

**EDUCATING POTENTIAL JURORS ABOUT THE NOT CRIMINALLY  
RESPONSIBLE ON ACCOUNT OF MENTAL DISORDER DEFENCE**

by

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## Abstract

It is a fundamental principle of the Canadian criminal justice system that a person must be able to understand whether his or her actions were wrong in order to be found guilty of an offence. Thus, punishment would be legally inappropriate if people who commit criminal acts are under the influence of mental illnesses where they are incapable of appreciating the consequences of their actions. Despite these legal principles, the majority of the general public have negative perceptions about the Not Criminally Responsible on account of Mental Disorder (NCRMD) defence, in part because they have little knowledge about the defence, but also because they believe it is a loophole in the justice system that allows some offenders to avoid punishment and continue to pose a danger to society (Maeder, Yamamoto, & Fenwick, 2015; Silver, Cirincione, & Steadman, 1994). Possessing these pre-existing beliefs and having a lack of knowledge about the NCRMD defence may limit people's ability to make objective verdict decisions. The present research investigated the impact of numerous factors on people's perception and application of the NCRMD defence. The current studies examined how educating people about the NCRMD defence influences attitudes towards this defence (Pilot Study). The current research also examined the influence of perpetrator race (Study 1) and opinions from a mock jury deliberation (Study 2) on people's attitudes towards the NCRMD defence and verdict decisions.

### **Lay Summary**

Individuals deemed not criminally responsible for their crimes face a significant amount of stigma due to negative attitudes towards mental illness and crime. A key goal of the present research includes investigating the impact of educating people about the not criminally responsible on account of mental disorder (NCRMD) defence on people's attitudes and decisions towards mentally ill offenders. Additionally, the current research explores whether racial ingroup and outgroup membership influences attitudes and decision-making in a mock crime.

## **Preface**

The Behavioural Research Ethics Board of the University of British Columbia's Okanagan Campus granted ethics approval for this research. The certificate approval numbers for the project are H18-00106 and H18-02854. To date, the results of this study have not been published.

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## **Introduction**

The number of individuals entering the criminal justice system in Canada has been growing (Latimer & Lawrence, 2006; Schneider, Forestell, & MacGarvie, 2002; Crocker, Nicholls, Seto, Cote, Charette, & Caulet, 2015) and international research suggests that people with serious mental illness find themselves in forensic facilities at increasing rates (Jansman-Hart, Seto, Crocker, Nicholls, & Cote, 2011). Incarcerating mentally-ill offenders, rather than sending them to a forensic psychiatric hospital, may have detrimental effects. Providing an offender who is not truly mentally ill an NCRMD verdict may perpetuate the stigma associated with the NCRMD defence as a loophole in the criminal justice system, resulting in the tendency to provide harsher verdicts that may be disproportionate to a person's crime. As the forensic system has become a primary way for people with serious mental illness to obtain mental health services (Gray, Shone, & Liddle, 2000; Rice, Harris, Cormier, Lang, Coleman, & Krans, 2004), it is crucial that we understand the factors that may influence objectivity in the minds of the people who determine these verdicts.

The series of studies explored factors that have been demonstrated in the literature to be associated with decision-making with mentally ill offenders in a legal context. Specifically, the studies explored people's perceptions of the NCRMD defence and both individual characteristics and external factors, such as media portrayal, that may contribute to these perceptions. The research also aimed to investigate the effect of racial bias in decision-making. Additionally, the studies examined the influence of NCRMD education on perceptions of the defence and its application in mock cases. The final study

aimed to see how a jury deliberation simulation influenced individual mock juror's decisions.

### **Legal Legislature for Mentally-Ill Offenders**

Prior to the 18th century, there was a lack of government policies to guide the management and treatment of mentally ill offenders, or “insane” offenders, which was terminology used at that time (Binchy, 1983). During this era, if “insane” offenders came into contact with the law then they were sent home to their families who were instructed to supervise these individuals. This was the standard of care in Britain for many years until the occurrence of a number of pivotal cases, which led to changes in policies that influenced government legislation in many parts of the world, including the United States and Canada.

The ruling in the case of *Rex v. Hadfield* (tried in 1800) was one fundamental case that influenced British law and American legal thinking (Hermann, 1983). James Hadfield, charged with treason for attempted regicide of King George III, was known to have acquired a brain injury in battle and suffered from delusions (Moran, 1985; Power, 2015). At trial, Hadfield's lawyer argued that Hadfield was “insane at the time of the offence” such that his delusions compromised his ability to control his impulses (Finkel, 1988; Reiss, 1990). The defence was successful and Hadfield was acquitted, which sparked a public outcry and many protested Hadfield's release into the community. In response, the Criminal Lunatics Act (1800) was established and was backdated to include Hadfield. This legislation established a procedure, in which a defendant that was found not guilty by reason of insanity was automatically committed to a mental institution against his or her will and for an unspecified amount of time (Moran, 1985; Reiss, 1990).

The *Rex v. Hadfield* (1800) case is said to be the first trial in which the jury provided a rationale for the verdict rendered; specifically, the reason being that the defendant was not guilty by reason of insanity (Moran, 1985; Reiss, 1990).

Subsequently, the case of Daniel M’Naghten in 1843 laid the groundwork for the creation of an insanity defence standard in American and Canadian law. M’Naghten, who intended to murder the Prime Minister of England (Sir Robert Peel), instead killed his secretary (Edward Drummond) due to mistaken identity (Moran, 1985). Like in the *Rex v. Hadfield* (1800) trial, M’Naghten’s lawyer argued that M’Naghten suffered from delusions that rendered him insane and unable to resist killing Edward Drummond. M’Naghten was found not guilty by reason of insanity and was sent to a mental institution for the remainder of his life. Many people questioned why M’Naghten was exempted from criminal punishment (Finkel, 1988); as a result, an inquiry was held in which judges on the Queen’s Bench were questioned about the insanity defence. Their responses ultimately constituted what came to be known as the M’Naghten Rules, which hold that:

1. The jurors ought to be told that every man is presumed to be sane, and to possess a sufficient degree of reason to be responsible for his crimes, until the contrary be proved to their satisfaction (*R. v. M’Naghten*, 1843).
2. To establish a defence on the ground of insanity, it must be clearly proved that at the time of committing the act the party was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing; or as not to know that what he was doing was wrong (*R. v. M’Naghten*, 1843).

The development of the insanity defence since the M’Naghten Rules have followed somewhat different courses in the United States and in Canada. In the United States, the term Not Guilty by Reason Insanity (NGRI) is still used. However, some states were dissatisfied with the rigidity of the M’Naghten Rules, which prompted new legislature, including (but not limited to) the New Hampshire Standard (see Simon, 1983), the Irresistible Impulse Standard (see Weiner 1985), the American Law Institute Standard (see Simon & Aaronson, 1988), and the Guilty but Mentally Ill verdict (GBMI; see Bumby, 1993).

### **The Not Criminally Responsible on account of Mental Disorder Defence**

After confederation in 1867, Canada’s insanity standard mirrored the M’Naghten Rules used in England during the same time period (Reiss, 1990; Verdun-Jones, 1979). When Canada enacted a criminal code (in July 1892); however, the insanity defence was modified from the original version of the M’Naghten Rules (Reiss, 1990; Verdun-Jones, 1979). Section 16 (subsections 1 to 4) of the Criminal Code when it was first enacted stated:

1. No person shall be convicted of an offence in respect of an act or omission on his part while he was insane.
2. For the purposes of this section a person is insane when he is in a state of natural imbecility or has a disease of the mind to an extent that renders him incapable of appreciating the nature and quality of an act or omission or knowing that an act or omission is wrong.
3. A person who has specific delusions, but is in other respects sane, shall not be acquitted on the ground of insanity unless the delusions caused him to believe in

the existence of a state of things that, if it existed, would have justified or excused his act or omission.

4. Everyone shall, until the contrary is proved, be presumed to be and have been sane.

Overtime, there were amendments to the insanity defence in response to significant rulings. For example, the Supreme Court of Canada directed their attention to the terms “know” and “appreciate” after the case of *R v. Barnier* in 1980 (see Verdun-Jones, 1979). Additionally, the definition of “wrong” (i.e., legally wrong according to British law) was broadened to encompass actions that were morally wrong after the case of *Chaulk v. the Queen* in 1990 (Davis, 1992; Verdun-Jones, 1994; Wilson, 1992). Finally, in 1991, the Supreme Court of Canada heard the case of *Regina v. Swain*, which led to significant changes in the insanity defence procedures. Owen Swain had been psychotic during the time he committed a crime. However, his mental health significantly improved following treatment, so much so that he was functioning independently in the community prior to his trial. In this trial, it was found that the practice of automatically institutionalizing NGRI acquittees contraindicated the rights outlined in the Canadian Charter of Rights and Freedoms (Gelinas, 1994; Verdun-Jones, 1994; Wilson, 1992). Following *Swain* (1991), the Criminal Code changed the verdict of “not guilty by reason of insanity” to “not criminally responsible on account of mental disorder” (NCRMD).

Today, section 16 of the Criminal Code reads:

16.(1) No person is criminally responsible for an act committed or an omission made while suffering from a mental disorder that rendered the person incapable of

appreciating the nature and quality of the act or omission or of knowing that it was wrong.

(2) Every person is presumed not to suffer from a mental disorder so as to be exempt from criminal responsibility by virtue of subsection (1). Until the contrary is proved on the balance of probabilities.

(3) The burden of proof that an accused was suffering from a mental disorder so as to be exempt from criminal responsibility is on the party that raises the issue.

Currently, one of three dispositions is possible following an NCRMD ruling, namely: (a) an absolute discharge, (b) a conditional discharge, or (c) detention in a psychiatric hospital. If a defendant is given an absolute discharge, he or she is released into the community with constraints (Crocker, Nicholls, Charette, & Seto, 2014; Power, 2015). Typically, an absolute discharge is granted when the defendant's criminal offence is determined to be primarily driven from symptoms of severe mental disorder and that this behaviour would be unlikely to reoccur once the defendant receives treatment. A conditional discharge also allows the defendant to be released into the community, but he or she is monitored and imposed with certain conditions that must be followed. Examples of conditions include not possessing firearms and abstaining from alcohol and substance use. Finally, if the defendant is still suffering from symptoms of mental illness that is significantly impairing or is at risk to harm him- or herself, or others, he or she may be sent to a psychiatric facility. The NCRMD defence requires that the disposition provided be the least arduous and limiting for the defendant (Crocker et al., 2014; Power, 2015).

A review board exists and its purpose is to assess the defendant and his or her circumstances to determine which of the three dispositions is appropriate (Department of

Justice, 2015). On these boards, the Lieutenant Governor of each province appoints a minimum of five individuals (Criminal Code, R.S.C., 1985, c.46, s.672.38; Power, 2015). Each review board must have at least one registered psychiatrist, a trained mental health professional, and a chairperson who must be qualified as a judge (Criminal Code, R.S.C., 1985, c.46, s.672.39; Power, 2015). If the defendant is granted a conditional discharge or admitted to a psychiatric facility, the review board does an assessment every year to determine the appropriate disposition. The review board makes a decision based on the defendant's risk to public safety (such as their risk to reoffend) and that person's own wellbeing and mental health (Department of Justice, 2015).

### **Verdict Decisions**

The influence of pre-existing ideas and biases about the NCRMD defence may impair objectivity and influence verdict decisions. For example, jurors should find a person not criminally responsible if, at the time of the crime, he or she was impaired due to symptoms of severe mental illness. The defendant's mental status at the time of trial, which often takes place months or years after the offence, should not be the primary focus. However, Whittemore and Ogloff (1995) found that approximately two-thirds of their participants provided NGRI verdicts when the defendant showed signs of psychoticism in the courtroom. Other research has found that the perception of one's ability to control behaviour is taken into consideration more strongly when jurors make decisions in insanity defence cases in comparison to their perceptions of the defendant's cognitive impairment or ability to know right from wrong (Bailis, Darley, Waxman, & Robinson, 1995; Peters & Lecci, 2011). This suggests that certain aspects of the insanity legal defence, such as considering mens rea (intention and knowledge that actions would

lead to a crime) and actus reus (criminal behaviour), can be more influential on jurors' judgments. Taken together, perceptions about the defendant's cognitive state or behaviour may cloud decision-making by ignoring relevant and impartial facts about a defendant's crime and mental state. Years of past research have raised two areas of concerns: a) jury decisions are not impacted by specific legal standards of the NCRMD (or insanity) defence and b) jurors are influenced by their own attitudes towards the defence, beliefs and ideologies (Lymburner & Roesch, 1999).

Recent studies have continued to illustrate the predictive quality of individual biases on verdict decisions. For example, Peters and Lecci (2012) demonstrated that jurors who believed that people should be held accountable for their actions regardless of their mental state were more likely to provide a guilty verdict. Further, this belief made these jurors less willing or unable to follow legal instructions in applying the insanity standard. This suggests that the above jurors believe that offenders with impaired judgment due to mental illness should be held to the same legal standard as offenders without mental illness. These jurors are also more likely to neglect judge instructions and independently form decisions based on their own belief system. Similar results were found by Jung (2015), in which participants' stigmatizing attitudes regarding the NCRMD dispositions and blaming one's actions on mental state predicted a greater number of guilty verdicts. In summary, a number of studies have shown that jurors are likely to fall prey to their own implicit knowledge of mentally-ill offenders, rather than relying on explicit legal instruction from the court when making decisions (Finkel, 1989, 1991; Jung, 2015; Ogloff, 1991; Simon, 1967; Peters & Lecci, 2012; Skeem & Golding, 2001).

## **Public Perceptions of the NCRMD Defence**

Most Canadians and Americans have negative attitudes and beliefs about people found NCRMD (Baillie, 2015; Maeder, Yamamoto, & Fenwick, 2015; Maeder, Yamamoto, & Zannella, 2016). These beliefs include notions that most NCRMD cases involve serious interpersonal violence, the verdict is used often and falsely (such as faking a mental illness to avoid punishment), and those found NCRMD are released back into the community after a brief period of hospitalization and they quickly reoffend. Indeed, in a sample of American community members, Hans (1986) found that only 21% of participants believed that individuals deemed NGRI were actually mentally ill and 49% believed that the defence should be abolished. Further, Hans found that 89% of participants endorsed the perception that the insanity defence was a loophole in the justice system (allowing guilty people back into society). Public perceptions of the NCRMD defence are not only negative, but may also be based on inaccurate information.

There is research to suggest that many people do not fully understand what the NCRMD or NGRI defence is, how it is applied, or the actual number of cases that receive this verdict. For example, Sloat and Frierson (2005) discovered that only 55% of their sample could accurately define the NGRI law governed by their state and only 63% could indicate the different dispositions that followed a verdict of NGRI. This suggests that many people lack clear knowledge about the defence (Maeder et al., 2015). In a longitudinal study covering numerous geographical regions in the United States across nine years, Silver, Cirincione, and Steadman (1994) compared statistics from real trials to public perceptions of the use of the insanity defence. In many domains, the researchers found an over-exaggeration of rates among the general public in comparison to the

current statistics, including the actual plea rate (37% vs. 1% respectively), defence's success rate (44% vs. 26% respectively), and the number of individuals found NGRI that were released into the community without restrictions (equivalent to the absolute discharge in Canada; Maeder et al., 2015). Overall, people associate individuals with mental illness with a number of negative characteristics, including irrational, erratic, dangerous, and aggressive (Health Promotion & Programs Branch Health Canada, 1996; Maeder et al., 2015). Thus, it is important to assess people's perceptions of the NCRMD defence, which is often sensationalized and derogated in the media, where the public often receive information about mental illness and legal defences (Coverdale, Nairn, & Classen, 2002; Maeder et al., 2015).

