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ABSTRACT

Following a mortality salience or control prime, Black, Hispanic, and White college students read a murder/carjacking or auto theft trial transcript in which the defendant belonged to their racial/ethnic group or one of the others. Black and Hispanic, but not White, mock-jurors discriminated, more frequently judging outgroup defendants guilty. Mortality salience affected judgments about outgroup, but not ingroup, defendants, heightening perceptions of guilt in the murder case and decreasing guilty verdict preferences in the theft case. Mortality salience may compel derogation of outgroup defendants who threaten the cultural worldview, but not of less threatening ingroup defendants. The effect, however, seems restricted to crimes like murder that can sustain death-related anxiety.

Prejudice may show up in many forms in criminal courtrooms, including as bias against criminal defendants based on their race or ethnicity. Archival studies have consistently shown racial and ethnic disparities in convictions, sentencing, and administration of the death penalty (e.g., Baldus, Woodworth, Zuckerman, Weiner, & Broffit, 1998; Mustard, 2001; Williams, Demuth, & Holcomb, 2007). In addition, a 2005 meta-analysis of more than three dozen trial simulation studies in which defendant race (White or Black) was an independent variable found a significant effect of race, with White mock-jurors modestly more likely to convict a Black (vs. White) defendant and Black mock-jurors considerably more likely to convict a White (vs. Black) defendant (Mitchell, Haw, Pfeifer, & Meissner, 2005). More recently, Schuller, Kazoleus, and Kawakami (2009) found similar bias against a Black defendant by Canadian White mock-jurors in a trial simulation study. White mock-jurors have also been found to more readily convict Hispanic compared to White defendants (Espinoza & Willis-Esqueda, 2008; Esqueda, Espinoza, & Culhane, 2008; Lipton, 1983; Perez, Hosch, Ponder, & Trejor, 1993). Other studies have documented higher conviction rates or stronger penalties for outgroup (vs. ingroup) defendants belonging to other ethnicities. For example, Bagby and Rector (1992) found courtroom discrimination against English Canadians by French Canadians, and Pfeifer and Ogloff (2003) found that English Canadians returned the disfavor in evincing greater preference for guilt when the defendant was a French Canadian or Native Canadian. In general, triers-of-fact perceive outgroup defendants as more likely than ingroup defendants to be guilty of a crime.

There are, however, exceptions to the general tendency to discriminate against outgroup defendants. In some studies involving Black defendants and White jurors, no defendant race effect has been observed (cf. Sommers & Ellsworth, 2001), and, in others, there has been “reverse discrimination” favoring minority defendants (e.g., Foley & Pigott, 2002; Nicholson, Leippe, & Eisenstadt, 2012; Sargent & Bradfield, 2004). There has been relatively little research, however, on what determines which outcome—bias, no bias, or reverse bias—will prevail among would-be jurors. Discrimination...
has been found to be less likely when outgroup status is made salient to jurors and is an integral part of the case (e.g., Sommers & Ellsworth, 2000, 2009), when there are concerns about impression management and political correctness in a setting with salient egalitarian norms (e.g., Crosby, Bromley, & Saxe, 1980; Foley & Pigott, 2002), and when the victims are also outgroup members (e.g., ForsterLee, ForsterLee, Horowiz, & King, 2006).

The present study was focused on two aspects of the question of racial/ethnic prejudice against criminal defendants. One focus was on a potential determinant of the magnitude of outgroup discrimination, namely threat in the form of the existential fear and anxiety aroused by salient reminders of one’s mortality and death. Drawing from terror management theory (Greenberg, Solomon, & Pyszczynski, 1997), we examined when and under what conditions this form of threat would impact verdict preferences for ingroup and outgroup defendants in a trial simulation.

The second focus of the study was to determine whether outgroup bias is evident in multiple juror-defendant combinations. Research, for example, has not firmly established that Hispanic jurors will evince bias against Black defendants, or that Black jurors will similarly discriminate against Hispanic defendants. Based on recent research (Leippe, Bergold, Despodova, Gettings, & Eisenstadt, 2016), as well as the major tenets of social identity theory and its variants (e.g., Hogg, 2012; Miller & Brewer, 1986; Tajfel & Turner, 1986), it can be argued that the potential for bias is dictated more by ingroup-outgroup membership than by any specific ingroup or outgroup matching. Accordingly, in the present study, Black, Hispanic, and non-Hispanic White participant-jurors considered a trial in which the defendant was either Black, Hispanic, or White.

**Threat and outgroup discrimination**

In experimental research, prejudice-related discrimination is especially likely to occur when individuals experience some form of threat to an aspect of the self, such as self-esteem, cultural worldview, social ingroup, or sense of safety and security. For example, Fein and Spencer (1997) found that, compared to those who had received unthreatening feedback, individuals who had received self-concept-threatening negative feedback about their performance on an intelligence-related task gave less favorable evaluations and hiring recommendations for a job candidate who was a member of a stigmatized ethnic group. More recently, Shapiro, Mistler, and Neuberg (2010) found that White participants whose self-esteem was threatened by the criticism of an ingroup member (another White individual) subsequently evinced heightened outgroup discrimination—judging the job credentials of a White (ingroup) applicant more favorably and those of a Native American (outgroup) applicant more unfavorably. For groups or associations ranging from one’s college (Smurda, Wittig, & Gokalp, 2006) to one’s nationality (Schmitt & Maes, 2002), similar effects on judgments and attributions have been found when there are threats to the self-esteem or the well-being of the social or cultural groups with which individuals strongly identify.

