakenly compared to their White and Latino counterparts. More research clearly is needed to explain how these provocative findings relate to previous work on shooter bias.

Racial Bias in Legal Outcomes

As discussed earlier, public outrage about the deaths of Eric Garner and Michael Brown was intensified by the failure of grand juries to indict either of the police officers responsible for the shootings (Bonilla & Rosa, 2015; Goodman & Baker, 2014). The lack of legal sanctions in these cases is consistent with the outcomes of other cases involving the deaths of Black men. For example, although the police officers who killed Amadou Diallo in 1999 and Sean Bell in 2006 were indicted, they were acquitted of all charges at trial (Fritsch, 2000; Wilson, 2008). Likewise, jurors acquitted George Zimmerman, a neighborhood watch volunteer, for shooting an unarmed Black teenager, Trayvon Martin, who allegedly looked suspicious while walking through Zimmerman's neighborhood in Florida (Alvarez & Buckley, 2013). These cases raise important questions about how the race and ethnicity of defendants and victims influence jury decision making, sentencing determinations, and other legal outcomes.

Over the past four decades, a sizable body of both experimental and archival research has examined the effects of race and ethnicity on legal outcomes. Overall, this research indicates that bias against minorities occurs at every stage of the legal process (for a more thorough review and discussion of other stages in the process, see Hunt, 2015b). Although the magnitude of this bias is often small at any given point, it accumulates throughout the process, resulting in substantial racial and ethnic disparities. For example, in 2010, the rate of incarceration per 100,000 U.S. residents was 2.6 times higher for Latinos and 6.4 times higher for Black men than for White men (Glaze, 2011).

Jury decision making. One important source of bias involves the judgments made by laypeople serving as jurors in criminal cases. Research on juror decision making in noncapital criminal cases consistently finds a pattern of racial and ethnic bias known as the *similarity-lenient effect* (Kerr, Hynes, Anderson, & Weathers, 1995). Jurors are less likely to convict

defendants who are from the same racial or ethnic background and more likely to convict defendants from different racial or ethnic backgrounds. Over the past decade, meta-analyses (i.e., combined analyses that integrate the results of relevant studies) have produced evidence of small but significant similarity-lenient effects in mock jurors' judgments about White, Black, and, in more recent studies, Latino defendants (Devine & Caughlin, 2014; Mitchell, Haw, Pfeifer, & Meissner, 2005). In the most recent meta-analysis (Devine & Caughlin, 2014), there were significant effects showing that White jurors made higher guilt judgments for Latino than White defendants and Black jurors made higher guilt judgments for White than Black defendants, but, surprisingly, there was not a significant effect for White jurors' judgments of Black defendants as opposed to White defendants. In contrast, recent analyses of actual trial outcomes based on data from the National Center for State Courts found that Black defendants are more likely to be convicted when juries contain greater numbers of White and Latino jurors (Bradbury & Williams, 2012; Williams & Burek, 2008).

The difference between these findings suggests that in research settings, White participants may adjust their judgments of Black defendants to avoid being seen as biased (Pearson, Dovidio, & Gaertner, 2009; also see Hunt, 2015a, for a more thorough discussion). In addition, there is a lot of variability in the size of the similarity-lenient effect across study contexts, indicating that the amount of racial and ethnic bias displayed by White (and other) mock jurors changes across situations, as described later in this chapter.

Sentencing judgments made by jurors also show evidence of racial and ethnic bias (sentencing determinations by judges will be discussed in a later section). Although jurors provide input into noncapital sentences in only a small number of states, a number of experimental studies have included sentencing judgments in their measures. Meta-analysis by Mitchell et al. (2005) found that the similarity-lenient effect occurred for sentencing judgments, and in fact was larger than the corresponding effect for guilt. Even more compelling evidence, however, comes from the literature on racial and ethnic bias in jurors' judgments about the death penalty. Several rigorous archival studies have shown that jurors are significantly more likely to give the death penalty in cases involving Black or Latino defendants who have been convicted of killing White victims, even after controlling for numerous factors related to the crime, defendant, victim, and case context (e.g., Baldus, Brain, Weiner, & Woodworth, 2009; Johnson, Blume, Eisenberg, Hans, & Wells, 2012; Paternoster & Brame, 2008; Thomson, 1997). It is important to note that racial disparities in capital sentences also reflect biases in prosecutors' decisions about whether to seek the death penalty in a given case; prosecutors are more likely to ask for the death penalty when defendants are Black or Latino and victims are White (e.g., Lee, 2007; Paternoster & Brame, 2008). This pattern also has been found in

experimental mock jury studies, with higher levels of bias among participants who do not understand judicial instructions for capital sentencing (Lynch & Haney, 2000, 2009). Both archival research (Bowers, Steiner, & Sandys, 2001) and experimental research (Lynch & Haney, 2009) indicate that, consistent with the similarity-lenience effect, racial bias in capital judgments is most pronounced in White male jurors. Data from the Capital Jury Project revealed that, when juries contained five or more White men, Black defendants were 41 percent more likely to receive the death penalty (Bowers et al., 2001).