**Media Representation.** There is ample evidence to suggest portrayals of mental illness in printed news sources (Corrigan et al., 2005; Wahl, Wood, & Richards, 2002) and television programs (Granello & Pauley, 2000) influence the public's perception through its predominantly negative portrayals of persons with mental illness (Chan & Yanos, 2017). An early review by Wahl (1992) concluded that depictions of mental illness are typically inaccurate or exaggerated with an emphasis on negative attributes, such as functioning poorly in social and professional roles or exhibiting psychotic symptoms. Further, the media also depicts people with mental illness as dangerous, perpetrating violent crimes and being cumbersome to society (Corrigan et al., 2005; Stuart, 2006; Chan & Yanos, 2017). The public also carries the perception that people with mental illness, especially disorders on the psychotic spectrum (e.g., schizophrenia), have a tendency to be violent. This perception holds despite contradictory evidence that shows only 3-5% of individuals with severe mental disorders engage in violent crimes

(Elbogen & Johnson, 2009; Chan & Yanos, 2017). An analysis of prominent Canadian newspaper articles demonstrated that articles where NCRMD was a major theme were significantly more likely to have a negative tone, include stigmatising content or tone, and were significantly less likely to have rehabilitation or recovery as a theme in comparison to articles where NCRMD was not a major theme (Whitley, Want, Carmichael, & Wellen, 2017). With the media having widespread power in modern societies, the media's inclination to display information that provokes negative reactions surely play a role in moulding people's attitudes and stereotypes about individuals with mental health issues (Amgermeyer & Matschinger, 1996; Chan & Yanos, 2017; Wahl, 1992).

Indeed, the cultivation theory supports the notion that television does cultivate the public's perception of reality (Gerbner, Gross, Morgan, & Signorielli 1986, 1994; Gerbner, Gross, Morgan, Signorielli, and Shanahan 2002). As mentioned above, various media forms often sensationalize or exaggerate the realities of individuals with mental illness, particularly those who commit crime. Previous research has shown that people who watched more television held greater negative attitudes towards and were more likely to isolate themselves from individuals with schizophrenia (Aguiniga, Madden & Zellmann, 2016; Angermeyer, Dietrich, Pott, & Matschinger, 2005). Given that the media is influential in shaping people's perceptions and behaviours, portraying research material in a format typically used by major media outlets may increase the sense of realism for participants.

**Individual Differences.** Individual factors, such as demographic characteristics and previous experiences, have also been associated with attitudes towards the NGRI or

NCRMD defence. For example, Butler's (2006) research with individuals who had been previously called for jury duty in the United States revealed a number of factors that were related to choosing the NGRI verdict over a guilty verdict, including age, occupation, and type of prior jury service. Specifically, individuals between the ages of 45 and 54, employed in a teaching profession, or had participated on a jury in a criminal trial were more likely to choose the NGRI verdict than those between the ages of 18 and 24, self-employed or employed as a crafts person, or had participated on a jury in a civil case (Butler, 2006). This author also found that students with some high school education were less likely to provide a NGRI verdict whereas those with some college education were more likely to deem the defendant NGRI. Canadian researchers have found that college students hold more positive attitudes towards the NCRMD defence than did community members (Maeder et al., 2015). Further, other research has found that female participants, as compared to male participants, are more agreeable to the notion that mental illness can contribute to criminal behaviour and are more willing to attribute less responsibility to the defendant (Breheny, Groscup, & Galietta, 2007; Maeder et al., 2015).

Political orientation and, relatedly, attitudes towards legal constructs, such as the death penalty and the NCRMD (or insanity) defence, play a significant role in verdicts. On the far ends of the political spectrum, such as extreme liberalism or extreme conservatism, more open as well as more traditional philosophical stances were associated with negative attitudes towards the insanity defence (Bloechl, Vitacco, Neumann, & Erickson, 2007; Tygart, 1982). As such, more traditional beliefs could be associated with a retributive stance towards crime rather than a rehabilitation stance.

Indeed, favourable attitudes towards the death penalty are associated with negative attitudes towards the insanity defence (Bloechl, et al., 2007; Poulson & Braithwaite, 1997). Further, those who supported the insanity defence held more positive attitudes towards the defence and believed in less insanity myths (Butler, 2006), such as the misperceptions about the overuse of the legal defence (Bloechl et al., 2007). The implication of the above-mentioned research is that the application of insanity standards may not overcome negative attitudes towards the defence itself (Finkel, 1995) and may make jury members less amenable to instructions or education about the defence.

Perceptions of people who struggle with mental illness may also contribute to people's attitudes towards the NCRMD defence. Past research has found that people's attitudes towards a particular social group contribute to their stereotypes of a member from that group (Eagly & Mladinic, 1989; Hilton & von Hippel, 1996; Lambert & Wyer, 1990; Stangor, Sullivan, & Ford, 1991). Therefore jurors' stereotypes of mental illness are intertwined within a web of mental health and legal constructs (Way, 1997; Skeem & Golding, 2001). Skeem and Golding (2001) asked 81 former jurors to provide a description of what they perceived to be a typical "insane" person and found that jurors did not agree on a common collection of features that characterized insanity. The authors identified three "prototypes" of insanity based on their data. Specifically, almost half (47%) of the jurors endorsed a prototype of "Severe Mental Disability" (SMD), which describes the defendant as troubled with intense, enduring, uncontrollable mental illness that impedes their functioning in society. Approximately a third of the jurors (33%) held a prototype of "Moral Insanity" (MI), where an "insane" defendant is seen as psychopathic and psychotic (i.e., malicious, callous, illogical, violent, and unpredictable).

A minority of jurors (21%) saw “insane” people with “Mental State-Centered Characteristics” (MSC), or a defendant whose mental state was impaired at the time of the crime. Notably, jurors’ prototypes of insanity were associated with attitudes towards the insanity defence and influenced verdict decisions in a mock crime. Jurors who held SMD or MI prototypes of “insane” people (79% of the sample), held the belief that the insanity defence was frequently and easily abused and these jurors were more likely to render a guilty verdict. In contrast, jurors with MSC prototypes were less likely to perceive the insanity defence as unjust, they were less likely to be punitive, perceived the defendant to be incapable of controlling his actions, and were more likely to deem the defendant mentally ill. Further, the authors found that, in general, jurors were not influenced by important requirements in the legal definition, such as the capacity to know right from wrong or inability to control one’s actions, when deeming someone not criminally responsible (Skeem & Golding, 2001). The researchers suggested that the discrepancy between jurors’ conceptions of insanity and legal definitions of insanity was understandable because lay sources of knowledge about mental illness has little overlap with the knowledge held by psycho-legal experts (Hans, 1990; Nunnally, 1957; Wahl, 1995). It is not surprising that significant variations exist in the people’s prototypes of insanity given that jurors and psycho-legal experts have different kinds of life experiences (Kempton, 1981) and knowledge. The above-mentioned studies highlights how demographic factors, political orientation, and perceptions towards mental illness may contribute to attitudes towards, and the likelihood of providing, a NCRMD verdict. This emphasizes the need to investigate individual differences in this field of research.

## **Race**

Race has been defined as an individual's observable characteristics, such as eye colour, or facial structure, which are associated with underlying genetic markers (American Anthropological Association, 1998; Udala, 2016). Scholars from various disciplines, however, believe that racial distinctions cannot be measured reliably and are, thus, not scientifically meaningful (Smedley & Smedley, 2005). Instead, race is often studied and discussed as a social construct. For example, racial stereotypes are our own impressions of a specific race that is learned through our experiences and social interactions; in other words, we develop an understanding of a particular race and find further evidence to support our beliefs by noticing behaviours that are in line with our stereotypes (Lippman, 1992; Udala, 2016). Our social understanding of race and associated stereotypes may provide the foundation for prejudice and discrimination.

It has been widely demonstrated that separating people into groups based on an arbitrary category is enough to promote intergroup discrimination (Tajfel, 1982). Social Identity Theory proposes that individuals have the desire to uphold a favourable impression for the group to which they belong and that this competition leads to intergroup discrimination (Tajfel & Turner, 1979). One way that people try to manage a positive group identity is by comparing members from their ingroup to members from their outgroup; specifically, individuals seek information that make their ingroup look good and information to disparage the outgroup (Tajfel & Turner, 1979).

People's biases against others of different races can hinder decision-making objectivity in the criminal justice system. Indeed, the influence of defendant race on mock juror's verdict and sentencing decisions has been found to be small, yet significant,

in some meta-analyses (Mitchell, Haw, Pfeifer, & Meissner, 2005; Sweeney & Haney, 1992), but not others (e.g., Mazzella & Feingold, 1994). For example, defendant race is influential in capital-sentencing cases (e.g., Baldus, Woodworth, & Pulaski, 1994; Eberhardt, Davies, Purdie-Vaughns, & Johnson, 2006; U.S. General Accounting Office, GAO, 1990). Blacks (30%) are more than twice as likely to receive the death penalty than Whites (12%) when convicted for similar crimes (Pierce & Radelet, 2010-2011). Moreover, regardless of the defendant's race, perpetrators are three times more likely to be sentenced to death if their victim was White as compared to Black (Radelet & Pierce, 2010). Research from the Innocence Project (2017) also suggests that wrongful convictions are far more common among Blacks than Whites.

We also see racial differences in institutionalization rates and assigning criminal responsibility to the mentally ill. Grekin and colleagues (1994) compared the rates of mentally-ill offenders that were committed to psychiatric hospitals versus prisons. The researchers found that Whites were more likely to be hospitalized and minorities were more likely to be incarcerated. Further, if a greater number of one minority group lived in a particular area, more mentally-ill members of that minority group were sent to prison in comparison to hospitals. This finding remained true even after taking into consideration differential crime and incarceration rates between races (Grekin et al., 1994). Although some research has found no effect of defendant race on determination of criminal responsibility (Filkin, 2001), in other studies, Black defendants are deemed not criminally responsible more often than White defendants; jurors find more deficits with capacities for mens rea in Black defendants (Poulson, 1990; Lytle, 2009). It is less clear, however, whether Asian minorities would experience similar prejudice in the legal realm.

Canada is often known for its integrative approach to multiculturalism (Berry & Kalin, 1995). Research suggests that first-generation immigrants and second-generation immigrants adopt different acculturation strategies (Berry, 2003). For example, first-generation immigrants, or those who have just settled in a new country after leaving their home country, tend to maintain their heritage culture and identity and are less likely to seek out relationships with groups in their new host country for a number of reasons, which include facing a language barrier (Ho, 1995). Second-generation immigrants (or those born in the new host country raised by parents who were from another country), however, are more likely to integrate into the mainstream culture as they are more strongly influenced by the national culture (Phinney, Berry, Vedder, & Liebkind, 2006). This difference between first- and second-generation immigrants could become a social category used as a foundation for intergroup prejudice and discrimination, even among individuals of the same race. Among Asians, for instance, identities based on the categorization of “FOB” (Fresh Off the Boat; those who display more ties to their ethnic background) or “whitewashed” (those who have acculturated to White customs and practices) can be distinguished and used as the basis for negative stereotyping and internalized racism (Pyke & Dang, 2003).

The influence of racial biases towards Asians in legal decision-making is complex due to ingroup/outgroup preferences and competing myths and stereotypes. Research has demonstrated that Asians can be seen as competent, a positive stereotype, but may be seen as lacking in sociability, a negative stereotype (Lin, Kwan, Cheung & Fiske, 2005). For example, an Asian juror may hold more positive attitudes towards an Asian defendant pleading NCRMD because they both belong to the same ethnic group (demonstrating

ingroup favourability; Bizumic, 2014), but this may be overridden by the highly negative attitudes towards mental illness in Asian communities (Hampton, Yueng, & Nguyen, 2007; Shaoling et al., 2017) or intragroup racism based on perceptions of the target person's level of acculturation (e.g., Pyke & Dang, 2003). Further, a prominent negative stereotype is that Asian offenders are likely drug dealers, which is congruent with statistics demonstrating that Asians are substantially more likely to be incarcerated due to drug-related offences in comparison to other visible minority offenders (Correctional Services of Canada, 2004). Despite this, verdict and sentencing decisions for Asian defendants are more lenient in comparison to Black or Hispanic offenders (Franklin & Fearn, 2015; Johnson & Betsinger, 2009), which has been speculated to be a function of jurors seeing Asians as the "model minority" – a population associated with positive characteristics such as intellectual and hardworking (Lee, 1994). Therefore, the interaction between racial bias and legal decision-making for Asians is convoluted.

Being an offender from a minority group already has its disadvantages (as described above), but this racial stigma can be compounded by societal biases against criminality and mental illness which can lead to more detrimental legal and treatment outcomes (West, Yanos, & Mulay, 2014). A mentally-ill person may struggle with expectations of being treated differently, lower self-esteem, and may have a poor prognosis if the stigma is internalized. Minority group members may experience psychological distress, such as feeling angry and disrespected if they believe they are being discriminated against by society. An offender may be at higher risk to reoffend if he or she has internalized being a "criminal" into their self-concept. Amalgamating all of the above, imagine the myriad of stigma and associated consequences for one individual

who has a mental illness, committed a crime, and is from a minority group. This person may face triple the stigma (West, Yanos, & Mulay, 2014; West, Vayshenker, Rotter, & Yanos, 2015), but due to the additive intricacies of positive social-cognitive processes, such as the “model minority” stereotype and ingroup favourability, it is unclear how this person will be perceived by mock jurors in a criminal legal proceeding.

### **Education**

Providing people with more psychological education may be the first step in reshaping people’s personal perceptions of mental illness and, as a result, lead to shifts in attitudes. As mentioned previously, people typically have pre-existing conceptions about the insanity defence (e.g., Hans, 1986; Silver et al., 1994). Informing jury members of the different dispositions for a mentally-ill offender should subdue the jury members’ fears and have them be more likely to find mentally-ill defendants not criminally responsible, instead of guilty (Wheatman & Shaffer, 2001). Indeed, some studies have found that education and short-term training programs on mental health issues led to increased knowledge and more willingness to agree that individuals with mental disorders would benefit from treatment and have the potential to recover (Corrigan et al., 2001; Mansouri et al., 2009). Although more education may improve people’s attitudes towards those with mental illness, whether education has similar effects on attitudes towards legal, often emotionally provoking, constructs like the NCRMD defence is less clear.