**Mortality salience and courtroom discrimination**

Terror management theory (TMT; Greenberg & Kosloff, 2008; Greenberg et al., 1997) posits that the fear of death and one’s ultimate annihilation is a fundamental source of human anxiety, so much so that people normally keep death-related thoughts out of awareness and create psychic buffers to fend off the ultimate implication that life is temporary and meaningless. Two of these buffers are positive self-esteem and a cherished cultural worldview that give meaning and value to present life and at least a symbolic immortality. At the most general level, TMT posits the Mortality Salience Hypothesis (Arndt, Lieberman, Cook, & Solomon, 2005), the idea that, when mortality is made salient through reminders of one’s own death (i.e., high mortality salience), individuals become motivated to defend the cultural worldviews that are intricately associated with buffering against the horror of personal annihilation. As a result, when mortality salience is high, people should judge more negatively social targets who appear to threaten the
worldview, such as members of social, racial, and ethnic outgroups. A considerable body of research supports the mortality salience hypothesis (see Greenberg & Kosloff, 2008, for a review).

Many forms of criminal activity and other legal transgressions can threaten the cultural worldview. Accordingly, jurors laboring under high mortality salience, in some circumstances should be more likely than low-mortality-salience jurors to view prosecution evidence as supporting a guilty verdict and a suitable punishment. Indeed, several studies have demonstrated both greater punitiveness in judgments of legal transgressions presented in newspaper vignettes (Florian & Mikulincer, 1997) and conviction rates among mock-jurors evaluating a criminal case (Pickel & Brown, 2002, cited in Arndt et al., 2005).

**Mortality salience and defendant outgroup status**

Most of the research that has found a positive relationship between mortality salience and perceived guilt or punitiveness, though, has not explicitly specified whether the defendant/target of judgments was a member of the factfinder’s ethnic or racial group or an outgroup member belonging to a different racial/ethnic group. In one study that did so, Nelson, Moore, Olivetti, and Scott (1997) found that, under high-mortality-salience, American mock-jurors assigned greater blame to the defendant in a civil case when the defendant was a Japanese automaker. When the defendant was an American automaker, however, mortality salience had no effect on assignments of blame. In a study involving a hiring discrimination case, Greenberg, Schimel, Martens, Solomon, and Pyszczynski (2001) found that, whereas mortality salience marginally increased White participants’ judgments of guilt when the defendant was Black, it decreased judgments of guilt when the defendant was White. In a study of sentencing preferences in a capital punishment case in which the ingroup/outgroup status of the defendant does not appear to have been specified to mock-jurors, no effect of a traditional mortality salience manipulation was observed (Jones & Wiener, 2011). These results suggest that mortality salience more likely affects jurors’ perceptions of guilt when the defendant is a member of an outgroup. This makes sense from the perspective of TMT. Merely belonging to an outgroup qualifies a defendant as at least symbolically outside a cultural worldview defined in part by one’s ingroup. Thus, when threat to the cultural worldview is aroused by mortality salience, the outgroup defendant is a relevant (and salient) target to derogate in order to help ameliorate the sense of threat. An ingroup defendant is not such an “easy target,” especially in a criminal trial in which the evidence for guilt is contestable. It may not be an effective response to mortality-salience-generated threat to cultural worldview to have a heightened perception in an uncertain case that an ingroup member committed a crime that itself violates the worldview. Based on this reasoning, and given that the criminal trials in the current study had a mixture of evidence for guilt and innocence, it was predicted that mortality salience effects would be limited primarily to outgroup defendants.

**Mortality salience and type of crime**

In addition to defendant group status, other aspects of the crime and trial may moderate mortality salience effects. Cases involving murder and other heinous acts that result in a senseless and sudden loss of life may be especially good candidates for mortality salience effects. Thoughts of mortality and the finality of death may be aroused simply by the description of a heinous homicide, perhaps in the form of a dramatic description by an impassioned prosecutor. Perhaps more important, the testimony and other presentational material in a murder trial may sustain or rekindle mortality salience at key points (e.g., when an evaluative focus is on the defendant). Mortality salience is thought to work through increased accessibility of death-related thoughts that triggers motivation to quell those thoughts by asserting or defending one’s cultural worldview. Although there initially may be conscious efforts to suppress and remove death-related thoughts from consciousness (Greenberg, Arndt, Schimel, Pyszczynski, & Solomon, 2001; but see Trafimow & Hughes, 2012), these thoughts
are likely to be “highly accessible, but not in focal awareness” (Greenberg, Arndt et al., 2001, p. 71) and intrusive for a period of time following the mortality salience induction. Presumably, subsequent stimuli that explicitly conjure death images, such as the details of a senseless murder, should heighten further and sustain accessibility to the point of activation. This should make it more likely that efforts to reduce death-related cogitation will be directed at an outgroup defendant—a target who makes an early appearance in the trial, is linked to one source of death anxiety (the murder) and can be demonized as someone outside of the cultural worldview.