Thus, taken as a whole, experimental research using mock jurors as well as archival analyses of actual cases provide considerable evidence of racial and ethnic bias in conviction and sentencing outcomes in both noncapital and capital cases. This bias reflects the race and/or ethnicity of the defendant, the jurors, and the victims. Jurors are more likely to convict and recommend harsh sentences for defendants when they come from different racial and ethnic backgrounds, and Black and Latino defendants accused of killing White victims are disproportionately likely to be sentenced to death. Victim race seems to have an especially strong influence on capital sentencing, perhaps because jurors are explicitly asked to consider the value of the victim's life. However, there also is evidence that jurors in noncapital cases are more likely to find defendants guilty when their victims are White (Mazzella & Feingold, 1994), suggesting that jurors may generally accord greater worth to the lives of White victims. The tendency to find crimes against White victims to be more worthy of punishment than crimes against Black and Brown victims is a powerful form of racial bias that indicates the devaluing and potential dehumanization of minority lives. The Michael Brown and Eric Garner cases have brought greater attention to this important issue, as illustrated by the widespread #BlackLivesMatter campaign.

Related processes and moderators. What psychological processes may lead jurors to make discriminatory trial judgments? Several processes may be involved, including biased interpretation and use of evidence, attributions about the defendant's behavior, and implicit biases. First, jurors often use trial evidence in ways that disadvantage minority defendants. When defendants are minorities, jurors may initially interpret or later recall ambiguous evidence as being more indicative of guilt than it objectively is (Levinson, 2007; Levinson & Young, 2010). Likewise, jurors may give more weight to prosecution witnesses (Abshire & Bornstein, 2003) and even be more likely to consider inadmissible evidence that is suggestive of guilt when defendants are Black than White (Hodson, Hooper, Dovidio, & Gaertner, 2005). Conversely, when determining sentences in capital cases, jurors place less emphasis on evidence that suggests that the death penalty is inappropriate (i.e., mitigating factors) in cases involving Black defendants and White victims (Baldus, Broffitt, Weiner, Woodworth, & Zuckerman,

1998; Lynch & Haney, 2000, 2009). Although jurors generally tend to interpret and use evidence in a stereotype-consistent manner, there are at least some cases in which jurors are more influenced by stereotype-inconsistent evidence. For example, stereotype-inconsistent character evidence may have a greater impact on jurors' verdicts because it appears informative and may challenge jurors' assumptions about the defendant (Maeder & Hunt, 2011).

In addition, jurors may be influenced by race and ethnicity when they make attributions or explanations about the causes of the defendant's behavior. When defendants are the same race or ethnicity as jurors, jurors are more likely to make external attributions that explain criminal behavior in terms of situational or other unstable factors (e.g., peer pressure, "youthful indiscretion"). In contrast, when defendants come from different racial or ethnic backgrounds, jurors are more likely to blame their behaviors on stable, internal factors like personality (e.g., being aggressive; Rattan, Levine, Dweck, & Eberhardt, 2012; Sommers & Ellsworth, 2000), increasing perceived culpability and blameworthiness.

Consistent with broader trends in psychology, recent research has focused on the role that implicit processes may play in juror bias (see Kang et al., 2012, for a review). The term *implicit* refers to psychological processes that influence judgments and behavior without conscious awareness, intent, or control (Andersen, Moskowitz, Blair, & Nosek, 2007); in other words, jurors may be influenced by race and ethnicity without necessarily realizing it. Implicit bias may be seen in jurors' tendency to make more favorable judgments of ingroup (i.e., same race/ethnicity) defendants (Asburn-Nardo, Voils, & Monteith, 2001), as well as their tendency to place greater value on the lives of White defendants and victims (Levinson, Smith, & Young, 2014). White jurors also may have implicit mental associations between the concepts of "Black" and "guilty" (Levinson, Cai, & Young, 2010). In addition, archival analyses of capital cases show that jurors are more likely to give death sentences when defendants have a more stereotypically Black appearance (e.g., in terms of skin tone, hair, and features; Eberhardt, Davies, Purdie-Vaughns, & Johnson, 2006) and when they are described in the media with dehumanizing ape imagery (Goff, Eberhardt, Williams, & Jackson, 2008). Both of these factors are likely to increase the accessibility of implicit racial stereotypes, thereby influencing jurors' judgments.

Also, several situational and case factors (i.e., moderators) can influence the amount of racial and ethnic bias that is likely to occur. Consistent with the concept of intersectionality, juror bias may depend on the combination of the race or ethnicity of a defendant (or other trial party) and other important social categories. For example, jurors are more likely to make harsh judgments about Latino defendants when they also are low in socioeconomic status (SES; Espinoza & Willis Esqueda, 2014). The nature of the

crime also influences juror bias. Jurors are more likely to find defendants guilty and recommend harsh sentences when crimes are consistent with stereotypes for their racial or ethnic groups; for example, Black defendants receive harsher judgments for crimes like burglary and assault, whereas White defendants receive harsher judgments for crimes such as fraud and embezzlement (Skorinko & Spellman, 2013).