Despite the above stated aspirations of psychological education, psycho-legal education has been shown to shift attitudes towards the NCRMD defence, but appears to have limited power in influencing people’s verdict decisions. For example, Whittemore and Ogloff (1995) provided participants information about the different dispositions

following a NCRMD verdict, only 21% could correctly reiterate this information and it appeared to have no influence on verdict decisions. Similar to the effects found with education on attitudes towards mental illness (Corrigan et al., 2001; Mansouri et al., 2009), Maeder and Laub (2012) found that psycho-legal education in the form of an undergraduate Psychology and Law class had an effect on the students' attitudes towards the NCRMD defence. Specifically, students' attitudes were more positive towards the NCRMD defence at the end of the course in comparison to their attitudes at the beginning of the course. In a separate set of studies, it was demonstrated that educating Canadian jurors about the basics of the NCRMD defence (i.e., legal definition, percentage deemed NCRMD, and dispositions) also lowered negative attitudes towards the defence and challenged NCRMD myths in one study but not another. However, similar to Whittemore and Ogloff's (1995) findings, NCRMD education did not affect participants' verdict decisions in a mock crime provided in a trial transcript (Maeder et al., 2015). The authors concluded that attitudes towards the NCRMD defence are flexible given certain conditions, but may be rigid in other circumstances. More recent research demonstrated that educating community members about mental disorders and the NCRMD defence actually increased the provision of guilty verdicts for specific disorders such as depression (Yamamoto, Maeder, & Fenwick, 2017), highlighting the effects education can have in swaying legal decision-making. In light of the summarized research, it appears that providing education about the NCRMD defence has an important role to play in changing people's attitudes, although more needs to be understood about the influence of the manipulation or portrayal of education on verdict and sentencing decisions.

## **Deliberation**

Deliberation within the legal context allows for many psychological processes to occur that may counteract individual differences or biases that may influence decision-making. However, past research has found that group deliberation can enhance individual biases held by the majority of group members (Hinsz, Tindale, & Vollrath, 1997; Kramer et al., 1990; Ruva & Guenther, 2015; Zuber, Crott, & Werner, 1992). This results in group polarization, or groups forming responses that are more extreme than those of individuals (Moscovici & Zavalloni, 1969). Polarization effects may be due to jury members putting more thought into their opinions and developing more convincing arguments for the side (i.e., prosecution or defence) they prefer (Ruva & Guenther, 2015; Vinokur & Burstein, 1974). Despite the possibility of group polarization, group decision-making (in comparison to individuals) is thought to be more effective in legal settings because it is assumed that groups have a various perspectives of the same case (Weldon & Bellinger, 1997) and can better identify and correct memory errors from any one individual (Pritchard & Keenan, 2002). As such, deliberations offer an opportunity for jurors to potentially overcome group polarization by correcting errors, rejecting irrelevant information, and controlling biases (Bourgeois, Horowitz, ForsterLee, & Grahe, 1995; Ruva & Guenther, 2015; Studebaker & Penrod, 1997).

Deliberations may be useful for their ability to neutralize social stereotypes and prejudices (Meyers, 1993; Rajecki, 1990). Dahl and colleagues (2007) demonstrated this in their study where they created mock juries of five to seven individuals who viewed a sexual assault victim's testimony and had to reach a decision about witness credibility and guilt. When participants independently evaluated the witness' credibility and guilt (as

compared to discussion within a group), the witness' emotional expressions strongly influenced the participants' decisions. When participants engaged in group discussions like a jury deliberation; however, this attenuated the effect of the witness' displayed emotion on the participants' decisions. The participants' judgments converged on credibility of a neutral emotional expression. The authors also conjectured that their results were not simply an expression of social conformity as judgments (after the deliberation) were given anonymously. Therefore, the researchers suggested that the group discussion might have induced genuine attitudinal changes that ultimately led to changes in verdict provision (Dahl et al., 2007).

Deliberation may be the additional mechanism that takes education's influence on attitudes that extra step to actually change decisions. As mentioned previously, providing participants disposition instructions (Whittemore & Ogloff, 1995), psycho-legal education (Maeder & Laub, 2012), or education on the NCRMD defence (Maeder et al., 2015) resulted in more positive attitudes towards the NCRMD defence, but did not influence the participants' verdict decisions for the most part. However, Wheatman and Shaffer (2001) found differing effects of providing disposition instructions on jury members pre- and post-deliberation. The researchers told some participants of the potential consequences for a defendant if he was found not criminally responsible, whereas other participants were not. Participants were then asked to provide verdicts individually and verdicts after deliberating with a jury. Like Whittemore and Ogloff (1995), Wheatman and Shaffer found that the information provided had no influence on verdicts that participants rendered individually. Deliberations, however, had a different effect, such that those who received the disposition information had a greater likelihood

of finding the defendant not criminally responsible, whereas, uninformed jurors were more likely to be in favour of convicting the defendant (Maeder et al., 2015). The shift in individual verdict preferences after deliberation highlights the role group discussions may play on judgments of a mentally-ill defendant. Potentially, members of deliberating juries may attend carefully to legal instructions because they are accountable to other members of the jury for their opinions (as they need to reach a unanimous verdict) in a way that individuals are not (Wheatman & Shaffer, 2001). Indeed, being asked to provide rationale for one's standpoint on an issue to people whose perspectives on that issue are unknown can trigger more thoughtful and complex reasoning about relevant information (Tetlock, 1983). Thus, furthering our understanding of the cognitive and social processes that occur under conditions like deliberations should provide us insight into how we can combat the tendency to rely on individual preconceptions when making group decisions, resulting in more compliance with legal instructions provided in the courtroom (Kerwin & Shaffer, 1994).

### **Overview of Proposed Research**

A pilot study and two studies were conducted given the aforementioned research. Broadly, the studies build on previous findings that public perceptions of the NCRMD defence are primarily negative (Maeder et al., 2015), which may be grounded in a lack of understanding of the legal defence (Sloat & Frierson, 2005; Silver et al., 1994). The research takes into consideration the idea that a lack of understanding of the NCRMD defence is influenced by individual biases and experiences (e.g., Bloechl et al., 2007; Butler, 2006; Breheny et al., 2007; Eberhardt et al., 2006; Skeem & Golding, 2001). Given that prior research has resulted in mixed findings about the influence of education on attitudes towards the NCRMD defence (Maeder & Laub, 2012; Maeder et al., 2015), a pilot study was conducted to investigate whether NCRMD education leads to more positive attitudes toward the defence in the current sample. This laid the foundation for the latter studies, which explored the influence of racial biases and deliberation context on attitudes towards the NCRMD defence and the likelihood of providing a guilty or NCRMD verdict given the complex interaction between legal attitudes and decision-making (e.g., Dahl et al., 2007; Wheatman & Shaffer, 2007).

It is important to note that the overarching goal of the proposed studies was to increase objectivity in legal decision-making. The current research did not aim to educate potential jury members about the NCRMD defence in order to raise the likelihood of providing NCRMD verdicts. Rather, the purpose was to educate the participants to dispel myths and internal biases about the NCRMD defence and mentally-ill offenders. Indeed, a judge (Justice Stevens) once proclaimed that the “elementary notion of fairness require that the court provide a clarifying instruction” in situations where jurors might be

working under inaccurate biases about the nature of the Not Guilty by Reason of Insanity verdict (Shannon, 1994, Id at 2430 Stevens J. dissenting).

## Methods

### Pilot Study

There were two distinct portions of the pilot study. The first portion of the pilot study explored how education about the NCRMD defence or another legal defence (i.e., the duress defence; when an individual commits a violent offence while subjected to threat of death or serious physical injury) can affect attitudes towards the NCRMD defence. Previous research suggests that education about the NCRMD defence does lead to shifts in attitudes towards this defence (i.e., Maeder & Laub, 2012; Maeder et al., 2015). The present study sought to extend those findings by providing education in an ecologically valid form (i.e., newsletter). Previous studies typically educated their participants with primarily written or verbal materials that were not designed to resemble those encountered in the real world (e.g., Maeder et al., 2015; Whittemore & Ogloff, 1995). The general public, however, obtains much of their legal information from the media (Jorm, 2000), which often includes appealing visual stimuli and language with minimal legal jargon. Therefore, the present study presented material in a format more typically encountered by the general public.

The second portion of the pilot study had participants provide ratings for photos of Asian and White males on age, physical attractiveness, and race stereotypicality. Previous research has found that offenders between the ages of 20 and early 30s are sentenced more harshly in the criminal justice system in comparison to offenders over the age of 50 or young offenders under the age of 18 (e.g., Steffensmeier, Kramer, & Ulmer, 1995). Additionally, when being sentenced for the same crime, it has been found that physically attractive defendants often receive more lenient sentences than do less

attractive defendants (e.g., DeSantis & Kayson, 1997), demonstrating the influence of defendant physical attractiveness on sentencing decisions. Prior research has also indicated that defendants of a racial minority who appear more phenotypically stereotypical of their race will receive harsher sentences than defendants who appear less stereotypical (Eberhardt et al., 2006). Thus, the second portion of the pilot study was designed to find photos of an Asian and White male matched on age, physical attractiveness, and race stereotypicality to be subsequently used in Study 1 and 2.

### **Procedure**

The first portion of the pilot study was a between-subjects design with two types of education (Duress education and NCRMD education). Both male and female participants enrolled in first-year psychology courses in the Department of Psychology's SONA research subject pool were recruited for this study. Participants received 0.5 credits for their participation. After consenting to participate in the study (see Appendix A), participants were randomly assigned to one of two conditions: a) Duress education, or b) NCRMD education. In the duress education condition, participants were presented with information about the duress defence as defined by the Criminal Code of Canada, crimes where the duress offence does not apply, and required criteria to be able to use the duress defence (see Appendix B). In the NCRMD education condition, participants were presented with the definition of "mental disorder" as defined by the Criminal Code of Canada, when it is appropriate to use the NCRMD defence, a comparison of the NCRMD verdict in relation to a guilty verdict, the three possible outcomes for someone who receives an NCRMD verdict, and a statistic regarding the frequency of homicide index offences that utilize the NCRMD defence (see Appendix C). Both education sheets were

adapted from materials used by Fenwick (2011) with permission. Both education sheets were similar in length. Once participants read the education sheet, they were asked to complete two manipulation check questions to ensure they read and understood their assigned education sheet (see Appendix D).

Participants were then asked to complete a series of questionnaires. First, participants were asked to complete the Insanity Defense Attitude Scale-Revised (IDAS-R; Skeem, Loudon, & Evans, 2004), which was adapted from the American version to assess attitudes towards the Canadian NCRMD defence and served as the dependent variable of the study. The IDAS-R has two subscales. The first subscale is Strict Liability, which measured a person's association between mental illness and criminal responsibility. The second subscale is Perceived Injustice and Danger, which focused on people's perception about the frequency of use of the NCRMD defence and whether it poses a public safety risk. Those who scored higher on the IDAS-R held more unfavourable attitudes towards the defence. Participants were then asked to complete five measures of individual differences: a) the Interpersonal Reactivity Index (IRI; Davis, 1980) in which two out of four subscales were used to measure empathic concern and perspective taking; and b) the Mental Illness Stigma Scale (MISS; Day, Edgren, & Eshelman, 2007), which measured attitudes towards a specific mental illness; c) a short version of the Right-Wing Authoritarianism scale (RWA; Zakrisson, 2005), which measured the tendency to submit to ingroup authority and has been found to be associated with higher rates of guilty convictions (Devine & Caughlin, 2014); and d) the Punishment Orientation Questionnaire (POQ; Yamamoto & Maeder, 2019), which measured the degree to which participants had a retributive or a utilitarian orientation towards

punishment. These four measures served as covariates to control for individual differences in the level of bias that random assignment may have missed.

After participants completed the self-report measures during the second portion of the pilot study, participants were shown 12 photos (6 Asian males and 6 White males). They were asked to provide ratings of each photo regarding the man's race, age, physical attractiveness, and racial stereotypicality (see Appendix E). The photos were shown in a randomized order to prevent any order effects. Finally, participants completed demographic questions (see Appendix F), and were debriefed and thanked for their participation (Appendix G).

## **Results**

**First Portion Results:** Only participants who accurately answered all manipulation check questions were included in the study. The participants were 74 undergraduate students; one undisclosed, 25 men ( $M = 20.20$  years,  $SD = 1.96$ ) and 49 women ( $M = 19.88$  years,  $SD = 2.41$ ) from the University of British Columbia Okanagan campus. White students made up 65.3% of the sample, 24.0% of the sample was Asian, 4.0% identified as Aboriginal-Canadian, and 6.7% of the sample identified as an "other" race. All participants were enrolled in a first-year psychology course. Students participated in the study in return for course credit.

A one-way between-subjects ANCOVA was conducted to compare the effectiveness of education on participants' attitudes towards the NCRMD defence as measured by the IDAS-R (Skeem, Loudon, & Evans, 2004). The scores from the MISS, IRI, RWA, and POQ were covariates in this ANCOVA (please see Table 1),  $F(1,65) = 6.02$ ,  $p = .02$ ,  $\eta^2 = .09$  (medium effect size). The means showed that participants who

received the NCRMD education sheet ( $M = 3.24$ ,  $SD = .95$ ) held significantly less negative attitudes towards the NCRMD defence than participants in the control condition who received the duress education sheet ( $M = 3.64$ ,  $SD = .91$ ). Further, there was no significant difference in attitudes towards the NCRMD defence between male ( $M = 3.57$ ,  $SD = .81$ ) and female participants ( $M = 3.34$ ,  $SD = .97$ ),  $t(72) = 1.02$ ,  $p = .20$ ; therefore, the rest of the analyses included participants of both genders.

**Table 1.** *Pilot Study ANCOVA results for impact of Education on Attitudes towards NCRMD defence.*

Source	Type III Sum of Squares	df	F	<i>p</i>	$\eta^2$
Right-Wing Authoritarianism Scale	4.55	1	14.25	.001	.18
Mentail Illness Stigma Scale	.12	1	.36	.55	.01
Punishment Orientation Questionnaire - Prohibitive Utilitarian	2.91	1	9.13	.004	.12
Punishment Orientation Questionnaire - Prohibitive Retributive	.87	1	2.74	.10	.04
Punishment Orientation Questionnaire - Permissive Utilitarian	.002	1	.01	.94	.01
Punishment Orientation Questionnaire - Permissive Retributive	.89	1	2.85	.09	.04
Interpersonal Reactivity Index - Empathic Concern	3.15	1	9.87	.003	.13
Interpersonal Reactivity Index - Perspective Taking	.02	1	.07	.79	.01
Education Condition	1.92	1	6.02	.02	.09
Error	20.75	65			
Total	958.25	75			

Second Portion Results: Descriptive statistics of participants' perceptions of the racial stereotypicality, physical attractiveness, and age of the Asian and White male photos are displayed in Table 2 (with higher numbers indicating greater racial stereotypicality and physical attractiveness). After exploring the results, the Asian 4 and

White 4 male photos were most similar based on participants' ratings. Specifically, Asian 4 and White 4 male photos did not significantly differ from each other on racial stereotypicality ( $M = 4.56$ ,  $SD = 1.60$  vs.  $M = 4.23$ ,  $SD = 1.50$  respectively,  $t(74) = 1.80$ ,  $p = .08$ ) and physical attractiveness ( $M = 3.63$ ,  $SD = 1.55$  vs.  $M = 3.67$ ,  $SD = 1.46$  respectively,  $t(74) = .26$ ,  $p = .80$ ), but did significantly differ on age ( $M = 24.87$ ,  $SD = 4.11$  vs.  $M = 27.44$ ,  $SD = 4.16$  respectively,  $t(74) = 4.34$ ,  $p < .001$ ). As racial stereotypicality and physical attractiveness has shown more nuanced effects on legal decision-making, I chose to prioritize similarity on these two variables and felt that the difference in age would not significantly impact any results.