In contrast, a trial that involves no death or violence may not include stimuli that can promote or sustain death-related thoughts. Instead, in a trial without death reminders, the trial proceedings may serve as a distractor that facilitates dissipation of death-related thoughts, or as a point of contrast in that a crime involving no physical assault may seem minor, and the possible penalties too harsh, within the psychological context of death-related anxiety. Given these considerations regarding the type of trial crime, as well as evidence that mortality salience effects may be channeled by information in a target stimulus such as a crime vignette that follows the manipulation of mortality salience (Lieberman, Arndt, Personius, & Cook, 2001), participant-jurors in the present study were presented with one of two trial cases that were very similar except that one was a murder case—a carjacking— involving a senseless, unexpected homicide, and the other was a theft case—car theft—involving no interaction between the perpetrator and the victim. We predicted that, in addition to being greater for outgroup defendants, mortality salience effects would be greater in the murder trial than in the theft trial. In the murder case, the nature of the crime should add to the amount of mortality salience, help sustain it, or both, and generally threaten personal security. In the theft case, no such facilitation is likely.

Method

Participants and design

Participants were 42 Black, 134 Hispanic, and 61 non-Hispanic White male and female college students who participated to satisfy an introductory psychology course requirement at an urban university in the Northeast. The sample was based on participant availability during the academic year, and the number of participants in each group reflects the demographics of the recruitment classes. Participants were randomly assigned to the conditions of a 2 (type of crime: murder or theft) × 2 (mortality salience: present or absent) × 3 (defendant race/ethnicity: Black, Hispanic or White) between-subjects factorial design. Given this design, the defendant’s race/ethnicity was either the same as (ingroup defendant) or different than (outgroup defendant) that of the participant.

Procedure

Participants worked privately in sessions including up to 4 non-interacting and well-separated individuals. Initial orienting instructions indicated that there would be several parts to the study, including cognitive tasks and a review of a criminal trial. The first task entailed the manipulation of mortality salience commonly used in TMT studies (e.g., Gailliot, Stillman, Schmeichel, Maner, & Plant, 2008; Jonas et al., 2008; Schmeichel et al., 2009). In the mortality-salient condition, participants responded to two questions, one asking them what will happen to them as they physically die, the other asking about the emotions that thinking about their death aroused. In the mortality-not-salient condition, physical death was replaced by dental pain in the questions.

After responding to the questions with two written paragraphs, participants completed three filler tasks, a word-search puzzle, the Need for Cognition Scale (Cacioppo, Petty, & Kao, 1984; referred to as a “Thinking Style Survey”), and a word stem completion task. In the last task, 25 word fragments were listed, with two of the letters missing and replaced by blanks. The task was to complete the word by filling in the blanks. Six of the fragments could be completed to create either a death-related
or death-unrelated word (e.g., BUR_ _D could be BURIED or BURNED; DE_ _ could be DEAD or DEAR).

After all participants had completed these tasks, the experimenter announced that they would now move on to the trial portion of the study. Written instructions distributed by the experimenter indicated that participants would read a trial transcript and then give their impressions of the case, including a verdict preference. Further instructions emphasized three points meant to heighten participants’ involvement and interest in their decision-making task: (1) the transcript was from a real case; (2) the jury’s actual verdict as well as whether the defendant was actually guilty was known, making it possible to study whether participants “can make the right call about this case”; and (3) the study was part of a program of research commissioned by the U.S. Department of Justice (DOJ), which was interested in “reasoning and decision-making by adults who are eligible to serve as jurors.” The instructions displayed the letterhead insignia of the DOJ and concluded by pointing out that “the sponsorship of the DOJ makes it especially likely that our research findings will have real-world impact.” After observing that all participants had read these instructions, the experimenter orally restated the essential points and indicated that participants should let her know when they had finished reading the transcript. When they finished, participants set the transcript and related material aside in a closed folder, and were handed a booklet containing dependent measures. After completing the measures, participants were debriefed.

Materials and manipulations

Cases and trial transcript
The transcript concerned the fictitious trial of a case of either a car theft or a car theft that turned into a carjacking and resulted in a murder. In the theft case, an unattended parked automobile was broken into, jump-started, and driven away from an urban block. In the murder case, the owner of the car attempted to intervene in the theft, running back to the car he had recently parked and confronting the thief as he attempted to jump-start the car. A struggle ensued, which turned violent and bloody, and ended with the owner dying or dead on the sidewalk and the perpetrator driving off with the car. Other than the presence of the owner/victim and his brief and fatal fight with the perpetrator in one case but not the other, and the difference in charges (and implied penalties/sentences) against the defendant, the two cases (and the great majority of the transcripts) were essentially the same. In both cases, there was a single eyewitness who got a poor view of the perpetrator from a distance and identical circumstantial and forensic evidence linking the defendant to the crime. The car was recovered the following morning in identical condition and holding the same (rather minimal) forensic evidence, and the defendant was apprehended in the same fashion. The transcripts were approximately 18 single-space pages in length and consisted of critical excerpts from the (fictitious) trial, including opening and closing prosecution and defense arguments, direct and cross-examination of individuals (the eyewitness and others, including the alibi witness, police investigators, and the defendant), and the judge’s opening statements and final instructions to the jury.

Defendant race/ethnicity manipulation
Prior to the transcript, participants saw two pages that served to manipulate the racial/ethnic status of the defendant. The first page consisted of a paragraph that summarily described the crime and identified the perpetrator as Black, Hispanic, or White. The race/ethnicity of the victim was not specified. The second page displayed photos and names of five main trial participants—the judge, attorneys, eyewitness, and defendant. The defendant was either Black, Hispanic, or White; the others were all White. This page was available to participants as they read the transcript.