An important situational factor is the salience or prominence of race in a trial. According to *aversive racism theory* (Gaertner & Dovidio, 1986; Pearson et al., 2009), when race is salient, people become aware of the potential for bias; thus, they try to act on egalitarian values and avoid letting race influence their judgments. In contrast, when race is not salient, people are more likely to be influenced by deep-seated negative associations with Black people, resulting in biased judgments. Consistent with this framework, White mock jurors are less likely to make biased judgments against Black defendants when a case is racially charged or includes issues that make race salient (e.g., accusations of discrimination; Sommers & Ellsworth, 2000, 2001; cf., Elek & Hannaford-Agor, 2014). Another situational moderator of racial and ethnic bias involves the presence of clear jury instructions to guide decision making. When jurors receive and are able to understand jury instructions (Lynch & Haney, 2000, 2009; Mitchell et al., 2005; Shaked-Schroer, Costanzo, & Marcus-Newhall, 2008), they show less bias against outgroup defendants because those instructions reduce ambiguity about how to reach a verdict (Pfeifer & Bernstein, 2003) and also may remind jurors to avoid the influence of prejudice or sympathy.

In sum, although there is an overall tendency for jurors to make more negative trial judgments about defendants from different racial and ethnic backgrounds, as well as minorities accused of harming White victims, the size of that bias can vary substantially depending on other characteristics of the defendant, the nature of the crime, and how the case is handled by the legal system. When biases occur, they may reflect a tendency for jurors to focus on negative evidence and make harsher personal judgments of minority defendants, even though they may not be consciously aware of doing so.

Sentencing Bias

Most noncapital sentences are determined by judges based on sentencing guidelines that specify the minimum and maximum punishments for various crimes. These guidelines, which stem from the Sentencing Reform Act of 1984, are intended to reduce judicial discretion and variability in sentences for the same crimes. However, sentencing guidelines have been shown to actually increase disparities across racial and ethnic groups (Schlesinger, 2011), in large part because they impose high mandatory

sentences on crimes that are disproportionately likely to be committed by minorities. For example, in 1986, sentencing guidelines developed as part of the "war on drugs" dictated that a person convicted of possession of 1 gram of crack cocaine would receive the same punishment as a person convicted of possession of 100 grams of powder cocaine. The Fair Sentencing Act of 2010 reduced this disparity to equate 1 gram of crack cocaine to 18 grams of powder cocaine. However, because crack cocaine is more likely to be used by minority and low-income individuals, even the revised policy results in substantial racial, ethnic, and socioeconomic disparities in incarceration rates (Davis, 2011).

Further, sentencing guidelines often include enhancements that increase the severity of punishment when crimes contain certain elements or defendants have certain characteristics (e.g., prior offenses). These enhancements may disproportionately affect minority offenders; for example, crimes that occur near housing projects receive harsher sentences because those areas are considered to be protected public spaces (Davis, 2011; Schlesinger, 2011). Thus, sentencing guidelines constitute an important source of structural racism.

A meta-analysis of 116 effects from 71 studies confirmed that, in both federal and nonfederal courts, Black defendants received harsher sentences than did White defendants, even when factors such as offense severity and criminal history were statistically controlled (Mitchell, 2005). The overall size of the effect was small, but it varied across specific outcomes and contexts. For example, there was a larger effect size for decisions to incarcerate versus not incarcerate than for the actual length of sentences, and racial bias was smaller, although still present, in studies that included better measures of other relevant case factors, including variables that may covary with race and ethnicity, such as SES and quality of counsel.

Although there is less research on sentencing outcomes for Latinos, those studies also show evidence of bias. For example, a study of almost 10,000 felony defendants found that Latinos were 45 percent more likely than Whites to be sentenced to incarceration, even after controlling for factors such as offense severity and criminal history (Demuth & Steffensmeier, 2004). Likewise, Latinos and Blacks in Florida are more likely than Whites to be labeled as "habitual offenders," leading to sentencing enhancements (Carravelis, Chiricos, & Bales, 2011). Latinos also may be discriminated against because of assumptions about their citizenship status (Wolfe, Pyrooz, & Spohn, 2011).

In contrast, the only large study to date that has examined sentences for Asian defendants found evidence that they were less likely to receive sentences involving incarceration than were White, Black, or Latino defendants (Johnson & Betsinger, 2009). This difference may reflect the common stereotype that Asians are a "model minority" (Chao, Chiu, Chan,

Mendoza-Denton, & Kwok, 2013). It also provides an important illustration of the ways that legal experiences and outcomes may differ substantially across specific race and ethnic groups, pointing to the strong need for more research that extends beyond the White-Black dichotomy that is used in much of the work in this area (Hunt, in press).

But What About Actual Crime?