**Table 2.** *Descriptive Statistics for the Asian and White Male Photos.*

	Racial Stereotypicality	Physical Attractiveness	Age
	<i>M (SD)</i>	<i>M (SD)</i>	<i>M (SD)</i>
Asian 1	4.63 (1.68)	3.32 (1.38)	20.28 (4.79)
Asian 2	5.33 (1.56)	2.77 (1.26)	25.57 (3.46)
Asian 3	4.83 (1.60)	3.33 (1.54)	28.20 (3.49)
Asian 4	4.56 (1.60)	3.63 (1.55)	24.87 (4.11)
Asian 5	4.00 (1.86)	3.58 (1.32)	23.42 (3.16)
Asian 6	4.80 (1.59)	3.95 (1.67)	25.57 (3.25)
White 1	4.63 (1.66)	5.53 (1.41)	23.12 (2.66)
White 2	4.45 (1.73)	2.92 (1.26)	25.09 (3.12)
White 3	4.11 (1.57)	3.52 (1.56)	31.96 (4.59)
White 4	4.23 (1.50)	3.67 (1.46)	27.44 (4.16)
White 5	5.19 (1.51)	3.70 (1.46)	29.18 (4.08)
White 6	5.05 (1.73)	3.93 (1.61)	26.85 (3.38)

## **Discussion**

There were two main purposes of the pilot study. The first was to replicate past findings. Specifically, Maeder and colleagues (2015) found that NCRMD education led to more positive attitudes towards the defence in one study, but not another. The findings of the current study adds to the literature by contributing more evidence that NCRMD education can indeed lead people to hold less negative attitudes towards the defence, even when controlling for pre-existing stigma towards mental illness, perspective taking, empathic concern, right-wing authoritarianism, and punishment orientation. It does appear that education serves an important role in influencing attitudes in this domain.

The two most similarly rated photos of Asian and White males obtained in this study will serve as the perpetrator for a mock crime for the next study to investigate whether changes in attitudes lead to consistent verdict and sentencing decisions in a scenario with a mentally ill offender. The crime will be displayed in an article, as typically seen in online newsletters. A picture of the victim as well as the Asian or White male perpetrator will be displayed to explore racial biases in verdict and sentencing decisions.

### **Study 1**

Like the Pilot Study, participants in Study 1 were presented education sheets about either the NCRMD defence or the Duress defence in a newsletter. To keep consistent with this presentation style, the vignette narrative was also brief and used visual images (e.g., headshots of the perpetrator and victim). As previously mentioned, research indicates jurors tend to give harsher verdicts to outgroup members (e.g., U.S. General Accounting Office, GAO, 1990); thus, perpetrator race in the present study will

be manipulated. Specifically, the perpetrator race will be presented as White or Asian, because Asian people are among the top three visible minorities in Canada and the number one visible minority group to our closest neighbouring metropolitan city, Vancouver, BC (Statistics Canada, 2011). The White and Asian perpetrator's pictures were matched on physical attractiveness and racial stereotypicality. The victim, however, was White in all versions of the vignette for consistency. Because previous studies have shown that perpetrator race influences many outcomes in legal decisions, the present study allowed us to explore interactions between participant and perpetrator race on attitudes towards and application of the NCRMD defence, as it is unclear whether ingroup favourability or mental health stigma will dominate decision-making among participants that share the same ethnic background as the perpetrator.

### **Methodology**

The design of this study is a 2 (Duress education / NCRMD education) x 2 (Ingroup perpetrator / Outgroup perpetrator) between-subjects design. Both male and female participants enrolled in a first or second year course in the Department of Psychology's SONA research subject pool were recruited for this study. Participants received 1 credit for their participation. After consenting to participate in the study (see Appendix H), participants were randomly assigned to one of four conditions: a) Duress education and vignette with White perpetrator (Appendix I), b) NCRMD education and vignette with a White perpetrator (Appendix I), c) Duress education and vignette with Asian perpetrator (Appendix J), and d) NCRMD education and vignette with Asian perpetrator (Appendix J). In all four conditions, participants were presented with the education sheets used in the Pilot Study (Appendix B and C). The vignette, adapted from

materials used by Fenwick (2011) with permission, included a narrative that indicated the nature of the crime, behaviours of the perpetrator before and after the crime was committed, what the perpetrator was being charged with, and the perpetrator's mental illness diagnosis. The name of the perpetrator was either "Winston Anderson" (White perpetrator) or "Winston Lee" (Asian perpetrator).

Once participants have read the education sheet and vignette, they were asked to complete a series of questionnaires. First, participants completed a juror questionnaire, which asked them to make legal decisions for the perpetrator they read about in the vignette (See Appendix K). Specifically, participants were asked how likely they would find the perpetrator guilty of second-degree murder and/or NCRMD on a 1 (not at all) to 7 (absolutely) Likert scale; these two questions served as dependent variables in the study. As in the Pilot Study, participants in Study 1 then completed the IDAS-R (Skeem et al., 2004), which again served as the dependent variable of the study. After, participants completed five measures: a) the empathic concern and perspective taking subscales of the Interpersonal Reactivity Index (IRI; Davis, 1980); b) the Mental Illness Stigma Scale (MISS; Day et al., 2007), c) a short version of the Right-Wing Authoritarianism scale (RWA; Zakrisson, 2005); d) the Punishment Orientation Questionnaire (POQ; Yamamoto & Maeder, 2019), and finally the e) Asian Modern Racism Scale (AMRS; Son Hing, Chung-Yan, Hamilton & Yanna, 2008), which measured individual differences in contemporary racism towards individuals with an Asian background. These five measures served as covariates to control for individual differences in the level of bias that random assignment may have missed. Participants also completed five manipulation check questions to ensure they read and understood the

education sheet and vignette (see Appendix L). Finally, participants completed demographic questions (see Appendix F), and were debriefed and thanked for their participation (Appendix M).

## **Results**

Only participants who accurately answered all manipulation check questions were included in the study. The participants were 154 undergraduate students; 50 men ( $M = 19.18$  years,  $SD = 1.38$ ) and 104 women ( $M = 19.26$  years,  $SD = 2.51$ ) from the University of British Columbia Okanagan campus. Only White and Asian students were used in the present study to explore whether racial biases against ingroup and outgroup members were observed. Those that formed the ingroup cell included White participants who viewed a White perpetrator and Asian participants who viewed an Asian perpetrator. In contrast, the outgroup cell consisted of White participants who viewed an Asian perpetrator and Asian participants who viewed a White perpetrator. White students made up 70.8% of the present sample and 29.2% of the sample was Asian. All participants were enrolled in a first-year psychology course. Students participated in the study in return for course credit.

Three two-way between-subjects ANCOVAs were conducted to investigate the effectiveness of NCRMD education and the impact of whether the perpetrator belonged to an ingroup or outgroup on the NCRMD defence as measured by the IDAS-R (Skeem et al., 2004) and decision-making.

First, a 2 (Duress education / NCRMD education) x 2 (Ingroup perpetrator / Outgroup perpetrator) between-subjects designs ANCOVA was conducted to compare the effectiveness of education and ingroup/outgroup condition on participants' attitudes

towards the NCRMD defence as measured by the IDAS-R (Skeem et al., 2004). The scores from the MISS, IRI, RWA, POQ, and AMRS were covariates in this ANCOVA (please see Table 3). There was no main effect of education condition; the means showed that participants who received the NCRMD education sheet ( $M = 3.74$ ,  $SD = 1.15$ ) held similar attitudes towards the NCRMD defence as participants in the control condition who received the duress education sheet ( $M = 3.65$ ,  $SD = 1.29$ ),  $F(1,141) = .26$ ,  $p = .61$ ,  $\eta^2 = .002$  (small effect size). This finding was surprising, as it did not replicate results from the pilot study. There was also no main effect of ingroup/outgroup status; the means showed that participants who received a perpetrator of the same race as them (ingroup;  $M = 3.71$ ,  $SD = 1.26$ ) held similar attitudes towards the NCRMD defence as participants who received a perpetrator of a different race as them (outgroup;  $M = 3.68$ ,  $SD = 1.15$ ),  $F(1,141) = .01$ ,  $p = .92$ ,  $\eta^2 = .001$  (small effect size). The interaction between education condition and ingroup/outgroup status was also not significant,  $F(1,141) = .35$ ,  $p = .56$ ,  $\eta^2 = .002$  (small effect size).

**Table 3.** Study 1 ANCOVA results for impact of Education and Ingroup/Outgroup status on Attitudes towards NCRMD defence.

Source	Type III Sum of Squares	df	F	<i>p</i>	$\eta^2$
Right-Wing Authoritarianism	.02	1	.05	.90	.000
Mental Illness Stigma Scale	1.29	1	1.13	.29	.008
Asian Modern Racism Scale	.85	1	.75	.39	.005
Punishment Orientation Questionnaire - Prohibitive Utilitarian	3.67	1	3.22	.07	.02
Punishment Orientation Questionnaire - Prohibitive Retributive	.93	1	.82	.37	.006
Punishment Orientation Questionnaire - Permissive Utilitarian	10.61	1	9.32	.003	.06
Punishment Orientation Questionnaire - Permissive Retributive	5.80	1	5.09	.03	.04
Interpersonal Reactivity Index - Empathic Concern	4.36	1	3.83	.05	.03
Interpersonal Reactivity Index - Perspective Taking	.001	1	.001	.98	.000
Education Condition	.29	1	.25	.61	.002
Ingroup/Outgroup	.01	1	.01	.92	.000
Education Condition*Ingroup/Outgroup	.39	1	.35	.56	.002
Error	160.53	141			
Total	2341.151	154			

For exploratory purposes, a bivariate Pearson correlation was conducted to see the relationship between all the dependent variables (see Table 4). Moderate correlations were observed between attitudes towards the NCRMD defence as measured by the IDAS-R (Skeem et al., 2004) and the two legal decisions. These correlations were moderate and significant irrespective of whether participants were provided with the NCRMD or Duress (control) education sheet. Given that the education sheet manipulation did not influence participants' attitudes towards the NCRMD defence, I decided to use the IDAS-R total score as a covariate for the next two analyses.

**Table 4.** *Correlations between Dependent Variables in Study 1.*

Variable	1.	2.	3.
1. Attitudes towards the NCRMD Defence (IDAS-R)	1	.34**	-.38**
2. Likelihood of deeming the perpetrator guilty		1	-.37*
3. Likelihood of deeming the perpetrator NCRMD			1

\*\*  $p < .01$

Second, a 2 (Duress education / NCRMD education) x 2 (Ingroup perpetrator / Outgroup perpetrator) between-subject designs ANCOVA was conducted to compare the effectiveness of education and ingroup/outgroup condition on participants' likelihood of deeming the perpetrator guilty for second-degree murder. The scores from the IDAS-R, MISS, IRI, RWA, POQ, and AMRS were covariates in this ANCOVA (please see Table 5). There was no main effect of education condition; the means showed that participants who received the NCRMD education sheet ( $M = 4.86$ ,  $SD = 1.57$ ) were just as likely to deem the perpetrator as guilty as participants in the control condition who received the duress education sheet ( $M = 4.90$ ,  $SD = 1.55$ ),  $F(1,140) = .03$ ,  $p = .87$ ,  $\eta^2 = .001$  (small effect size). There was also no main effect of ingroup/outgroup status; the means showed that participants who received a perpetrator of the same race as them (ingroup;  $M = 5.01$ ,  $SD = 1.55$ ) were just as likely to deem the perpetrator as guilty as participants who received a perpetrator of a different race as them (outgroup;  $M = 4.75$ ,  $SD = 1.56$ ),  $F(1,140) = 1.09$ ,  $p = .30$ ,  $\eta^2 = .008$  (small effect size). The interaction between education condition and ingroup/outgroup status was marginally significant,  $F(1,140) = 3.46$ ,  $p = .07$ ,  $\eta^2 = .02$  (small effect size).

**Table 5.** Study 1 ANCOVA results for impact of Education and Ingroup/Outgroup status on the likelihood of a guilt measure.

Source	Type III Sum of Squares	df	F	<i>p</i>	$\eta^2$
Insanity Defense Attitude Scale - Revised	11.52	1	5.57	.02	.002
Right-Wing Authoritarianism	.13	1	.06	.81	.001
Mental Illness Stigma Scale	1.73	1	.84	.37	.001
Asian Modern Racism Scale	1.69	1	.82	.37	.006
Punishment Orientation Questionnaire - Prohibitive Utilitarian	4.96	1	2.40	.12	.02
Punishment Orientation Questionnaire - Prohibitive Retributive	4.63	1	2.24	.14	.02
Punishment Orientation Questionnaire - Permissive Utilitarian	6.93	1	3.35	.07	.02
Punishment Orientation Questionnaire - Permissive Retributive	2.16	1	1.05	.31	.007
Interpersonal Reactivity Index - Empathic Concern	.09	1	.04	.84	.001
Interpersonal Reactivity Index - Perspective Taking	.11	1	.05	.82	.001
Education Condition	.06	1	.03	.87	.001
Ingroup/Outgroup	2.26	1	1.09	.30	.008
Education Condition*Ingroup/Outgroup	7.15	1	3.46	.07	.02
Error	289.44	140			
Total	3995.00	154			

Lastly, a 2 (Duress education / NCRMD education) x 2 (Ingroup perpetrator / Outgroup perpetrator) between-subject designs ANCOVA was conducted to compare the effectiveness of education and ingroup/outgroup condition on participants' likelihood of deeming the perpetrator NCRMD for second-degree murder. The scores from the IDAS-R, MISS, IRI, RWA, POQ, and AMRS were covariates in this ANCOVA (please see Table 6). There was no main effect of education condition; the means showed that participants who received the NCRMD education sheet ( $M = 4.41$ ,  $SD = 1.81$ ) were just

as likely to deem the perpetrator as NCRMD as participants in the control condition who received the duress education sheet ( $M = 4.34$ ,  $SD = 1.75$ ),  $F(1,140) = .06$ ,  $p = .81$ ,  $\eta^2 = .001$  (small effect size). There was also no main effect of ingroup/outgroup status; the means showed that participants who received a perpetrator of the same race as them (ingroup;  $M = 4.39$ ,  $SD = 1.77$ ) were just as likely to deem the perpetrator as NCRMD as participants who received a perpetrator of a different race as them ( $M = 4.36$ ,  $SD = 1.81$ ),  $F(1,140) = .01$ ,  $p = .92$ ,  $\eta^2 = .001$  (small effect size). The interaction between education condition and ingroup/outgroup status was also not significant,  $F(1,140) = .20$ ,  $p = .66$ ,  $\eta^2 = .001$  (small effect size).