Dependent measures
Participants were first asked to indicate “the verdict you prefer now” by checking either “guilty” or “not guilty.” They were then asked to rate their certainty about their verdict on an 11-point scale (1 = extremely uncertain; 11 = extremely certain). Then, participants rated, on two 11-point scales, the strength of the
evidence for guilt and for innocence. Finally, participants were asked to recall the race/ethnicity of the defendant and provide demographic information, including their race/ethnicity.

**Results**

**Defendant race manipulation check and strength-of-case check**

Of the 237 participants, 228 (96.2%) correctly recalled the race of the defendant. The nine who were unable to do so were omitted from all analyses of the major dependent variables. To allow ample room for biases associated with mortality salience and outgroup prejudice to emerge, the trial cases were intended to be relatively weak from a prosecution perspective. This intention was achieved, as evidenced by the percentage of a guilty verdict preferences in the “baseline” ingroup-defendant/mortality-not-salient conditions. For those who read the theft trial, 27.8% voted guilty; for those who read the murder trial, 35.7% did so.

**Racial/ethnic participant groups and overall discrimination**

Our first analysis examined defendant outgroup bias among the 3 participant groups. Black and Hispanic participants were similar in their discrimination patterns. Contrast chi-square tests revealed that, compared to when the defendant was Black (27.3%), Black participants were significantly more likely to prefer a guilty verdict when the defendant was Hispanic (69.2%; $\chi^2 (1, n = 24) = 4.20, p = .041, \phi = .42$) and nonsignificantly so when he was White (52.9%; $\chi^2 (1, n = 28) = 1.80, p = .18, \phi = .25$). Contrast tests also revealed that Black participants rated the evidence for innocence as significantly stronger when the defendant was Black ($M = 7.09, SD = 2.43$) than when he was Hispanic ($M = 4.81, SD = 2.34$) or White ($M = 5.18, SD = 2.45$), $t > 2.05, ps < .05, \eta^2 = .20$ and .14. Ratings among Black participants of the strength of evidence for guilt were not significantly affected by defendant race/ethnicity, $\eta^2 = .01$ and .02. Hispanic participants ($n = 128$) were significantly or near-significantly more likely to prefer a guilty verdict for the Black (55.8%; $\chi^2 (1, n = 86) = 8.14, p < .01, \phi = .31$) and White (45.2%; $\chi^2 (1, n = 85) = 3.60, p = .058, \phi = .21$) defendant compared to the Hispanic defendant (25.6%). Similarly, contrast tests revealed that Hispanic participants rated the evidence for innocence as significantly stronger and the evidence for guilt significantly weaker when the defendant was Hispanic ($M_{\text{INNOCENCE}} = 7.00, SD = 2.10; M_{\text{GUILT}} = 6.07, SD = 1.97$) than when he was Black ($M_{\text{INNOCENCE}} = 5.47, SD = 2.95; M_{\text{GUILT}} = 7.26, SD = 2.25$) or White ($M_{\text{INNOCENCE}} = 5.98, SD = 2.11; M_{\text{GUILT}} = 7.07, SD = 2.33$), $t > 2.05, ps < .05, \eta^2 = .05$ and .08. Overall, then, both Black and Hispanic participants evinced outgroup discrimination against defendants belonging to both of their outgroups. White participants ($n = 59$), in contrast, evinced little outgroup discrimination overall; none of the relevant contrast tests approached significance, $ps > .20$.

**Mortality salience and ingroup-outgroup differences**

Black, Hispanic, and White participants were combined in relation to the manipulated variable of defendant race/ethnicity to form a defendant group status factor. In the ingroup condition, the participant and the defendant shared the same race/ethnicity (e.g., Hispanic participant and Hispanic defendant); in the outgroup condition, the race/ethnicity of the participant and defendant differed (e.g., Hispanic participant and Black or White defendant).

The main analyses of mortality salience and defendant status effects were conducted on the basis of a 2 (type of crime: murder or theft) × 2 (mortality salience: present or absent) × 3 (defendant status: ingroup or outgroup) design. Because White participant-jurors, unlike their Black and Hispanic counterparts, evinced no reliable outgroup discrimination overall, we first conducted analyses that included the three manipulated variables and participant race/ethnicity as factors. Although limited by small cell sizes and low power, these analyses are suggestive in that the participant factor did not qualify the major effects described next (other than the defendant status...
main effect, which was significant or near-significant on the verdict preference, evidence-for-guilt, and evidence-for-innocence measures despite nil ingroup-outgroup differences among White participant-jurors overall).

**Verdict preferences and ratings of evidence strength**

Ratings of the strength of evidence for guilt and for innocence were each subjected to a 2 (type of crime) \( \times \) 2 (mortality salience) \( \times \) 2 (defendant status) analysis of variance (ANOVA), and verdict preferences were subjected to a log-linear analysis of the associations among preference (not guilty or guilty), type of crime, mortality salience, and defendant status.

The log-liner analysis revealed that verdict preference was significantly related to defendant status, such that the outgroup defendant was more likely than the ingroup defendant to receive a guilty vote, 52% vs. 35%, \( \chi^2 (1, n = 228) = 5.67, p = .017, \phi = .16 \). In addition, the 4-way association of all of the variables was significant, indicative of a 3-way interaction of crime type, mortality salience, and defendant status on verdict preferences, \( \chi^2 (1, n = 228) = 4.33, p = .038 \). The pattern of this interaction can be seen in Figure 1A, which plots verdict preferences separately for the two crime types. Discrimination in the form of greater preference for guilt when the defendant was an outgroup (vs. an ingroup) member appears to be influenced differently by mortality salience depending on the type of crime at trial.