Before leaving this discussion about racial and ethnic bias in legal outcomes, it is important to address a common rebuttal to claims of racial bias in the legal system—specifically, the argument that minorities are incarcerated at a higher rate simply because they commit more crimes. Data on arrests collected by the FBI (U.S. Department of Justice, Federal Bureau of Investigation, 2014) show that, adjusting for population size, some serious crimes are committed more frequently by racial and ethnic minorities (although it is important to note that, in absolute numbers, White people commit more of every crime because of their larger population). These differences likely reflect strong associations between race and factors related to crime such as poverty, unemployment, education, and neighborhood conditions. In addition, minorities are more likely to be stopped by the police (Withrow, 2006), and in many cases, officers are more likely to arrest minorities than White individuals (Kochel, Wilson, & Mas-trofski, 2011). However, even though racial differences in the commission of serious crimes contribute to prison disparities, differential offending cannot fully account for the disproportional rates of minority (especially Black) incarceration. A complete discussion of the data supporting this argument is beyond the scope of this chapter (see Tonry & Melewski, 2008), but perhaps the most compelling illustration involves one of the major contributors to prison disparities: drug convictions. Prisons are filled with minorities who have been convicted or pled guilty to drug charges; however, research shows that there are not meaningful differences in the rates of illegal substance use across racial and ethnic groups (e.g., Substance Abuse and Mental Health Services Administration, 2014). Instead, law enforcement for the “war on drugs” and related sentencing policies disproportionately target minorities (see the data given previously), making minority drug offenders substantially more likely than White drug offenders to end up incarcerated (Tonry & Melewski, 2008; see also Volume 3, Chapter 9). In addition, biases in other parts of the criminal justice and legal process, including prosecutorial discretion (i.e., decisions about who gets charged with which crimes), bail determinations, and, of course, jury decision making, contribute to minority imprisonment. Thus, disparities in incarceration can occur in the absence of differential offending, leading to high rates of minority imprisonment that cause incalculable damage to the lives of individuals, as well as their communities (Alexander, 2010).

Racial and Ethnic Minorities as Jurors

When considering the lack of legal sanctions against the men who killed Eric Garner, Michael Brown, Trayvon Martin, and Amadou Diallo, questions frequently arise about the racial and ethnic composition of juries and grand juries. These questions are based on the expectation that jurors’ racial, ethnic, and cultural backgrounds may influence their attitudes, beliefs, and experiences in ways that can affect trial outcomes. This assertion is consistent with the literature on ethnic-minority psychology, but unfortunately, there has been substantially less research examining racial and ethnic minorities as *actors* in the legal system rather than as the *targets* of others’ judgments (Hunt, in press). In this section, we discuss the limited research examining the racial composition of juries and behaviors of racial- and ethnic-minority jurors.

Under the Sixth Amendment, defendants have a right to “an impartial jury of the state and district wherein the crime shall have been committed.” Over time, this right has been interpreted by courts to mean that the composition of the jury pool should reflect the demographic characteristics of the community in which the trial occurs. However, research indicates that jury pools often fail to include racial and ethnic minorities (e.g., Fukurai & Krooth, 2003; Hannaford-Agor & Waters, 2011). Further, although the Supreme Court prohibited excluding potential jurors on the basis of race in *Batson v. Kentucky* (1986) and subsequent cases, both archival and experimental studies show that attorneys, especially prosecutors, often use peremptory challenges to eliminate minorities from the venire of potential jurors (e.g., Equal Justice Initiative, 2010; Sommers & Norton, 2008). Racial and ethnic minorities also are more likely than White people to be excused from capital juries because of strong opposition to the death penalty (e.g., Summers, Hayward, & Miller, 2010). A fuller review of these issues is beyond the scope of this chapter; instead we address how the final racial composition of a jury can affect legal outcomes.

Several lines of research suggest that there are benefits to racially diverse juries. Perhaps not surprisingly, diverse juries are less likely to discriminate against minority defendants. For example, research from the Capital Jury Project found that Black defendants were 34 percent more likely to be sentenced to death if their juries failed to include at least one Black man (Bowers et al., 2001). Complementary data come from Sommers (2006), who experimentally manipulated the racial composition of mock juries such that they contained six White jurors or four White and two Black jurors. Jurors who were randomly assigned to diverse juries were less likely to see a Black defendant as guilty, and during deliberations, the diverse juries were more likely to discuss the potential role of racism in the case. Notably, the study revealed that diverse juries had several other positive qualities. Compared to all White juries, the diverse juries deliberated longer,

discussed more pieces of evidence, and were more accurate when discussing that evidence. Thus, diverse juries may lead to higher-quality decision making, as well as more fair outcomes.

Why do diverse juries have these benefits? Diverse juries are likely to represent a wider range of views and experiences, which can lead to more complex decision making (Antonio et al., 2004). For example, Black jurors may be more sensitive to the possibility of institutional bias against minority defendants, raising the issue for other jurors (Sommers & Adelman, 2008). In capital cases, Black jurors, particularly men, are more likely to feel empathy for defendants and see positive qualities in them; in contrast, White jurors, particularly men, are more likely to feel anger and see defendants as dangerous and cruel (Bowers et al., 2001; Garvey, 2000). As a result, Black jurors can have a powerful influence on capital sentencing decisions by casting early votes against the death penalty (Eisenberg, Garvey, & Wells, 2001) and giving more consideration to mitigating evidence (Baldus et al., 1998; Lynch & Haney, 2000, 2009). Finally, some scholars have argued that the mere presence of racial- and ethnic-minority jurors may reduce the likelihood that attorneys or other legal professionals will make prejudicial statements during a trial (Fukurai & Krooth, 2003) and increase White jurors' awareness of prejudice, leading them to monitor their judgments more closely (Sommers & Adelman, 2008).