**Table 6.** *Study 1 ANCOVA results for impact of Education and Ingroup/Outgroup status on the likelihood of NCRMD measure.*

Source	Type III Sum of Squares	df	F	<i>p</i>	$\eta^2$
Insanity Defense Attitude Scale-Revised	18.51	1	7.10	.01	.05
Right-Wing Authoritarianism	.13	1	.05	.82	.001
Mental Illness Stigma Scale	.10	1	.04	.84	.001
Asian Modern Racism Scale	4.00	1	1.54	.22	.01
Punishment Orientation Questionnaire - Prohibitive Utilitarian	3.81	1	1.46	.23	.01
Punishment Orientation Questionnaire - Prohibitive Retributive	2.85	1	1.09	.30	.008
Punishment Orientation Questionnaire - Permissive Utilitarian	27.15	1	10.41	.002	.07
Punishment Orientation Questionnaire - Permissive Retributive	.09	1	.03	.86	.001
Interpersonal Reactivity Index - Empathic Concern	1.62	1	.62	.43	.004
Interpersonal Reactivity Index - Perspective Taking	.22	1	.08	.77	.001
Education Condition	.15	1	.06	.81	.001
Ingroup/Outgroup	.03	1	.01	.92	.001
Education Condition*Ingroup/Outgroup	.52	1	.20	.66	.001
Error	364.96	140			
Total	3427.00	154			

## Discussion

There were two main purposes of Study 1. The first was to replicate the findings from the Pilot Study and past literature (e.g., Maeder & Laub, 2012; Maeder et al., 2015), which demonstrated that receiving education about the NCRMD defence resulted in more positive attitudes towards the defence. Although the pilot study demonstrated changes towards the NCRMD defence, the present study found that NCRMD education did not influence attitudes towards the NCRMD defence or verdict decisions. While surprising,

this finding is somewhat consistent with past research (Maeder et al., 2015; Whittemore & Ogloff, 1995), which showed that informing individuals about the basics of the NCRMD defence can sometimes influence attitudes but may not influence verdict decisions for a mock crime. It has been hypothesized that participants are less able to recall the education information (Whittemore & Ogloff, 1995), potentially due to having increased cognitive load of remembering details of the mock crime and reconciling both sets of details to arrive at a verdict. Others have posited that attitudes towards the NCRMD defence may be flexible in some circumstances, but rigid in others (Maeder et al., 2015). It may be possible that the rigidity of attitudes towards the NCRMD defence rises when a serious crime, such as second-degree murder, has been committed. Findings from the present study, as well as past research, suggests that education alone may not be enough to alter verdict decisions.

The second purpose of the present study was to explore whether racial prejudice influenced attitudes towards the NCRMD defence and the likelihood of deeming the perpetrator as guilty or NCRMD in a mock crime. The present study found no effect of race on attitudes towards the NCRMD defence or legal decisions. Specifically, decisions were similar when participants were provided with a perpetrator that was of the same race (i.e., White participants seeing a White perpetrator; Asian participants seeing an Asian perpetrator) as when the perpetrator was of a different race from them (i.e., White participants seeing an Asian perpetrator; Asian participants seeing a White perpetrator). At first glance, these findings seems incongruent with past literature, which consistently showed that individuals of minority groups are more likely to receive harsher verdict decisions (Baldus et al., 2005; Eberhardt et al., 2006; Pierce & Radelet, 2010-2011) and

receive wrongful convictions (Innocence Project, 2017). However, past research has shown that Asians typically receive more lenient verdicts and sentencing decisions, in comparison to Blacks and Hispanics, due to the stereotype of being the “model minority” (Franklin & Fearn, 2015; Johnson & Betsinger, 2009; Lee, 1994). This may provide an explanation as to why the present study did not find significant differences in legal decision-making for White and Asian perpetrators.

## **Study 2**

Study 2 expanded on all the previous studies. As mentioned previously, Wheatman and Shaffer (2001) found that deliberations had a unique influence on jurors’ decisions, specifically, jurors who had received the disposition instructions displayed a greater likelihood of voting the defendant as not criminally responsible following deliberations, whereas uninstructed jurors were more likely to render the defendant guilty. Therefore, the current study used videos of mock jury members to create various contexts that allow the participant to imagine what may occur in a deliberation. The use of these videos will ensure that participants are exposed to the exact same verbal and nonverbal behaviour so that there is more control over individual differences (e.g., physical attraction) that could arise with using live mock jurors. Although a typical jury consists of 12 members (Department of Justice, 2017), for pragmatic purposes only four individuals were selected for the videos in this study (two males and two females), with the two female jurors speaking for the majority of the video. With the use of only two primary jury members, there was a more in-depth conversation about the case presented in the vignette. In contrast, presenting 12 different people’s opinions could have resulted in scattered opinions with less coherent or fluid conversation. Both primary jury members

in the video were White female UBCO students chosen (ages 20 and 21) to resemble the student population; the majority of students in psychology on this university campus are white females (The Planning and Institutional Research Office, 2015). The other two jury members were male UBC students. In summary, Study 2 investigated the impact of race and the provision of education on attitudes towards the NCRMD defence and legal decisions, but also examined the influence of a deliberation context on these same variables. Specifically, the goal of the current study was to shed light on the impact of social group processes on individuals' legal decisions.

### **Methodology**

The design of this study is a 2 (Duress education / NCRMD education) x 2 (Ingroup perpetrator / Outgroup perpetrator) x 3 (mixed opinion video / pro-NCRMD video / anti-NCRMD video) between-subject designs. Like the previous two studies, both male and female participants enrolled in the Department of Psychology's SONA research subject pool were recruited for this study. Participants received 1 credit for their participation. After consenting to participate in the study (see Appendix N), participants were provided with an education sheet (Appendix B or C), then a vignette with a White or Asian perpetrator depending on the condition they are assigned to (Appendix I or J), and finally a jury deliberation video. In each video condition, the jurors in the videos discussed identical topics: an initial vote (i.e., perpetrator should be found guilty or found NCRMD), reasons for their decision, perpetrator's mental illness (i.e., whether they believe the perpetrator has paranoid schizophrenia), the perceived mens rea and actus reus (or their perception of the perpetrators state of mind and ability to control his behaviour respectively), consequences for the perpetrator (e.g., he deserves punishment

or rehabilitation), likelihood of recidivism (or reoffending in the future), debating potential dispositions (e.g., absolute discharge, conditional discharge, or detention in forensic psychiatric hospital), and a final vote (i.e., perpetrator should be found guilty or found NCRMD). In the video condition with pro-NCRMD jurors, all jury members agree that the perpetrator deserves the NCRMD verdict, whereas all jury members agree that the perpetrator should be found guilty in the condition with two anti-NCRMD jurors. In contrast, two jury members in the mixed condition believe the perpetrator should be found guilty and the other two believe the perpetrator should be found NCRMD, and disagree with each other's opinions resulting in a hung jury (see Appendix O for the scripts of each video condition).

Once participants read the education sheet and the vignette, they were asked to complete the juror questionnaire used in the previous study (Appendix K). Then, after participants watched the jury deliberation video, they were asked to complete a final juror questionnaire, which asked the participant to choose whether they believe the perpetrator was either guilty or NCRMD (see Appendix P). This sequence was chosen for two primary reasons. First, it allowed for a direct replication of Study 1 to explore whether results were consistent across studies. Second, this sequence is reflective of real world jury deliberations where jury members often take an initial vote to see where all the members stand. If the vote is not unanimous, deliberations begin until a unanimous final decision is achieved. Afterwards, participants were asked to complete the IDAS-R (Skeem et al., 2004). Participants were then asked to complete seven manipulation check questions to ensure they read, watched, and understood the education sheet, vignette and jury deliberation video (see Appendix Q). Participants were also asked to complete all

the covariate measures as used in Study 1 (i.e., IRI; Davis, 1980; MISS; Day et al., 2007; POQ; Yamamoto & Maeder, 2019; RWA; Zakrisson, 2005; AMRS; Son Hing et al., 2008). Subsequently, participants completed demographic questions (see Appendix F), and were debriefed and thanked for their participation (Appendix R).

## **Results**

Only participants who accurately answered all manipulation check questions were included in the study. The participants were 250 undergraduate students; 64 men ( $M = 20.25$  years,  $SD = 2.02$ ) and 186 women ( $M = 20.49$  years,  $SD = 4.41$ ) from the University of British Columbia Okanagan campus. Like Study 1, only White and Asian students were used in the present study to explore whether racial biases against ingroup and outgroup members were observed. White students made up 78.0% of the present sample and 22.0% of the sample was Asian. All participants were enrolled in a first- or second-year psychology course. Students participated in the study in return for course credit.

Based on the findings from Study 1, a bivariate Pearson correlation was conducted to see the relationship between all the dependent variables (see Table 7). Strong correlations were observed between attitudes towards the NCRMD defence and the two legal decisions. These correlations were strong and significant irrespective whether participants were provided with the NCRMD or Duress (control) education sheet. Given that the education sheet manipulation did not influence participants' attitudes towards the NCRMD defence, the IDAS-R total score was again used as a covariate in the following two analyses.

**Table 7.** *Correlations between Dependent Variables in Study 2.*

Variable	1.	2.	3.
1. Attitudes towards the NCRMD Defence (IDAS-R)	1	.49**	-.52**
2. Likelihood of deeming the perpetrator guilty		1	-.55*
3. Likelihood of deeming the perpetrator NCRMD			1

\*\*  $p < .01$

Three two-way between-subjects ANCOVAs were conducted to investigate the effectiveness of NCRMD education and the impact of participant race participants' attitudes towards the NCRMD defence as measured by the IDAS-R (Skeem et al., 2004) and continuous legal decisions. These analyses were a replication and extension of the analyses conducted in Study 1.

First, a 2 (Duress education / NCRMD education) x 2 (Ingroup perpetrator / Outgroup perpetrator) between-subject designs ANCOVA was conducted to compare the effectiveness of education and ingroup/outgroup on participants' likelihood of deeming the perpetrator guilty for second-degree murder. The scores from the IDAS-R, MISS, IRI, RWA, POQ, and AMRS were covariates in this ANCOVA (please see Table 8). There was a main effect of education condition; the means showed that participants who received the NCRMD education sheet ( $M = 4.08$ ,  $SD = 1.82$ ) were significantly less likely to deem the perpetrator as guilty than participants in the control condition who received the duress education sheet ( $M = 4.52$ ,  $SD = 1.58$ ),  $F(1,236) = 4.77$ ,  $p = .03$ ,  $\eta^2 = .02$  (small effect size). There was no main effect of ingroup/outgroup status; the means showed that participants who received a perpetrator of the same race as them (ingroup;  $M = 4.40$ ,  $SD = 1.85$ ) were just as likely to deem the perpetrator guilty as participants who received a perpetrator of a different race as them (outgroup;  $M = 4.19$ ,  $SD = 1.67$ ),  $F(1,236) = 1.03$ ,  $p = .31$ ,  $\eta^2 = .004$  (small effect size). The interaction between education

condition and ingroup/outgroup status was not significant,  $F(1,236) = .003, p = .96, \eta^2 = .001$  (small effect size).

**Table 8.** Study 2 ANCOVA results for impact of Education and Ingroup/Outgroup status on the likelihood of guilty measure.

Source	Type III Sum of Squares	df	F	<i>p</i>	$\eta^2$
Insanity Defense Attitude Scale- Revised	111.46	1	48.78	.001	.17
Right-Wing Authoritarianism	1.72	1	.75	.39	.003
Mental Illness Stigma Scale	7.18	1	3.14	.08	.01
Asian Modern Racism Scale	3.21	1	1.41	.24	.006
Punishment Orientation Questionnaire Prohibitive Utilitarian	.01	1	.003	.96	.001
Punishment Orientation Questionnaire Prohibitive Retributive	2.15	1	.94	.33	.004
Punishment Orientation Questionnaire Permissive Utilitarian	1.66	1	.73	.40	.003
Punishment Orientation Questionnaire Permissive Retributive	2.92	1	1.28	.26	.005
Interpersonal Reactivity Index - Empathic Concern	5.79	1	2.53	.11	.01
Interpersoal Reactivity Index - Perspective Taking	2.89	1	1.26	.26	.005
Education Condition	10.89	1	4.77	.03	.02
Ingroup/Outgroup	2.36	1	1.03	.31	.004
Education Condition*Ingroup/Outgroup	.006	1	.003	.96	.001
Error	539.27	236			
Total	5233.00	250			

Second, a 2 (Duress education / NCRMD education) x 2 (Ingroup perpetrator / Outgroup perpetrator) between-subject designs ANCOVA was conducted to compare the effectiveness of education and ingroup/outgroup condition on participants' likelihood of deeming the perpetrator NCRMD for second-degree murder. The scores from the IDAS-

R, MISS, IRI, RWA, POQ, and AMRS were also covariates in this ANCOVA (please see Table 9). There was no main effect of education condition; the means showed that participants who received the NCRMD education sheet ( $M = 4.83$ ,  $SD = 1.69$ ) were just as likely to deem the perpetrator NCRMD as participants in the control condition who received the duress education sheet ( $M = 4.64$ ,  $SD = 1.65$ ),  $F(1,236) = .85$ ,  $p = .36$ ,  $\eta^2 = .004$  (small effect size). There was no main effect of ingroup/outgroup status; the means showed that participants who received a perpetrator of the same race as them (ingroup;  $M = 4.63$ ,  $SD = 1.79$ ) were just as likely to deem the perpetrator NCRMD as participants who received a perpetrator of a different race as them (outgroup;  $M = 4.86$ ,  $SD = 1.59$ ),  $F(1,236) = 1.44$ ,  $p = .23$ ,  $\eta^2 = .006$  (small effect size). The interaction between education condition and ingroup/outgroup status was also not significant,  $F(1,236) = .06$ ,  $p = .81$ ,  $\eta^2 = .001$  (small effect size).

**Table 9.** Study 2 ANCOVA results for impact of Education and Ingroup/Outgroup status on the likelihood of NCRMD measure.