The ANOVA of the evidence-for-guilt ratings revealed a marginally significant main effect of defendant status, such that the evidence for guilt was perceived as stronger when the defendant was an outgroup member, \( M = 7.04 \) (SD = 2.42), as opposed to an ingroup member, \( M = 6.51 \) (SD = 2.25), \( F(1, 220) = 3.33, p = .069, \eta^2 = .015 \). In addition, the 3-way interaction was significant, \( F(1, 220) = 5.18, p = .024, \eta^2 = .023 \), and closely mirrored the significant pattern observed for guilt preferences. As is clear in Figure 1B, consistent with predictions, mortality salience has little effect on perceptions of the outgroup defendant in the theft case, but it does have an impact in the murder case.

![Figure 1](image-url). Proportion of participants judging the defendant as guilty (A) and mean ratings of the strength of evidence pointing to guilt of the defendant on an 11-point scale (B) as a function of mortality salience and defendant ingroup/outgroup status in the murder trial and theft trial.
On the evidence-for-innocence ratings, only the main effect of defendant status was significant, $F(1, 220) = 9.81, p < .01, \eta^2 = .043$. Evidence-for-innocence was rated stronger in the in-group defendant case, $M = 6.67 (SD = 2.30)$, than in the out-group defendant case, $M = 5.58 (SD = 2.47)$.

One way to dissect the 3-way interaction on verdict preferences and evidence-for-guilt ratings is to examine pairwise contrast tests of how mortality salience affected judgments about the in-group and out-group defendants in each type of trial. In the murder trial, contrast tests revealed that, whereas mortality salience had no effect on judgments of the in-group defendant ($p > .8$), it did affect judgments of the out-group defendant. Evidence for guilt was judged significantly stronger ($M_{\text{SALIENT}} = 7.84 (SD = 2.25)$ vs. $M_{\text{NOT SALIENT}} = 6.27 (SD = 2.34)$, $t(220) = 3.07, p = .002, d = .66$), and guilty verdict preferences tended to be more frequent (albeit nonsignificantly so, 63.2% vs. 48.9%, $\chi^2(1, n = 83) = 1.70, p = .19, \phi = .14$) in the mortality-salient (vs. not salient) condition. In the theft case, a different pattern emerged. Whereas judgments about the in-group defendant were again unaffected by mortality salience ($p > .17$), judgments about the out-group defendant were either unaffected (in the case of perceived strength of evidence for guilt, $p > .42$), or evinced an unanticipated decrease in perceived guilt in that there were significantly fewer guilty verdict preferences for the out-group defendant when mortality was salient, 35.4%, compared to when mortality was not salient, 60%; $\chi^2(1, n = 66) = 3.96, p < .05, \phi = .24$.

**Certainty in verdict preference**

Overall ($n = 227$), verdict preferences and perceived strength of evidence-for-guilt were both weakly but significantly positively related with ratings of certainty in one’s verdict preference ($rs = .20$ and .24, $p < .01$). A 2 (crime type) x 2 (mortality salience) x 2 (defendant status) ANOVA of certainty ratings revealed only one significant effect, a Crime Type x Defendant Status interaction, $F(1, 219) = 3.97, p = .048, \eta^2 = .018$. Whereas certainty in one’s verdict preference for the out-group and in-group defendants was essentially the same in the murder case ($Ms = 8.09$ and 8.17, $SDs = 1.42$ and 1.54, respectively), certainty was higher for the out-group defendant ($M = 8.53, SD = 1.34$) than for the in-group defendant ($M = 7.77, SD = 1.59$) in the theft case. This pattern is not readily interpretable or relevant to the main focus, and will not be discussed further.\(^5\)

**Discussion**

In two trials in which the case for conviction was rather weak, perceptions of guilt and a preference for conviction were reliably greater overall when the defendant was an out-group member than when he was a member of the mock-juror’s racial or ethnic in-group. When the trial was for murder, this discrimination effect was even more pronounced when jurors reviewed a transcript of the case after death anxiety had been aroused with a standard manipulation of mortality salience. Yet the discrimination effect was not influenced and even weakened when the same mortality salience was created prior to a trial for theft. Out-group discrimination was evident among Black and Hispanic mock-jurors, but generally not among White mock-jurors.

These outcomes have implications for general understanding of prejudice in jury decision-making and against whom the prejudice will be directed, as well as for the judgmental effects of threat in the form of mortality salience, both in and out of the courtroom.

**Discrimination against out-group defendants**

The results contribute increased clarity and new conceptual insight to the research literature on juror decision-making and prejudice. Beginning with the reliable overall out-group discrimination effect, our findings demonstrate that the defendant’s race or ethnicity can make a difference in a simulated trial that takes the form of greater perceived guilt if the defendant happens to not share the jurors’ race or ethnicity. Both Hispanic and Black participant-jurors perceived defendants of the other group, as well as White defendants, to be more likely to be guilty. This discrimination occurred
under instructions designed to lend importance, accountability, and psychological realism to the participant-jurors’ decision task. Therefore, it does not seem likely that these findings are haphazard, uninvolved responses of disinterested participants.