However, jury deliberation may be a challenging context for people from some racial, ethnic, and cultural backgrounds. Some studies suggest that members of certain minority groups may participate less than White individuals during jury deliberations. Preliminary results from the Arizona Jury Project, which involved an analysis of 48 jury deliberations from actual civil trials, revealed that racial- and ethnic-minority jurors spoke, on average, 867 fewer words than did White jurors (Rose & Diamond, 2008). Consistent patterns are found in surveys of former jurors. Hunt (2014) found that White and Black jurors reported higher levels of participation in deliberation than did Asian and East Indian jurors; White jurors also reported greater participation than did Latina/o jurors. Another survey found that Black jurors reported the highest participation, followed by White and Latina/o jurors, with Asians, especially women, again reporting the lowest level of participation (Cornwell & Hans, 2011). Differences in deliberation behavior across racial and ethnic groups may reflect cultural values and communication preferences. Specifically, Hunt (2014) found that White, Black, and Latino jurors were more likely than Asian and East Indian jurors to endorse independent views of the self that emphasize personal expression and autonomy (Markus & Kitayama, 1991). Independent self-construal predicted a preference for direct communication strategies (Gudykunst, Matsumoto, Ting-Toomey, & Nishida, 1996), which in turn predicted participation in deliberation. Although further research is needed, these findings suggest that the positive effects of jury diversity may be diminished

in some cases by lower levels of participation among jurors whose cultural orientations and practices are at odds with a system of deliberation that requires individuals to express their opinions directly and potentially argue openly with others who have differing views.

In sum, racial and ethnic diversity may increase the quality of jury deliberation and the fairness of trial outcomes. However, minorities may be unfairly excluded during jury selection, and jurors from certain racial and ethnic backgrounds may have somewhat lower levels of participation in jury discussions due to conflicting cultural values and practices. The trial of George Zimmerman for the death of Trayvon Martin illustrates several of these patterns. The jury for the trial consisted of five White women and only one minority, a Puerto Rican woman, thus raising concerns about lack of diversity, particularly the absence of Black jurors. Further, in interviews after the trial, the Puerto Rican juror said that she felt intimidated and disrespected by the other jurors, which made her less willing and able to argue for her desired verdict, conviction. These comments suggest that a more diverse jury may have reached a different conclusion about whether Zimmerman acted in self-defense when he killed a Black teenager.

EFFECTS ON MINORITIES' ATTITUDES TOWARD THE LEGAL SYSTEM

As noted earlier in this chapter, following Michael Brown's death, there were weeks of protests in Ferguson, Missouri, leading the governor of Missouri to call in the National Guard (El-Enany, 2015). In response, the DOJ (2015b) launched an investigation of the Ferguson Police Department, which included extensive interviews with community residents. Consistent with the sentiments expressed by protesters, the DOJ report concluded that "distrust of the Ferguson Police Department is longstanding and largely attributable to Ferguson's approach to law enforcement . . . The confidence of policing to raise revenue and racial bias . . . has resulted in practices that not only violate the Constitution and cause direct harm to the individuals whose rights are violated, but also undermine community trust, especially among many African Americans. As a consequence of these practices, law enforcement is seen as illegitimate" (DOJ, 2015b, pp. 5-6). The DOJ noted that distrust of the Ferguson police department was magnified by the lack of diversity on the force, an absence of community engagement, and a failure to respond to allegations of misconduct, and it extended beyond the police to the Ferguson municipal court. Notably, similar views of the police and courts have been expressed in protests by racial and ethnic minorities throughout the United States and internationally (El-Enany, 2015) and social media campaigns such as #HandsUpDontShoot, #BlackLivesMatter, and #ThingsITellMyBlackSon (Borulla & Rosa, 2015).

Likewise, numerous studies show that levels of trust in the criminal justice and legal system are lower among racial and ethnic minorities than among Whites. For example, Weitzer and Tuch (1999) examined responses from three national surveys and found that Black respondents were far less satisfied than White respondents with the criminal justice system in general, and with the police in particular. These negative perceptions stemmed from beliefs that the system is harsher toward Blacks, that police offer less protection to Black neighborhoods, that officers do not treat Blacks and Whites equally, and that racism is common among police. In addition, Black respondents are more likely to report having been mistreated by police (for similar findings, see Overby, Brown, Bruce, Smith, & Winkle, 2005; Rosenbaum, Schuck, Costello, Hawkins, & Ring, 2005). Perceptions of the courts are similar. In a national survey, Blacks and Latinos indicated more negative attitudes about the legal system than did Whites; they also were more likely to see court procedures and outcomes as unfair and to believe that minorities received differential treatment outcomes (Sun & Wu, 2006).

Various theoretical models have been proposed to explain racial minorities' lower levels of confidence in the legal system. Procedural justice models maintain that attitudes toward the police and court systems are driven by perceptions of the fairness of their processes, not their outcomes (Tyler & Huo, 2002). To the extent that minorities view the procedures used by police and courts as unfair, they have lower confidence in these institutions. For example, based on a national survey, Tyler (2001) found that Black respondents' confidence in the court system was highly influenced by the degree to which they felt that the courts treated different groups equally. Similarly, Black individuals' lower levels of trust in the police often stem from beliefs that they have not been treated fairly (Tyler & Huo, 2002).