Source	Type III Sum of Squares	df	F	<i>p</i>	$\eta^2$
Insanity Defense Attitude Scale-Revised	89.64	1	43.22	.001	.16
Right-Wing Authoritarianism	.29	1	.14	.71	.001
Mental Illness Stigma Scale	.84	1	.40	.53	.002
Asian Modern Racism Scale	1.26	1	.61	.44	.003
Punishment Orientation Questionnaire - Prohibitive Utilitarian	.15	1	.07	.79	.001
Punishment Orientation Questionnaire - Prohibitive Retributive	6.25	1	3.02	.08	.01
Punishment Orientation Questionnaire - Permissive Utilitarian	2.81	1	1.35	.25	.006
Punishment Orientation Questionnaire - Permissive Retributive	1.61	1	.77	.38	.003
Interpersonal Reactivity Index - Empathic Concern	.02	1	.008	.93	.001
Interpersonal Reactivity Index - Perspective Taking	5.58	1	2.69	.10	.01
Education Condition	1.75	1	.85	.23	.004
Ingroup/Outgroup	2.99	1	1.44	.23	.006
Education Condition*Ingroup/Outgroup	.12	1	.06	.81	.001
Error	489.44	236			
Total	6417.00	250			

Third, a 2 (Duress education / NCRMD education) x 2 (Ingroup perpetrator / Outgroup perpetrator) x 3 (mixed opinion video / pro-NCRMD video / anti-NCRMD video) between-subject designs ANCOVA was conducted to compare the effectiveness of education, ingroup/outgroup, and deliberation video condition on participants' attitudes towards the NCRMD defence as measured by the IDAS-R (Skeem et al., 2004). The scores from the MISS, IRI, RWA, POQ, and AMRS were covariates in this ANCOVA (please see Table 10). There was no main effect of education condition; the means

showed that participants who received the NCRMD education sheet ( $M = 3.24$ ,  $SD = 1.06$ ) held similar attitudes towards the NCRMD defence as participants in the control condition who received the duress education sheet ( $M = 3.32$ ,  $SD = 1.09$ ),  $F(1,229) = .53$ ,  $p = .46$ ,  $\eta^2 = .002$  (small effect size). There was also no main effect of ingroup/outgroup status; the means showed that participants who received a perpetrator of the same race as them (ingroup;  $M = 3.33$ ,  $SD = 1.12$ ) held similar attitudes towards the NCRMD defence as participants who received a perpetrator of a different race as them (outgroup;  $M = 3.24$ ,  $SD = 1.04$ ),  $F(1,229) = .63$ ,  $p = .43$ ,  $\eta^2 = .003$  (small effect size). There was a main effect of deliberation video condition; the means showed that participants who watched the anti-NCRMD video ( $M = 3.57$ ,  $SD = 1.07$ ) held significantly more negative attitudes towards the NCRMD defence than participants who viewed the mixed opinion video ( $M = 3.16$ ,  $SD = 1.08$ ) and the pro-NCRMD video ( $M = 3.13$ ,  $SD = 1.01$ ),  $F(2,229) = 6.03$ ,  $p = .003$ ,  $\eta^2 = .05$  (small-to-medium effect size). The interaction between education condition and ingroup/outgroup status was not significant,  $F(1,229) = .09$ ,  $p = .77$ ,  $\eta^2 = .001$  (small effect size). The interaction between education condition and deliberation video was also not significant,  $F(2,229) = .74$ ,  $p = .48$ ,  $\eta^2 = .006$  (small effect size). Similarly, the interaction between ingroup/outgroup status and deliberation video was not significant,  $F(2,229) = .06$ ,  $p = .94$ ,  $\eta^2 = .001$  (small effect size). Finally, the three-way interaction between education condition, ingroup/outgroup status, and deliberation video condition was not significant,  $F(2,229) = 1.35$ ,  $p = .26$ ,  $\eta^2 = .01$  (small effect size).

**Table 10.** Study 2 ANCOVA results for impact of Education, Ingroup/Outgroup status, and Deliberation Video on Attitudes towards NCRMD defence.

Source	Type III Sum of Squares	df	F	<i>p</i>	$\eta^2$
Right-Wing Authoritarianism	12.37	1	17.01	.001	.07
Mental Illness Stigma Scale	2.35	1	3.24	.07	.01
Asian Modern Racism Scale	2.35	1	1.94	.17	.008
Punishment Orientation Questionnaire - Prohibitive Utilitarian	.43	1	.59	.45	.003
Punishment Orientation Questionnaire - Prohibitive Retributive	.97	1	1.33	.25	.006
Punishment Orientation Questionnaire - Permissive Utilitarian	.53	1	.73	.39	.003
Punishment Orientation Questionnaire - Permissive Retributive	6.05	1	8.32	.004	.04
Interpersonal Reactivity Index - Empathic Concern	.47	1	.65	.42	.003
Interpersonal Reactivity Index - Perspective Taking	.19	1	.27	.61	.001
Education Condition	.39	1	.53	.47	.002
Ingroup/Outgroup	.46	1	.63	.43	.003
Video Condition	8.77	2	6.03	.003	.05
Education Condition*Ingroup/Outgroup	.07	1	.09	.77	.001
Education Condition*Video Condition	1.07	2	.74	.48	.006
Ingroup/Outgroup*Video Condition	.09	2	.06	.94	.001
Education Condition*Ingroup/Outgroup*Video Condition	1.96	2	1.35	.26	.01
Error	166.49	229			
Total	2964.75	250			

A logistic regression analysis was conducted to test the research hypothesis regarding the relationship between education condition, ingroup/outgroup status, deliberation videos, and covariate measures, and the participants' final (dichotomous) verdict decision (see Table 11). In regards to the final verdict decision, 64 participants (25.6%) provided a guilty verdict and 186 participants (74.4%) provided a NCRMD verdict. A test of the full model against a constant only model was statistically

significant, indicating that the predictors as a set reliably distinguished between guilty and NCRMD verdict decisions (chi-square = 174.14,  $p < .001$  with  $df = 14$ ).

Nagelkerke's  $R^2$  of .74 indicated a moderately strong relationship between prediction and grouping. Prediction success overall was 90.4% (78.1% for guilty and 94.6% for NCRMD). The Wald criterion demonstrated that education condition, ingroup/outgroup perpetrator, deliberation video condition, and the scores on the IDAS-R made a significant contribution to the prediction ( $p < .05$ ). The other covariate measures were not significant predictors. Exp(B) value indicates that participants in the duress education condition were 30% less likely to provide a NCRMD verdict in comparison to participants who received the NCRMD education sheet. Additionally, when the perpetrator is an outgroup member, the odds ratio is 4.59 times as large and therefore participants are 4.59 times more likely to provide an NCRMD verdict. Finally, the Exp(B) value indicates that when the anti-NCRMD video is shown, the odds ratio is .07 and therefore participants were 7% less likely to provide an NCRMD verdict.

**Table 11.** *Logistic Regression Analysis of Participants' Final Verdict Decisions.*

Predictor	$\beta$	SE $\beta$	Wald's $\chi^2$	df	p	$e^\beta$ (odds ratio)
Constant	10.05	4.36	5.30	1	.02	
Education Condition	-1.20	.53	5.07	1	.02	.30
Ingroup/Outgroup Status	1.52	.56	7.52	1	.01	4.59
Video Condition			23.80	2	.001	
Pro-NCRMD Video	.004	.75	.001	1	.99	1.00
Anti-NCRMD Video	-2.71	.73	13.97	1	.001	.07
Covariate Measures						
Insanity Defense Attitude Scale-Revised	-2.78	.47	34.43	1	.001	.06
Right-Wing Authoritarianism	-.20	.52	.15	1	.70	.82
Mental Illness Stigma Scale	.09	.57	.03	1	.87	1.10
Asian Modern Racism Scale	.004	.25	.001	1	.99	1.00
Punishment Orientation Questionnaire - Prohibitive Utilitarian	-.21	.43	.23	1	.63	.81
Punishment Orientation Questionnaire - Prohibitive Retributive	.17	.41	.16	1	.69	1.18
Punishment Orientation Questionnaire - Permissive Utilitarian	.32	.43	.56	1	.45	1.38
Punishment Orientation Questionnaire - Permissive Retributive	.37	.44	.70	1	.40	1.44
Interpersonal Reactivity Index - Empathic Concern	.43	.45	.90	1	.34	1.54
Interpersonal Reactivity Index - Perspective Taking	-.36	.59	.37	1	.54	.70
Test			$\chi^2$	df	p	
Overall model evaluation						
Likelihood ratio test			174.14	14	.001	
Score test			136.15	14	.001	
Wald test			54.19	1	.001	
Goodness-of-fit test						
Hosmer & Lemeshow			2.23	8	.97	

*Note.* Cox and Snell  $R^2 = .50$ . Nagelkerke  $R^2 = .74$ .

## **Discussion**

Similar to Study 1, Study 2 found that receiving education about the NCRMD defence did not result in more positive attitudes towards the defence. Education about the NCRMD defence did, however, influence participants' decision to provide a guilty verdict (as indicated in Table 8). Specifically, participants who received the NCRMD education sheet were significantly less likely to provide a guilty verdict as participants in the control condition who received the duress education sheet. Education may have debunked some of the myths that were typically held towards mentally ill offenders, which may not have led to a shift in pre-existing attitudes at the moment, but was impactful enough to be used in consideration when making a calculated verdict decision for a mock crime. This may not be surprising as negative attitudes towards those with mental health conditions are formed gradually over many years and start as early as childhood (Wahl, Susin, Lax, Kaplan & Zatina, 2012). Despite this lack of a shift in attitudes, the findings suggest that participants were still able and/or willing to consider relevant information (i.e., NCRMD education) when making legal decisions. Along the same line of findings, regardless of what video they saw or whether they saw an ingroup or outgroup perpetrator, receiving NCRMD education was also an important predictor for the participants' final (dichotomous) verdict decision (which was provided after watching the mock deliberation video).

Although there was no impact of education on attitudes towards the NCRMD defence, the present study found these attitudes were swayed by the mock deliberation videos, such that participants who watched the anti-NCRMD deliberation video held significantly more negative attitudes towards the NCRMD defence than participants who

viewed the pro-NCRMD video or mixed opinions video. Despite online questionnaires demonstrating fewer issues with social desirability than face-to-face interviews (Henderson, Evans-Lacko, Flach, & Thornicroft, 2012), there may still be concerns regarding appearing biased and discriminatory against those who suffer from mental illness when making individual judgements. In the present study, however, participants who saw others who were critical against the use of the NCRMD defence with a mentally ill offender (like in the anti-NCRMD deliberation video) may have been more willing to demonstrate explicit bias against the mentally ill because they perceived others had similar attitudes. Perhaps, individuals who are internally biased against the NCRMD defence are not willing to outwardly share their opinion unless they perceive others to feel the same way, which provides them an environment to express their disapproval of this legal defence. Much like the influence of the mock deliberation videos on attitudes towards the NCRMD defence, the videos showed a similar impact on participants' final (dichotomous) verdict decision such that those who watched the anti-NCRMD video were significantly more likely to provide a guilty verdict than those who watched the pro-NCRMD video or mixed-opinions video. These findings show that congruency between attitudes and decisions occur when there was a perception of group cohesion, but not when individual anonymous verdict decisions were made.

In regards to racial prejudice, the present study found that whether participants viewed a perpetrator of an ingroup or outgroup had no influence on their decisions when asked about their likelihood of deeming the perpetrator guilty or NCRMD on a likert scale prior to watching the deliberation videos. However, when participants were forced to provide a final verdict decision (guilty OR NCRMD, as one would in a real jury) after

watching the mock deliberation videos, racial bias in decision-making was found. Specifically, the odds of providing a NCRMD verdict to a perpetrator of an outgroup member was more than four times as high as that of an ingroup perpetrator. Thus, participants provided harsher verdicts for perpetrators of their ingroup and was more lenient towards outgroup members. There may be several potential explanations for this. First, participants may be demonstrating the “black sheep effect,” in which ingroup members are punished more severely because their actions impede the likelihood of obtaining a positive social identity from being a member of the ingroup (Marques, Yzerbyt & Leyens, 1988). In contrast, participants may be displaying “patronizing leniency” for outgroup members to demonstrate that their ingroup is unprejudiced and holds egalitarian values to maintain a positive social identity (Braun & Gollwitzer, 2012). Another explanation could be due to cultural differences. Specifically, Chinese and Western participants have been shown to attribute different culture-specific threats and stigma to mental illness (Yang et al., 2013). Therefore, participants may have shown more leniency to outgroups because they did not feel they had the moral credibility or “right” to judge the mental health of individuals who were not from their ingroup.

## General Discussion

The first goal of the current studies was to investigate the influence of receiving relevant education on attitudes towards the NCRMD defence and legal decisions in a mock crime. Findings suggested that receiving NCRMD education had inconsistent effects on attitudes towards the NCRMD defence across the three studies. Similarly, receiving NCRMD education significantly decreased the likelihood of deeming the perpetrator guilty in one of the three studies. Another goal of one of the studies was to investigate the effects of a deliberation-like context on individuals' attitudes towards the NCRMD defence and legal decisions. Study 2 found that individuals who watched mock jurors who were critical of the NCRMD defence held significantly more negative attitudes towards the NCRMD defence and were less likely to deem the perpetrator as NCRMD. The final goals of the studies were to examine whether ingroup/outgroup biases existed in legal decision-making. Findings did not reveal prejudice against outgroup members; there were no differences in decisions for ingroup and outgroup members. However, individuals were significantly more likely to deem a perpetrator NCRMD if they were a member of their outgroup than they were for an ingroup member, suggesting that greater leniency was offered to outgroup members and harsher punishments were directed to ingroup members. This finding was replicated in two out of three studies.

The present studies found inconsistent effects of receiving NCRMD education on participants' attitudes towards the NCRMD defence. Specifically, NCRMD education decreased negative attitudes towards the NCRMD defence in the pilot study, but not in Study 1 and Study 2. This pattern of findings is consistent with past research in which

NCRMD education sheets also showed varying levels of impact on attitudes towards the NCRMD defence (Maeder et al., 2015). Past research investigating different forms of education has also found mixed results. For example, the impact of psychology and law courses have consistently found decreases in negative attitudes towards the NCRMD defence (Maeder & Laub, 2012; Mandracchia, Shaw, & Morgan, 2013). Educational interventions that have used a combination of pre-recorded audio-testimony from people with schizophrenia and scientific evidence to challenge common prejudices have led to significant shifts in participants' attitudes towards individuals with schizophrenia (Magliano et al., 2016). However, other research has shown that individuals presented information in the format of a flowchart (in comparison to no or verbal information) were more likely to recommend prison sentences than dispositions related to a NCRMD verdict (Schlumper, 2011), implying that negative attitudes towards the mentally ill still exist. The main difference between the current studies was that there was no mock crime provided in the pilot study. Potentially, participants devoted all cognitive resources to focus on the material presented in the education sheets. A careful analysis of this one stimulus by participants may have had a direct effect on their responses to the scale measuring their attitudes towards the NCRMD defence. In contrast, Studies 1 and 2 included a mock crime, which asked participants to make a verdict decision. With this additional task, participants may have shifted their focus to making a rational legal *decision*, exerting less effort into analyzing how all the materials presented to them affected their *attitudes*. Alternatively, past researchers have suggested that attitudes towards the NCRMD defence may be flexible in some circumstances, but rigid in others (Maeder et al., 2015). It may be possible that the rigidity of attitudes towards the

NCRMD defence fluctuates depending on the severity of the crime. For instance, it is likely that rigidity of attitudes towards the NCRMD defence increases when a serious crime (e.g., second-degree murder) has been committed, but may be more malleable for a lesser crime (e.g., theft).