The bias and discrimination against the outgroup defendant likely reflects implicit preferences that influence judgments and evidence interpretation outside of conscious awareness. Evaluative biases associated with negative stereotypes, beliefs, and cultural conditioning, about which people may be only vaguely aware, or unaware, have been found to enter into social decisions, including legal ones (Graham & Lowery, 2004), even when explicit prejudice does not (McConnell & Leibold, 2001; Rudman, 2004). Controlled, deliberative judgments such as candidate and consumer product choices, which bear resemblances to judgments about defendants and trial evidence, have also been found to be predicted by implicit preferences (Greenwald, Poehlman, Uhlmann, & Banaji, 2009).

Interestingly, little or no outgroup discrimination occurred among White participant-jurors. White participants evinced a trend toward discrimination only in the murder/mortality-salient condition where the most discrimination occurred overall, but the difference was not significant (see Footnote 4). The absence of discrimination among Whites concurs with findings from other juror simulation studies. In their meta-analysis, Mitchell et al. (2005) found that the effect size for White mock-jurors’ bias toward Black defendants as evidenced in preferences for guilt was significant but quite small (considerably smaller than the effect size for Black mock-jurors’ bias toward White defendants). Some individual studies have found evidence of reverse discrimination among Whites, with White defendants judged guilty more than Black defendants (Foley & Pigott, 2002; Leippe et al., 2016). Typically, this is attributed to impression management concerns to appear politically correct in a setting that values egalitarian attitudes (Crosby et al., 1980), which may impinge more on Whites, whose ingroup is identified most often as the perpetrator of racial and ethnic prejudice. Political correctness could plausibly be a factor here.

**Mortality salience and outgroup discrimination**

The increase in outgroup discrimination and relative preference for the ingroup defendant that was apparent in verdict preferences and perceived strength of evidence in the murder case comports well with the tenets of TMT and past findings that mortality salience increases expressions of prejudice, presumably as a means of quelling death anxiety by affirming the cultural worldview. Moreover, as TMT theorists expect, and some research has found, mortality salience can influence reactions to suspected criminals. In two ways, the present findings extend the theory’s application and also suggest new insights into how mortality salience might be channeled into evaluation of a criminal trial.

First, the results make it clear that criminal defendants who transgress cultural norms are not invariably derogated by individuals in a mortality-salient state. An increase in perceived guilt occurred in the murder trial, but not in the theft trial. Moreover, even within the murder trial, the mortality salience derogation effect occurred when the defendant was an outgroup member, but not when he was an ingroup member. This latter selectivity is understandable given the potential psychological difficulty of believing that a representative of one’s cultural group committed a heinous act when the evidence offers considerable reasonable doubt. Mortality salience instead may foster selective evidence interpretation aimed at supporting the belief that one of “one’s own” could not do this. Motivational effects of mortality salience, for instance, might be countered by what has been termed the similarity-leniency hypothesis (Kerr, Hymes, Anderson, & Weathers, 1995), the tendency to favor ingroup or otherwise similar defendants, perhaps through selective processing of the trial (e.g., Carlson & Russo, 2001). Mortality salience actually may help foster leniency toward the ingroup, as research suggests that the direction of mortality salience effects (i.e., derogation or favoritism) can vary with the norms or psychological states that are activated in a given situation (Gailliot et al., 2008). In contrast, individuals may “want” to find an outgroup defendant guilty, as this judgment rather cleanly quells death anxiety by affirming the cultural worldview and finding a
cause for the worldview-threatening crime. In effect, these results highlight the important role that prejudice and derogation of outgroups play in coping with mortality salience. One interesting direction for future research would be to explore whether and when mortality salience effects might extend to ingroup defendants. This might occur when the prosecution evidence is strong and guilt is more difficult to deny. It might also occur when the defendant is viewed as a highly undesirable representative of the ingroup, in a fashion reminiscent of a “Black Sheep Effect” (Marques, Yzerbet, & Leyens, 1988) in which derogation of ingroup members occurs to protect the reputation of the group and self-esteem attached to social identity. Derogation of black-sheep ingroup members is especially common under threat (Branscombe, Wann, Noel, & Coleman, 1993), and mortality salience is certainly a form of threat.

The effect of crime type, of course, also demonstrates that standing trial for a crime per se is not sufficient for being targeted for mortality-salience-directed derogation. But it also suggests a second insight about what happens when a complex stimulus follows the arousal of mortality salience. The content of that stimulus appears to be a critical determinant of the mortality salience effect. As noted previously, research has found that the direction of the mortality salience effect can be altered by situational priming of norms. For example, in studies by Jonas et al. (2008), priming conservatism and security issues led to stronger mortality salience effects of derogating and punishing a prostitute, whereas priming a benevolence norm reduced the mortality salience effect. Similarly, Gailliot et al. (2008) found that adherence to the cultural norm of egalitarianism, made salient in a priming task, was increased when mortality was also salient. In these studies, however, the stimulus that determined the magnitude and direction of mortality salience effects preceded the arousal of mortality salience. In the present study, the apparent determining factor—the nature of the crime—followed mortality salience arousal. This order of events has seldom been studied in TMT-related studies. In one study that did, Lieberman et al. (2001) found evidence that conceptually resembles the present results, namely that what was learned from a case vignette involving an outgroup victim that followed mortality salience arousal determined the mortality salience effect. Mortality salience was associated with less punitiveness toward the defendant when it was learned that the crime in question was explicitly (vs. ambiguously) a hate crime against a member of a negatively-stigmatized outgroup.