Another explanation comes from group position theory, which argues that racial bias stems not only from negative feelings toward outgroup members, but also from competition among groups for scarce resources (Blumer, 1958). Group position theory states that the dominant group (i.e., Whites) feels entitled to resources and seeks to protect them from subordinate groups. Based on this theory, Weitzer and Tuch (2004) predicted that Whites should have positive attitudes toward the police, who help to maintain status quo, whereas minority groups should see police as contributing to their subordination. Using a national survey, they found support for this prediction; Black respondents were significantly more likely than White respondents to report that police engage in frequent misconduct, with Latinos falling between the two groups. The effects of race and ethnicity persisted after accounting for other potentially relevant factors and reflected both personal and vicarious experiences with the police.

Thus, one of the many consequences of the discriminatory patterns found in police officers' use of force, jury verdicts, and sentencing outcomes is a loss of confidence in the criminal justice and legal systems among racial

and ethnic minorities. Research consistently shows that Blacks and Latinos report more negative attitudes and lower levels of trust in the police and courts than do Whites, in large part due to negative experiences and beliefs about unfair treatment. Importantly, these negative views may lead racial and ethnic minorities to avoid interactions with the criminal justice and legal systems and to engage in guarded behavior if such encounters are unpreventable. For example, minority parents may advise their children to avoid interacting with the police (Brunson & Weitzer, 2011), and drivers may engage in less positive communication behavior during traffic stops (Dixon, Schell, Giles, & Drogos, 2008). These behaviors may be interpreted as hostile or suspicious by police officers, which increases the likelihood of dominant or forceful responses and sets the stage for negative interactions between minorities and the police. This cycle can have tragic consequences, as seen in two of the examples that opened this chapter. When Eric Garner and Walter Scott were stopped by police officers for minor issues, their responses reflected distrust of the police. The officers' negative interpretations of the men's actions then escalated the situations, leading to the use of force and the deaths of both men.

POTENTIAL SOLUTIONS

Thus far, we have discussed several forms of racial and ethnic discrimination in policing and legal outcomes and shown how they can contribute to negative attitudes among minorities. Given the scope of these biases and their detrimental effects on both individual lives and society as a whole, it is critical to develop effective interventions. In this section, we discuss some potential methods of reducing discrimination in criminal justice and legal contexts, with an emphasis on interventions informed by ethnic-minority psychology.

Police Bias

Training. Researchers have developed training programs to reduce or eliminate shooter bias, with promising results. For example, Plant, Peruche, and Butz (2005) had undergraduates engage in numerous trials of the first-person shooter task in which there was no relationship between race and weapons (i.e., Black and White faces were equally likely to be paired with a weapon). In this research, participants initially showed the traditional anti-Black shooter bias, but after repeated trials in which suspect race and weapon status were completely randomized, the bias was eliminated. The training effect persisted for a 24-hour period and was shown to inhibit the cognitive activation of racial concepts. Notably, the beneficial effects of training occurred only when it contradicted stereotypical associations

between race and weapon status; when Black suspects were deliberately paired with guns, training did not reduce anti-Black shooter bias.

In an effort to determine whether this training effect also could work for police officers, Plant and Peruche (2005) had 50 officers complete the same training program. Results were similarly promising. Initially, the officers were more likely to "shoot" unarmed Black suspects mistakenly than unarmed White suspects and somewhat more likely to select "don't shoot" for armed White suspects compared to armed Black suspects. In later trials, race was no longer a significant factor in shooting decisions, and overall accuracy increased. Thus, extensive training in which race is unrelated to the presence of a weapon can eliminate shooter bias in lay participants and police officers, at least under circumstances in which they are not threatened or fatigued and thus able to engage in cognitive control (Correll et al., 2014).

Community policing. Community policing can encompass a number of factors and approaches, but it involves collaboration between police and the community, increased police presence in the community, increased familiarity among police and the community, and an emphasis on crime prevention (Goldstein, 1987). Community policing can foster positive perceptions of police (e.g., Peak, Bradshaw, & Glensor, 1992); for example, in a national survey, Latino and Black respondents who lived in neighborhoods with community policing were less likely to believe that police misconduct occurs frequently in their cities and neighborhoods (Weitzer & Tuch, 2004). Further, if well implemented, community policing may be able to reduce race-based violence by increasing trust between minority residents and the police, decreasing dehumanization, and "focusing on cooperative relationships instead of aggressive crime-fighting" (Richardson & Goff, 2014, p. 145). Consistent with this analysis, the first recommendation in the DOJ (2015b) report on the Ferguson Police Department was to "implement a robust system of true community policing" (p. 90). Thus, community policing may be an effective way to increase minority trust in the criminal justice system, as well as reduce racial bias in policing.