Different findings emerged when I analyzed the impact of NCRMD education on legal decisions. In Study 2 (but not Study 1), participants who received NCRMD education were significantly less likely to deem the perpetrator guilty than participants in the control condition who received the duress education sheet. In fact, participants in the NCRMD education condition were 30% more likely to provide a NCRMD verdict in comparison to participants who received the duress education sheet when they were asked to provide a final verdict after watching the deliberation video. Although some previous research has shown that positive attitudes towards the NCRMD defence are correlated with an increased likelihood of providing an NCRMD verdict (e.g., Bailis et al., 1995; Lymburner, 1997; Poulson, Braithwaite, Brondino, & Wuench, 1997), the present studies demonstrated a weaker association between attitudes and verdict decisions. A possible explanation for this finding may be due to the type of sample used. Undergraduate students, through coursework and academic activities, spend a lot of time critically analyzing research, interpreting results and generalizing those results outside that research sample (Cook & Campbell, 1979). Thus, undergraduate students are well versed in analytically processing information, looking for evidence that supports or contradicts specific verdicts, rendering them potentially less likely to find evidence that confirm their pre-existing attitudes (Keller & Wiener, 2011). Additionally, the present sample were all taking a psychology course, which may have exposed them to more

positive views of mental health that could have impacted their attitudes and decisions related to mentally ill offenders.

Notably, there was an assumption that if participants were more likely to deem the perpetrator guilty then their ratings on the likelihood of deeming the perpetrator NCRMD would reflect the opposite pattern. This is because in courtrooms, jurors are provided with two verdict options: guilty or NCRMD. However, the present studies suggest this decision may be more complex. As mentioned earlier, participants who received NCRMD education were significantly less likely to deem the perpetrator guilty than participants in the control condition who received the duress education sheet, but there were no significant differences in likelihood of deeming the perpetrator NCRMD. It appears as if participants were willing to consider whether or not convict, but may not have known enough to confidently deem the perpetrator NCRMD. In summary, the current research suggests the decision to deem someone guilty or NCRMD may be more complex and may not parallel the dichotomy that is assumed in courtrooms.

The components of the education sheet provided in the present studies may have also affected the consistency of its impact on participants' attitudes towards the NCRMD defence and legal decisions. In the present studies, participants were asked to read and learn an education sheet in a written format. The NCRMD education sheet included several components, including a) relevant legal definitions, b) the appropriate use of the defence and associated outcomes for those who receive the verdict, c) a comparison of frequency of use between the NCRMD verdict and guilty verdict, and d) a statistic regarding the frequency of homicide index offences that utilize the NCRMD defence. According to some scholars, this would constitute as a traditional educational approach to

reduce bias as participants were provided with factual information about the NCRMD defence (Mann & Himelein, 2008). Corrigan and Penn (1999) identified four variables related to effective educational interventions: a) including personal information about the mentally ill individual, b) directly attacking myths, c) increasing empathy through simulations, and d) including discussion. The present studies' education sheet manipulation emphasized the component of directly attacking myths by presenting factual information to debunk commonly endorsed beliefs that include notions that most NCRMD cases involve serious interpersonal violence, the verdict is used frequently, and those found NCRMD are often released back into the community after a brief period of hospitalization (Baillie, 2015; Maeder, Yamamoto, & Fenwick, 2015; Maeder et al., 2016). In Study 2, the effect of the education sheets emerged potentially because of its combination with the mock jury deliberation videos, which simulated a discussion (incorporating two out of four of Corrigan and Penn's factors for educational interventions).

The present studies found that the mock deliberation videos in Study 2 significantly influenced both participants' attitudes towards the NCRMD defence and verdict decisions. Specifically, participants who viewed the anti-NCRMD videos reported significantly more negative attitudes towards the NCRMD defence and were 7% less likely to provide a NCRMD verdict than participants who viewed the pro-NCRMD or mixed opinions video. The discussion in the videos reiterated much of the information provided in the NCRMD education sheet, which could have served as a form of education in itself. Further, the repetition of the information, which was spaced apart from the initial education sheet, may have facilitated participants' learning and recall of

such material (Ebbinghaus, 1885/1913; Kang, 2016) and directly affected their verdicts and self-reported attitudes towards the NCRMD defence. Why the anti-NCRMD, but not the pro-NCRMD videos, affected participants' attitudes and decisions was also further explored. Findings suggested that participants, in the mixed opinions video condition (which was used as a baseline comparison), indicated that the students, on average, held more neutral attitudes towards the NCRMD defence. Therefore, since most of the sample was already willing to provide a NCRMD verdict, watching a jury deliberation in which mock jurors were pro-NCRMD did not influence their verdicts. The present findings are consistent with past research demonstrating individual verdicts often reflect the jury group's majority finding (e.g., Schmersal, 2011). Findings from Study 2 imply that, despite receiving relevant education for the case at hand, the group context was more influential and led to individual behaviour that was consistent with the group's articulated beliefs (Smith & Terry, 2003).

No evidence of prejudice or discrimination towards outgroup members were observed in the present studies. Previous studies have often used minority populations that fall on the extreme end of social stigma. In a Canadian context, McManus, Maeder and Yamamoto (2018) found that defendant race did not impact Canadian mock juror verdict decisions. In regards to sentencing decisions, however, mock jurors provided harsher sentences when the specific race was mentioned in an article for Black defendants in comparison to reading a general race article that mentioned a "minority" member or an article with no mention of race. The researchers also found that for Indigenous defendants, any mention of race (either specific or general) led mock jurors to provide harsher sentences in comparison to articles with no mention of race (McManus et

al., 2018). Further, an abundance of research from the United States has shown indications that racial discrimination exists at nearly every stage of the criminal justice system for Black (Spohn, 2000) and Hispanic male offenders (e.g., Bushway & Piehl, 2001; Demuth & Steffensmeier, 2004) in comparison to White offenders. Blacks and Hispanics, particularly in North America, are often targets of negative stereotyping, associated with descriptions such as hostile and violent individuals who are likely to engage in crime (Steffensmeier & Demuth, 2001). Asians, although also considered minorities, are often positively stereotyped, receiving labels such as academically and financially successful who typically abide the law (Maddux, Galinsky, Cuddy & Polifroni, 2008). From data gathered by the Bureau of Justice Statistics, Asians have been shown to have been given more leniency during the incarceration decision, but not sentence length, in comparison to Blacks and Hispanics (Franklin & Fearn, 2015). Findings from the present studies (using Canadian mock jurors) would suggest that Asians would also be given leniency in regards to the NCRMD verdict, such that the likelihood of being deemed NCRMD did not differ between Asian and White offenders.

The present studies did find variability in legal decisions offered to ingroup members in comparison to outgroup members. Specifically, participants who received the NCRMD education in Study 1 were more likely to deem the perpetrators guilty if they were members of their ingroup in comparison to their outgroup; this result was marginally significant. A similar result was found in Study 2, in which participants were 4.59 times more likely to provide a guilty verdict to an ingroup member than an outgroup member; this result was significant. Based on past literature, there may be several explanations for this finding. First, individuals often take pride in the racial group they

belong to. Thus, the black sheep effect dictates that ingroup offenders should be given harsher punishments than outgroup offenders because the actions of the ingroup offender threatens the group's positive social identity as a whole (Marques et al., 1988). The present studies described an ingroup or outgroup member committing second-degree murder, one of the most severe offences in the Criminal Code of Canada. Participants may have provided punishments to the ingroup members to psychologically distance themselves in order to maintain a positive social identity. Another potential explanation may exist for the findings. Fehr and Sassenberg (2009) coined the concept of "benevolent discrimination," in which treating outgroup members may (on the surface) be viewed as sympathy or compassion, but actually reflects an underlying belief of inequality, such that outgroup members are treated favourably because they are viewed as subordinate and inept. Thus, in the present studies, participants may have been more inclined to provide a NCRMD verdict to outgroup members because they were seen as inferior and incompetent. This finding could also be indicative of participants exhibiting "patronizing leniency," which can be understood as a form of benevolent discrimination where outgroup members are treated leniently to maintain the positive image of the ingroup (Braun & Gollwitzer; Gollwitzer et al., 2012).

It should be noted that the present research use participants' self-reported ethnicity to determine racial ingroup and outgroup membership. Participants were not explicitly asked whether they categorized the perpetrator in the mock crime as someone from their ingroup or outgroup, which was a limitation of the current studies. There were several categories participants could have used to determine ingroup or outgroup membership, such as gender. For example, an Asian female may view an Asian male as

an outgroup member due to gender, despite having a similar racial background.

Therefore, the findings of the present studies regarding the likelihood of deeming an ingroup or outgroup perpetrator member guilty or NCRMD should be interpreted cautiously.

Although the present studies had a number of strengths, there were also a number of other limitations. First, only an undergraduate sample was used. Some scholars have asserted that since students characterize only a small proportion of the greater community, the results stemming from this population may not be representative of the general population (Caprahe, 2011). For example, Keller and Wiener (2011) found in their study that a significant relationship existed between explicit attitudes and verdicts in a mock sexual assault trial case for community members, but not for students. Further, student mock jurors were significantly less likely to assign a guilty verdict in a homicide case than were community members (Keller & Wiener, 2011). Other differences between student and community members have also been mentioned in past research. Mossiere and Maeder (2015) found that juror-centred characteristics, such as age and prior encounters with people with mental illness, were more influential in community mock juror's decision-making, whereas factors related to the case were more relevant for students' decision-making.

Second, ecological validity was limited in the current research. Specifically, the crime used in the vignette was not a real case. Participants were exposed to less information than they would if they were serving as jurors in a criminal case in the courtroom (e.g., expert witness testimony, etc.). Although intentional with the rationale provided earlier, the mock jury used (with four people) did not resemble a realistic jury

panel (with 12 people) in Study 2, which decreased the realism of the videos. Finally, a true verdict decision is a dichotomous measure (guilty or NCRMD). Continuous measures of likelihood of deeming the perpetrator guilty or NCRMD were used in most of the current studies in an attempt to explore more nuanced differences in how education, ingroup/outgroup, mock deliberation manipulations affected legal decisions. Despite these limitations, the methodology shed light on some potentially novel findings. Indeed, using both continuous and dichotomous variables to measure legal decisions in the present research led to the discovery that guilt and NCRMD are not polar opposite decisions as it is assumed in the courtroom.

Another limitation of the present studies was that the diversity of participant race and ethnicity was also reduced in the present samples. There were only enough participants to explore ingroup and outgroup biases amongst Whites and Asians. However, research has shown that even within these two groups, more nuanced biases have been observed amongst ingroup and outgroup members in regards to ingroup favouritism, ingroup self-anchoring and the outgroup homogeneity effect, particularly between individuals with varying degrees of acculturation to Canadian culture (Rogers & Biesanz, 2014). Indeed, it would be interesting to explore how first- vs. second-generation Asians perceive and derive legal decisions with respect to mentally ill offenders, given that societal stigma towards mental illness is common in most Asian cultures. Having a greater number of participants with diverse racial and cultural backgrounds may have allowed us to uncover novel findings and increase our understanding of racial biases related to the perception of mental illness and use of the NCRMD defence.

Finally, the present study focused on presenting instrumental, but a minimal amount of, facts regarding the NCRMD defence to decrease the cognitive load for the participant. The trade-off, however, was that the education sheet did not include key factors associated with a successful education intervention identified by Corrigan and Penn (1999). Despite these limitations, the gaps identified in the present studies will help inform future studies in this research area.

Future research should strive to use participants who are eligible for jury duty in community samples. Although type of sample (e.g., student vs. community) has been cited to not be very important in mock jury research (Bornstein, 1999), it is important to examine the attitudes and decisions of those who are more likely to be involved in an actual jury. Further, the education provided in the current studies displayed inconsistent effects on participants' attitudes and legal decisions. It is important for future studies to explore the conditions that facilitate learning in a legal context to ensure the feasibility and uptake of imperative judicial information. The present studies also focused on short-term effects of being educated on the NCRMD defence. Future research may consider investigating the long-term effects of receiving legal education on related attitudes and decisions. Finally, the present studies asked participants to watch mock deliberation videos. Differences in individual and group decision-making may be found if participants had the opportunity to engage in an actual deliberation with other mock jury members who had various levels of knowledge about the NCRMD defence. Studying group processes and understanding circumstances that facilitate the transmission of knowledge so that jury members consider all relevant facts is an important area for future research.

The research has a number of implications. Given the abundance of literature

indicating the media's influence on public perceptions, the current research provided us a sense of how rigid attitudes can be and how malleable verdict decisions can be in response to being exposed to other mock jurors' opinions and education. The current studies also shed light on intricate nuances related to ingroup and outgroup biases and how that translated to providing harsher or more lenient verdict decisions to a member of an ingroup or outgroup. Further, a seminal meta-analysis by Bonta and colleagues (1998) found those found not guilty by reason of insanity (or NCRMD in Canadian terms), in comparison to offenders without mental health issues, were less likely to re-engage in criminal behaviour. The present studies allow the field to take one step forward to help defendants who truly struggle from mental illness receive a fair trial and potentially receive the treatment they need to decrease their chances of recidivism. Only by understanding the mechanism behind the opposition towards the NCRMD defence can we see what kinds of approaches do and do not lead to the correction of that negativity.

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## Appendices

### Appendix A – Consent Form (Pilot Study)

#### Perceptions of Criminal Law and Offenders

**Study Team:**

**Principal Investigator:** Paul Davies, Ph.D., Psychology Department, UBC Okanagan, (250) 807-8727, email: [Paul.G.Davies@ubc.ca](mailto:Paul.G.Davies@ubc.ca)

**Co-Investigator:** Marina Le, M.A., Psychology Department, UBC Okanagan, (250) 899-3302, email: [marina.le@ubc.ca](mailto:marina.le@ubc.ca). This study is for Marina Le's doctoral dissertation and, once completed, will be published on cIRcle. That is, it will be publically available on the internet.

**Sponsor:** This study has no funding support.

**Purpose of the Study:** The purpose of the study is to assess perceptions of legal constructs and offenders involved in the criminal justice system.

**Study Procedures:** If you volunteer to participate in this study we would ask you to read an article on a legal topic, view some photos of criminals, and answer some questions about your opinions on legal constructs and your perceptions of race, age, and attractiveness of the photos. We will also ask you to fill out a series of short questionnaires. We will never ask you to reveal any information, however, that could be used to connect your identity with your responses on the questionnaires. You will also be asked to fill out a few questions about yourself (e.g., age, gender, etc.). The entire task should take you approximately 30 minutes and will only require this one visit.

**Potential Risks and Discomforts:** There are no foreseeable risks or discomforts with this task, but if at any time you feel uncomfortable while performing this task you are free to end this study. You may withdraw from this study at any time if you no longer wish to participate without any penalty to your course standing.

**Potential Benefits to Subjects and/or to Society:** A potential benefit to participating in this research is that participants will gain an understanding of the research process, and will be able to directly experience how data are collected for psychological research. Further, participants will enjoy the satisfaction of knowing that they helped contribute to the current literature within forensic psychology. At the end of the study you will be provided with a debriefing form including the researchers' contact information so that you can find the results of this study in the future, if you are interested.

**Alternatives to Participation:** The alternatives to participating in this research study are to write a paper or participate in another research study that offers course credit.

**Remuneration/Compensation:** Upon completion of this study, you will earn credit points for a course that offers psychology SONA course credit (0.5). If you are in more than one class, you can specify which class you would like to add points to online at <http://ubco.sona-systems.com>. It is important to note that credit will only be awarded to those students who are registered in a psychology course that offers research credit.

**Confidentiality:** This online survey company is hosted by Qualtrics, an easy-to-use, top-tier survey tool platform that offers a wide range of features. It complies with the BC Freedom of Information and Protection of Privacy Act (FIPPA) because the survey data is kept secure and is stored and backed up in Canada.