In the present study, the details of the murder case may have sustained and perhaps increased the death-related thoughts initially prompted by the mortality salience induction or made it difficult to maintain any suppression of these thoughts following the induction. This would make the need for cultural affirmation that much stronger and derogation of the outgroup defendant a readily available means of doing so. In the theft trial, there are no reminders of death or violence, making immersion in the trial a convenient distraction that might be sufficient for mortality salience to dissipate much like distraction has been found to facilitate the apparent dissipation of dissonance arousal following induced compliance (Zanna & Aziza, 1976; see also Leippe & Eisenstadt, 1999). However, although judgments about the case were rendered only after about 30–45 minutes of reading the trial transcript, information about the defendant was available to participants at the start of the transcript, about 10 minutes following the mortality salience induction, when, according to past research, death-related thought intrusions should be highly prevalent. If mortality salience fosters derogation of outgroup members, this process would likely commence at that point and involve biased interpretation of the evidence and attorney arguments as they were encountered in the transcript. If so, distraction by the trial content may not provide a full explanation for the absence of heightened outgroup discrimination in the theft trial.

An additional, or alternative, account of this absence may be that, in contrast to the death-related cogitation of mortality salience, a theft crime devoid of human physical suffering or demise may have seemed especially innocuous. In turn, to death-anxious mock-jurors, the transgression may have seemed no more than a minor affront to the cultural worldview and, given the equivocal evidence, the charge and potential penalty may have been perceived as actually unfair. Research has shown that mortality salience increases adherence to situationally-salient values (Gailliot et al., 2008; Jonas et al., 2008), and fairness could be one of those values. Thus, by offering relief by contrast, by
activating a fairness norm or value, or both, the theft case may have provided for a diminution of mortality salience without the need for outgroup derogation. Interestingly, in the theft trial, the effect of mortality salience was to reduce preferences for guilt regarding the outgroup defendant, which might be expected if mortality salience intensified application of a fairness norm.

The foregoing interpretations of the absence of the mortality salience effect in the theft case are, of course, speculative. Yet they are suggested by extant research on TMT and point to a need for research about when, how, and why mortality salience might reduce the impact of prejudice.

An additional reason for caution in interpreting the different mortality salience effects for the murder and theft cases is that the two trials differed in multiple ways, including the presence or absence of death and death-related details, the label given the charges against the defendant, and whatever expectation participant-jurors had about the penalties associated with a guilty verdict. Which of these factors contributed to the pattern of results cannot be determined with certainty. But given that most of the differences involve concepts related to death, and that the cases were otherwise nearly identical, it is hard to avoid death-related imagery as a pivotal factor in the moderating influence of crime type in this study.

**Prejudice and mortality salience in the courtroom**

**Limitations**

The results have practical implications, but, as with any laboratory study of mock-jurors, there are limitations to generalizing the findings to “real world” settings. The mock-jurors were college students who knew that their decisions would have no consequences for the defendant, and the trial presentation was in written (vs. live or videotaped) form that included only excerpts of the trial (albeit lengthy, realistic ones). With these caveats duly noted, it can also be observed that trial presentation medium (e.g., video, audio, written transcript, or written summary) and sample type (i.e., college students vs. community jury-eligible residents) rarely interact with trial-related independent variables in juror decision-making studies (Bornstein, 1999; Pezdek, Avila-Mora, & Sperry, 2010), and the presence-vs.-absence of consequences has not had consistent effects on mock-jurors’ decisions across the few studies that have examined it (Bornstein & McCabe, 2005).

Main effects of sample type, moreover, tend to involve the influence of differences in social and legal attitudes between the samples and the degree to which attitudinal biases inform verdict judgments (see, e.g., Wiener, Krauss, & Lieberman, 2011). The Mitchell et al. (2005) meta-analysis, for example, revealed that community members were more likely than college students to evince bias against an outgroup defendant when making sentence recommendations, and Keller and Wiener (2011) found that biased attitudes about the crime at trial and toward criminal defendants in general were more highly correlated with the verdict preferences of community members, as opposed to college students. If anything, these findings suggest that our results underestimate outgroup defendant discrimination among jurors in real-life cases.

One might argue that an additional limitation of this research is that participant-jurors did not deliberate to a verdict. It can be noted, however, that the distribution of predeliberation verdict preferences of individual mock-jurors is a strong predictor of deliberated final verdicts (Bray & Kerr, 1979; Hastie, 1993). For example, juries entering deliberation evenly split (e.g., 6 favoring guilty, 6 favoring acquittal) are considerably more likely than not to acquit, whereas two-thirds splits favoring guilt (e.g., 8-to-4) result in a majority of guilt verdicts (MacCoun & Kerr, 1988; Stasser, Kerr, & Bray, 1982). These research findings support the conclusion that the pre-deliberation verdict preferences assessed in the present study have applied significance as well as the implication that, indeed, a deliberated verdict conceivably could turn on the influence of mortality salience on only a small subset of jurors.
Implications

If so, there are reasons to worry about the possibility of racial and ethnic prejudice exerting an impact on the impressions of guilt with which jurors will enter into deliberation. Defense lawyers, therefore, should aim in jury selection to ensure that a significant subset of jurors shares the race or ethnicity of the defendant. To the extent that prejudice-based biased trial processing occurs outside of awareness, the efficacy of possible remedies, such as judge’s instructions to avoid prejudice and the corrective effects of jury deliberation, is uncertain. For example, although deliberation has been found to be a corrective for juror judgments biased by inadmissible evidence (see, e.g., Nunez, McCrea, & Culhane, 2011), it has proved less effective at eliminating the influence of pretrial publicity (e.g., Kramer, Kerr, & Carroll, 1990), which creates bias from the start of a trial even among jurors who seem unaware of the bias. Future research is certainly called for to determine whether these potential remedies for defendant outgroup discrimination, or variants of them, can, in fact, be effective.