Increasing minority representation in the justice system. Another potential method for reducing bias and increasing minorities' trust in the criminal justice and legal systems is to increase the diversity of those systems. The literature on the influence of police force diversity on police-citizen interactions is mixed. Some research suggests that Black officers are less prejudiced toward and elicit greater compliance from Black citizens compared to White officers (for a review, see Sklansky, 2005). A study in Detroit found that, in contrast to most research, Black participants reported more positive evaluations of the police than did Whites, which may be attributable to the fact that the police force in that city was more than 50 percent Black (Frank, Brandl, Cullen, & Stichman, 1996). However, other research suggests that Black officers may still harbor prejudice against

Black residents and engage in behaviors that lead to citizen complaints (Sklansky, 2005). Likewise, a study in Mississippi found that Black individuals' levels of suspicion toward the judiciary did not vary based on the number of Black judges in their jurisdiction (Overby et al., 2005). Thus, even though increasing the diversity of criminal justice and legal professionals is a recommended practice (e.g., DOJ, 2015b), more research is needed to understand how the racial composition of criminal justice and legal professionals may affect perceptions of those systems, as well as levels of racial and ethnic discrimination.

Bias in Jury Decision Making

Increasing jury diversity. As discussed earlier, diverse juries engage in more thorough deliberations and are less likely to discriminate against Black defendants compared to all-White juries (Bowers et al., 2001; Sommers, 2006). Thus, an important strategy for reducing bias in legal outcomes involves increasing the representation of racial and ethnic minorities on juries. However, increasing jury diversity is a challenging endeavor that requires multiple levels of intervention. Racial and ethnic minorities may be excluded from jury service because of biases in the construction of jury pools, exclusionary criteria that disproportionately affect minorities (e.g., not speaking English, felony convictions), and higher rates of undeliverable jury summons due to the mobility of individuals in low-SES groups (Fukurai & Krooth, 2003; Tran, 2013). Further, even if minorities make it onto a venire, they may be eliminated through the discriminatory use of peremptory challenges (Equal Justice Initiative, 2010; Sommers & Norton, 2008), as mentioned earlier. Many strategies for addressing these issues involve structural and policy changes in the legal system, such as changes in jury pool management and the use of interpreters (Fukurai & Krooth, 2003; Tran, 2013). There also is a need to reduce discriminatory jury selection procedures and increase the enforcement of anti-discrimination laws related to juries (Equal Justice Initiative, 2010). Ethnic-minority psychologists may be able to contribute to such efforts by developing procedures that reduce the influence of race on jury selection, as well as by providing expert testimony about the effects of jury diversity (Sommers & Norton, 2008).

Reducing bias in jury decision making. Research on moderators of bias in jury decision making has revealed several strategies besides jury diversity for decreasing the impact of race on jurors' judgments. As discussed earlier, increasing the salience of race in a trial can lead jurors to become more aware of the potential for bias and therefore act to control it (Sommers & Ellsworth, 2000, 2001; cf. Elek & Hannaford-Agor, 2014). Also, providing jurors with clear, understandable jury instructions can reduce racial bias by diminishing the ambiguity of their task and clarifying the

factors upon which they are supposed to reach their verdicts (Pfeifer & Bernstein, 2003; Shaked-Schroer et al., 2008).

Other interventions are directly targeted at increasing jurors' awareness and understanding of their biases. For example, Schuller, Kazoelas, and Kawakami (2009) tested the effects of asking potential jurors different types of questions about racial bias during the jury selection process. Although yes-no questions about jurors' perceived ability to avoid biased judgments did not influence guilt judgments, reflective questions in which jurors thought about ways that they might be influenced by prejudice decreased subsequent bias against a Black defendant. Another intervention strategy involves educating jurors about implicit bias through jury instructions (Elek & Hannaford-Agor, 2014) or an informational session by the judge prior to the trial (Kang et al., 2012). Although the effectiveness of these interventions in the courtroom has not been tested, research has shown that implicit prejudice can be reduced through an intervention that includes an educational unit designed to increase awareness of implicit biases and their negative consequences (Devine, Forscher, Austin, & Cox, 2012). Given the extensive literatures on both implicit and explicit bias, there is considerable potential for ethnic-minority psychologists to develop additional interventions that may reduce the effects of race and ethnicity on jurors' judgments (Hunt, in press; Kang et al., 2012).

Sentencing Bias

Policy changes. Reducing disparities in sentencing—and therefore incarceration rates—requires structural reform, including changes in the laws and policies that govern sentencing decisions. As discussed earlier in this chapter, sentences in noncapital cases are usually determined by judges based on sentencing guidelines. Although these guidelines are intended to make sentences more fair by constraining judicial discretion, they have been shown to increase racial and ethnic disparities because of high mandatory minimum sentences for certain crimes and sentencing enhancements for factors that are disproportionately likely to affect minorities (Schlesinger, 2011). Thus, modifying, reducing, or eliminating mandatory minimum sentences and sentencing enhancements are likely to be effective, although controversial, strategies for reducing racial disparities and related problems like prison overcrowding.

Restorative justice. Another way to reduce sentencing disparities is to consider alternatives to our punishment-oriented justice system. The main goal of restorative justice approaches is restitution, which involves returning the victim, community, or both to its original, precrime state. This approach stands in opposition to traditional justice paradigms, which focus on punishment as a means of achieving retribution (i.e., achieving justice by meting out a sanction proportional to the crime), utility (i.e., helping

society by incapacitating the offender, deterring other potential offenders, or sending a message that crime is not permitted; Barnett, 1977; Braithwaite, 2002), or both. Under a restorative justice approach, the parties affected by crime—victims, offenders, and even the community—come together to determine what the response should be (Braithwaite, 1999). Research indicates that restorative justice policies outperform traditional justice approaches for victim satisfaction, offender satisfaction, restitution compliance, and recidivism (Latimer, Dowden, & Muise, 2005). Unfortunately, one study found that minorities may be less likely to be selected for restorative justice programs (Rodriguez, 2005). Increasing the use of these programs in an unbiased manner may help improve attitudes toward the legal system, as well as reduce the overrepresentation of racial and ethnic minorities in the prison system.