Regarding mortality salience, proponents of TMT have made compelling arguments about the various ways in which the mortality salience hypothesis is relevant to legal decision-making, including jury decisions in the courtroom (Arndt et al., 2005), and expressions of prejudice in the everyday world (Greenberg & Kosloff, 2008). The present research supports some of those arguments. For cases involving gruesome or senseless death, a straightforward application of the results would have prosecuting lawyers generate salient and scary images of death and torturous dying in their opening arguments, and also make sure that the defendant’s outgroup status registers with the jury.

An important question is whether a murder case, in and of itself, with no help from “priming” by a lawyer, can create mortality salience and a stream of death-related thoughts that lead to bias against the defendant. Unfortunately, the present experiment was not designed to address this question, and was therefore ill-equipped to do so. It did include a variation of crime type in which one crime (the murder) involved death and included some verbal images and reminders of death, whereas the other crime (the theft) involved no death or mention of death. However, the trials differed in other ways as well (e.g., the actual type of crime and the penalties that would come with a conviction), and were not characterized by strong, systematic manipulation of the “gruesomeness” of the crime or the number of times death was mentioned. Not too surprisingly, then, contrast tests revealed no murder-greater-than-theft differences on any of the dependent measures, regardless of defendant ingroup-outgroup status. To truly test whether a murder trial could by itself foster a mortality salience effect would require research that maximizes death primes in the murder-trial condition and minimizes them in the control-trial condition. It would be interesting and important to pursue such research, in part because research already has demonstrated that mortality salience can be aroused—and influence subsequent judgments—by images and real-world reminders of death and annihilation (such as reminders of the 9/11 terrorist attacks; Landau et al., 2004), and in part because, judging from the present results about mortality salience in general, the findings could have implications for justice.

Notes

1. A 2 (type of crime) × 2 (mortality salience) × 2 (ingroup or outgroup defendant analysis of variance (ANOVA) in which the dependent measure was the number of individuals (1, 2, 3, or 4) in the participant’s session revealed no significant effects, all ps > .13. The mean session size was 2.71. Of the 228 participants whose data were included in the major analyses, 34 participated individually. When included as a fourth factor in ANOVAs involving the interval-scaled variables (strength of evidence for guilt, strength of evidence for innocence, and certainty-in-verdict), session size was involved in no interactions with the manipulated variables, all ps > .20.

2. No systematic relationships relevant to the hypothesized results were observed that involved need for cognition scores and the manipulated variables.

3. The word stem completion task was intended as a mortality salience manipulation check, as it has been used in a small subset of important terror management studies over the past decade or so. Based on the TMT assumption that mortality salience makes death-related thoughts more accessible, participants in the
mortality salience condition should be more likely to complete the word stems into death-related words. In the present study, completions showed a trend in the expected direction; participants in the high mortality salience condition gave slightly more completions that were death-related words (M = 1.94) than did participants in the low mortality salience condition (M = 1.81), but the difference was not significant, t (235) = 1.04, p = .15, one-tailed. Given the nature of the research setting and the participant population, however, there were likely additional influences on this measure that mask the impact of mortality salience itself. First, a sizable number of students attending the urban commuter university where the study was conducted are bilingual (speaking Spanish, Korean, or several languages of Eastern Europe, in addition to English). For some, English is a second language. The relative familiarity of death-related completions may be different for these students than for more traditional North American college students. Second, all participants knew in advance of the word completion task that they would be examining a criminal trial, and a sizable number of these students live in communities in which there is considerable exposure to injury and death from crime in the news and in the streets. Both of these factors may have increased the baseline of death-related word completions. Indeed, compared with some other studies that have used this mortality salience manipulation check, the death-related completions in the low mortality salience condition appear to be elevated, whereas those in the high mortality salience condition appear to be about the same, or higher to only a slight degree. For example, Schmeichel et al. (2009), death-related word completions averaged 2.06 and 1.29 in the mortality salience and control conditions, respectively. In Greenberg et al., the average was about 1.9 in three mortality salience conditions, and 1.17 in the control condition.

Given the robust effects in numerous studies of precisely the manipulation of mortality salience that was used in this experiment (most of which have not included any manipulation check), it seems reasonable to attribute the significant effects associated with the mortality salience independent variable in the present study to the psychological states that the same mortality salience manipulation reliably produces.

4. It is perhaps noteworthy that White participants did evince a trend toward discrimination against Hispanic defendants in the murder/mortality-salient conditions—the experimental condition in which discrimination was most pronounced overall. In this case, White participants unanimously preferred guilt for the Hispanic defendant (100%) but made a guilty verdict choice only about half the time when the defendant was White, 55.6%, χ²(1, n = 14) = 3.11, p = .078, φ = .47.

5. The interaction precluded the use of a common metric used in juror decision-making studies. Certainty-in-verdict scores are sometimes multiplied by +1 when the verdict preference is guilty and by −1 when the preference is not guilty, to create a “guilt-certainty” score amenable to interval-scale level analysis. Using this derived scale requires there to be either no effects on certainty-in-verdict scores of the independent variables or effects that parallel those on verdict preferences. This was not the case in the present study, and may help explain why, when the guilt-certainty measure was computed and analyzed, there were no significant effects on it.

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