Some restorative justice policies may be especially beneficial in that they reflect nonmajority cultural approaches. For example, in Saskatchewan, Canada, sentencing circles have been used in an effort to find alternatives to incarceration, addressing the severe overrepresentation of Aboriginal Canadians in prison (Wilson, Huculak, & McWhinnie, 2002). These sentencing circles draw from traditional Aboriginal practices and involve group decision making regarding restitution, thus clearly invoking a restorative justice approach. These circles have been used for Aboriginal and non-Aboriginal offenders alike, and are generally positively regarded (Wilson et al., 2002). However, more empirical research is needed to evaluate their effectiveness.

STRENGTHS OF APPROACHING JUSTICE SYSTEM BIAS FROM AN ETHNIC-MINORITY PERSPECTIVE

Throughout this chapter, we have emphasized the importance of approaching biases in the criminal justice and legal systems through the lens of ethnic-minority psychology. Ethnic-minority psychology offers many strengths for both understanding and addressing these problems. It provides a wealth of theories, perspectives, and research tools that may not be included in traditional approaches to these issues. For example, ethnic-minority psychologists understand that discrimination can occur without conscious intent or animus (i.e., hostility) and that it can be caused by individual, institutional, and structural factors (e.g., Plaut, 2010). They also have a rich understanding of the many ways that people are influenced by race, ethnicity, and culture, and recognize that beliefs and behaviors vary based on the standpoint of the perceiver.

As a result, ethnic-minority psychologists realize that reducing discrimination and inequality requires multiple levels of intervention, from individual beliefs to institutional practices to systemic changes in laws and policies, and they may be able to identify strategies that are hidden by

narrower perspectives. They may ask novel research questions about the ways that race, ethnicity, and culture influence approaches to police interactions, jury participation and decision making, and sentencing (Hunt, in press). They recognize that racial and ethnic minorities may have different views of the justice system than do members of the dominant majority group. For example, a recent national poll found that 71 percent of Black respondents believed that police officers were more likely to use deadly force on Black people, whereas only 31 percent of White respondents shared this belief (Vega & Thee-Brenan, 2014). Appreciating these differences can lead to the development of interventions that validate the concerns of minorities and create empathy and a desire for change among the majority. In these and other ways, ethnic-minority psychologists have the ability to enhance our understanding of discrimination in policing and legal outcomes, as well as to contribute to meaningful interventions.

CONCLUSION

It is critical for ethnic-minority psychologists to use their unique perspectives, theoretical frameworks, and research skills to expand our understanding of racial and ethnic biases in the criminal justice and legal systems and develop interventions to decrease discrimination in these contexts. Addressing these issues is truly a matter of life and death. It involves the lives of Black men who are killed by the police. It involves the lives of Blacks and Latinos who are more likely to be executed by the state for killing White victims. It involves the lives of the tens of thousands of minorities who are incarcerated due to their race, ethnicity, or both (at least in part). It involves the lives of the families who are deprived of their loved ones and the communities who must function without significant members of their population. It involves the lives of police officers who may be harmed when outraged communities like Ferguson and Baltimore fight back to say that their lives matter. And, ultimately, if less directly, it involves all of our lives, given that fair and effective criminal justice and legal systems are essential for a well-functioning society. It is our hope that, in the coming years, there will be an increase in research that is informed by ethnic-minority psychology on topics such as shooter bias, racial and ethnic bias in jury decision making and sentencing, and minority interactions with the police and legal system, leading to interventions that promote fair treatment and justice for all.

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Chapter 12

War and Peace from an Ethnocultural Psychology Perspective

Etsuko Hoshino-Browne, Andrea Kressley,
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In recent years, the United States has been pressuring Iran to sign a nuclear disarmament agreement. However, according to the Alliance for Nuclear Accountability (2014), the United States itself is planning to spend over \$1 trillion over the next 30 years to upgrade its nuclear weaponry. Even without the use of nuclear weapons in war, the destruction and suffering of the people involved would be tremendous. A quick review of world history indicates that peacetime is rather ephemeral. Every minute of every day, people are killed in an international conflict, civil war, or terrorist attack somewhere in the world. One only needs to glance at a daily newspaper's first page to realize the despair and misery that people experience as a result of war or conflict in the Ukraine, Sudan, Congo, Syria, Iraq, Afghanistan, Libya, Myanmar, and other countries. According to the United Nations (Boehler & Peçanha, 2015), 11 million people became refugees as a result of violence, conflict, and wars in 2014. These uprooted people's hardships and suffering sometimes would last over several generations.

What are some psychological causes that push two groups into a conflict or war? Are conflict resolutions possible or effective? What types of conflict resolutions are there? Are reconciliation and forgiveness to build