All information collected from this study will be kept confidential. All data will be identified only by code number and kept on password-protected and encrypted computers for a minimum of five years following publication, as required by the University, before being destroyed. You will not be identified by name in any reports of the completed study.

**Contact for Information about the Study:** If you have any questions or desire further information with respect to this study, you may contact Dr. Paul G. Davies (by email: [paul.g.davies@ubc.ca](mailto:paul.g.davies@ubc.ca)) or Marina Le (by email: [marina.le@ubc.ca](mailto:marina.le@ubc.ca)).

**Contact for Concerns about the Rights of Research Subjects:** If you have any concerns about your treatment or rights as a research subject, you may contact the Research Subject Information Line in the UBC Office of Research Services at 1-877-822-8598 or the UBC Okanagan Research Services Office at 250-807-8832. Please reference the study number H18-00106 when contacting the Complaint Line so the staff can better assist you.

**Consent:** Your participation in this study is entirely voluntary and you may refuse to participate or withdraw from the study at any time without jeopardy to your class standing. If you would like to withdraw your data from analysis after completion of the online questionnaire, please contact one of the researchers with your participant ID number (for identification purposes) via email to do so.

By clicking **Yes**, you are indicating that ‘I understand the procedures described above. My questions have been answered to my satisfaction, and I agree to participate in this study.’

Yes

No

## **Appendix B – Control Condition Education (Pilot Study)**

### Duress

The Canadian Criminal Justice System attempts to keep order and protect innocent Canadian citizens by punishing individuals who break the law.

There are incidents when individuals commit a crime but do not have criminal intent. Individuals may commit an offence when under extreme pressure. The Criminal Code attempts to accommodate those who commit crimes due to threats or difficult circumstances. One defence is known as duress.

Duress is partially outlined in section 17 of the Criminal Code of Canada as, “A person who commits an offence under compulsion by threats of immediate death or bodily harm from a person who is present when the offence is committed is excused, if he believes that the threats will be carried out and if the person is not a party to a conspiracy or association whereby the person is subject to compulsion.”

This section does not apply where the offence that is committed is high treason, murder, piracy, attempted murder, sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm, aggravated sexual assault, forcible abduction, hostage taking, robbery, assault with a weapon or causing bodily harm, aggravated assault, unlawfully causing bodily harm, arson or an offence under 280 to 283 (abduction and detention of young persons).

Therefore, an individual is said to act under duress if:

1. If an individual threatened to cause serious bodily harm or to kill the person(s) in question unless a specific act was committed; and
2. If the person (s) in question believed that this threat would be carried out; and
3. If the person (s) in question did not have a safe way to avoid the harm threatened; and
4. If the individual's threat caused the person(s) in question to commit the specified act.

## **Appendix C – NCRMD Education (Pilot Study)**

### Not Criminally Responsible on account of Mental Disorder

Mental disorder is defined in the Canadian Criminal Code as a disease of the mind.

People are found NCRMD if they committed a criminal offence while suffering from a mental disorder that caused them to be incapable of knowing that the offence was wrong (*mens rea*) or that prevented them from controlling their behaviour (*actus reus*).

A verdict of NCRMD is not the same as a finding of guilt or a conviction.

Rather, the verdict means that the court has ruled that the individual was not criminally responsible for his or her actions at the time the offence was committed.

What happens after someone receives a NCRMD verdict? There are three potential outcomes:

1. Absolute discharge: the individual is released from further involvement with the system for the specific offence that led to the NCRMD verdict;
2. Conditional discharge: the individual is supervised in the community through the imposition of restrictions on his or her liberty (e.g., abstain from illegal drugs); or
3. Detention in custody in a hospital: the individual is under 24-hour supervision in a hospital where treatment is available to address his or her mental health issues.

A review board meets every year in order to review the individual's case and can impose any of these three dispositions.

In stark contrast to the manner in which people with mental illness are often portrayed in the media, homicides and attempted murder account for less than 1 in 10 NCRMD index offences across provinces. Additionally, the number of individuals found not criminally responsible was less than 1% in 2006/2007.

**Appendix D – Manipulation Check Questions (Pilot Study)**

**INSTRUCTIONS: You will now be asked to answer a number of questions about what you have read in newsletter.**

A verdict of NCRMD is not the same as which finding?

- Not guilty
- Not criminally responsible
- Guilty

Which of the following dispositions is available in NCRMD cases?

- 10 years in prison
  - Life imprisonment
  - Conditional discharge
- 

In duress, individuals did not:

- Have actus reus
- Have criminal intent
- Commit a criminal act

An individual may use duress as a defence in what circumstance?

- Compulsion by threats
- Self-defence
- Ignorance of the law

**Appendix E – White and Asian Male Survey Questions (Pilot Study)**

**INSTRUCTIONS: You will now be shown a number of photos and be asked a number of questions about your opinion of the person in the photo.**

1. Is this person:
  - Asian
  - White
  
2. How racially stereotypical does this person look?
  - 1 – not at all stereotypically [race]
  - 2
  - 3
  - 4 – neutral
  - 5
  - 6
  - 7 – very stereotypically [race]
  
3. How physically attractive is the person in the photo?
  - 1 – not at all attractive
  - 2
  - 3
  - 4 – neutral
  - 5
  - 6
  - 7 – very attractive
  
4. How old do you think the person in the photo is?

---

*(These questions were shown after each photo.)*

### Appendix F – Demographic Questions (all studies)

1. Age: \_\_\_\_\_ years old
2. Gender:
  - Male
  - Female
  - Other
3. Education (number of years including high school): \_\_\_\_\_
  - Number of psychology courses taken: \_\_\_\_\_
4. Employment: \_\_\_\_\_; would you categorize occupation as:
  - Homemaker
  - Professional/technical
  - Salesperson
  - Manager
  - Clerical/secretarial
  - Craftsperson/labourer
  - Service worker
  - Teacher
  - Student
  - Self-employed/small business
  - Not working now/unemployed
  - Retired
5. Race/Ethnicity (please check one)
  - White
  - Latino/Latina
  - Asian
  - Black
  - First Nations
  - Other \_\_\_\_\_
6. Were you parents born in Canada?
  - Yes
  - No
7. Were you born in Canada?
  - Yes
  - No
    - Where were you born? \_\_\_\_\_
    - How long have you lived in Canada? \_\_\_\_\_ years
8. Have you ever served on a jury?
  - No
  - Yes

- Criminal
- Civil

9. Political Affiliation
- BC Conservative Party
  - BC Liberal Party
  - BC Marijuana Party
  - BC New Democratic Party
  - BC Reform Party
  - Green Party of BC
  - Unity Party of BC
  - None

How strongly do you identify with your political values?

1	2	3	4	5	6	7
Not strongly at all			Neutral			Very strongly

10. What is your religion? \_\_\_\_\_
- Christianity
  - Islam
  - Catholicism
  - Hinduism
  - Agnosticism
  - Buddhism
  - Atheism
  - Anglianism
  - Sikhism
  - Judaism
  - Other: \_\_\_\_\_

How religious do you consider yourself?

1	2	3	4	5	6	7
Not religious at all			Neutral			Very religious

11. Do you personally know someone who is mentally ill?
- Yes
  - No
12. Do you know personally know someone who has been charged with a crime?
- Yes
  - No

## Appendix G – Debriefing Form (Pilot Study)

### Perceptions of Criminal Law and Offenders

You have just participated in a study assessing perceptions of legal constructs and offenders involved in the criminal justice system. We are primarily interested in the influence of education about the Not Criminally Responsible on account of Mental Disorder (NCRMD) defence on perceptions of offenders with mental illness. We believe that perceptions of the NCRMD defence and the likelihood of applying this verdict can change when individuals are exposed to education. The manipulation was the type of education provided, half the sample received education on the NCRMD defence and the other half received education on the duress defence. The general hypothesis for our study is that those individuals exposed to the NCRMD education will exhibit more positive attitudes towards the NCRMD defence, and those that read the duress education sheet will have more negative attitudes towards the NCRMD defence. The secondary goal of the present study was to find White and Asian male offenders matched in physical attractiveness, age, and race stereotypicality (or how stereotypical the person looks in relation to his respective race). We hope to use these photos in a future research looking at the influence of perpetrator race on courtroom decision-making.

We would greatly appreciate you not sharing the details of this study with other students in case those students elect to participate in our study. The knowledge that we have shared with you could impact how participants respond to the study materials when taking part in the study.

At this point, we would like to thank you very much for participating in the present study. Should you wish to find out more about the results of this study, or have additional questions concerning your participation in this study, feel free to contact:

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## **Appendix H – Consent Form (Study 1)**

### **Perceptions of Mental Illness and Criminality**

#### **Perceptions of Criminal Law and Offenders**

##### **Study Team:**

**Principal Investigator:** Paul Davies, Ph.D., Psychology Department, UBC Okanagan, (250) 807-8727, email: [Paul.G.Davies@ubc.ca](mailto:Paul.G.Davies@ubc.ca)

**Co-Investigator:** Marina Le, M.A., Psychology Department, UBC Okanagan, (250) 899-3302, email: [marina.le@ubc.ca](mailto:marina.le@ubc.ca). This study is for Marina Le's doctoral dissertation and, once completed, will be published on cIRcle. That is, it will be publically available on the internet.

**Sponsor:** This study has no funding support.

**Purpose of the Study:** The purpose of the study is to assess perceptions of legal constructs and offenders involved in the criminal justice system.

**Study Procedures:** If you volunteer to participate in this study we would ask you to read an article on a legal topic and a newsletter about a crime. You would also be asked to answer some questions about your opinions on legal constructs and verdict decision on the crime. We will also ask you to fill out a series of short questionnaires. We will never ask you to reveal any information, however, that could be used to connect your identity with your responses on the questionnaires. You will also be asked to fill out a few questions about yourself (e.g., age, gender, etc.). The entire task should take you approximately 1 hour.

**Potential Risks and Discomforts:** There are no foreseeable risks or discomforts with this task, but if at any time you feel uncomfortable while performing this task you are free to end this study. You may withdraw from this study at any time if you no longer wish to participate without any penalty to your course standing.

**Potential Benefits to Subjects and/or to Society:** A potential benefit to participating in this research is that participants will gain an understanding of the research process, and will be able to directly experience how data are collected for psychological research. Further, participants will enjoy the satisfaction of knowing that they helped contribute to the current literature within forensic psychology. At the end of the study you will be provided with a debriefing form including the researchers' contact information so that you can find the results of this study in the future, if you are interested.

**Alternatives to Participation:** The alternatives to participating in this research study are to write a paper or participate in another research study that offers course credit.

**Remuneration/Compensation:** Upon completion of this study, you will earn credit points for an introductory psychology course that offers SONA course credit (1). If you are in more than one class, you can specify which class you would like to add points to online at <http://ubco.sona-systems.com>. It is important to note that credit will only be awarded to those students who are registered in PSYO 111 or 121 that offers research credit.

**Confidentiality:** This online survey company is hosted by Qualtrics, an easy-to-use, top-tier survey tool platform that offers a wide range of features. It complies with the BC Freedom of Information and Protection of Privacy Act (FIPPA) because the survey data is kept secure and is stored and backed up in Canada.

All information collected from this study will be kept confidential. All data will be identified only by code number and kept on password-protected and encrypted computers for a minimum of five years following publication, as required by the University, before being destroyed. You will not be identified by name in any reports of the completed study.

**Contact for Information about the Study:** If you have any questions or desire further information with respect to this study, you may contact Dr. Paul G. Davies (by email: [paul.g.davies@ubc.ca](mailto:paul.g.davies@ubc.ca)) or Marina Le (by email: [marina.le@ubc.ca](mailto:marina.le@ubc.ca)).

**Contact for Concerns about the Rights of Research Subjects:** If you have any concerns about your treatment or rights as a research subject, you may contact the Research Subject Information Line in the UBC Office of Research Services at 1-877-822-8598 or the UBC Okanagan Research Services Office at 250-807-8832. Please reference the study number H18-00106 when contacting the Complaint Line so the staff can better assist you.

**Consent:** Your participation in this study is entirely voluntary and you may refuse to participate or withdraw from the study at any time without jeopardy to your class standing. If you would like to withdraw your data from analysis after completion of the online questionnaire, please contact one of the researchers with your participant ID number (for identification purposes) via email to do so.

By clicking **Yes**, you are indicating that ‘I understand the procedures described above. My questions have been answered to my satisfaction, and I agree to participate in this study.’

Yes

No

## **Appendix I –Vignette with White Perpetrator (Study 1 & 2)**

### The Crime

Winston Anderson pleading not criminally responsible on account of mental disorder to second-degree murder.

On Friday, December 11, 2016 at approximately 10:30pm, Winston Anderson entered a local 7-11 convenience store. When Winston Anderson entered the store, the cashier, Blake Jones, was opening inventory boxes of cigarettes with a packing knife.

Anderson was noticed browsing the aisles by several other customers because of his 'jittery' behaviour and obvious efforts to stay out of the view of the prominently displayed surveillance cameras. After he had selected several items from the shelves, he approached the cashier to pay. The cashier, Blake Jones, stopped opening cigarette boxes, put his packing knife down on the counter, and began ringing up Anderson's purchase.

Jones informed Anderson of the total cost. The cameras show Anderson reaching in his pocket and beginning to pull out his wallet. Then for no apparent reason, Anderson yelled out "NO!" picked up the packing knife from the counter, and stabbed Jones' neck, hitting his carotid artery.

As Jones fell to the ground, the tapes show Anderson looking over the counter at the victim, who was rapidly losing blood. He dropped the knife on the countertop, slowly sat on the floor, and began rocking back and forth. He continued in this manner until the police arrived. Blake Jones died of severe blood loss.

When police arrived at the scene, Anderson was observed seated on the floor, his knees pulled up to his chest, slowly rocking back and forth. He appeared dazed by the sudden police presence and was not immediately responsive to officers' orders for him to

lie down on the floor. He was handcuffed, placed into a police car, and taken to central booking.

Once at the police station, he was photographed and fingerprinted. Police noted that when the flash on the camera went off he began looking around the room nervously. He was jerking his upper body back and forth, as if trying to avoid something. When asked about this, he responded, “Laser beams... can’t you see them?... beam... dream... team... cream...” and began laughing.

Records state that Winston Anderson suffers from a mental illness known as paranoid schizophrenia. Since his arrest, he has been placed on an anti-psychotic medication.



Stock photo, used for illustrative purposes, posed by model, and purchased from iStock.com under a [standard license](#).

© iStock.com/SensorSpot

## **Appendix J - Vignette with Asian perpetrator (Study 1 & 2)**

### The Crime

Winston Lee pleading not criminally responsible on account of mental disorder to second-degree murder.

On Friday, December 11, 2016 at approximately 10:30pm, Winston Lee entered a local 7-11 convenience store. When Winston Lee entered the store, the cashier, Blake Jones, was opening inventory boxes of cigarettes with a packing knife.

Lee was noticed browsing the aisles by several other customers because of his 'jittery' behaviour and obvious efforts to stay out of the view of the prominently displayed surveillance cameras. After he had selected several items from the shelves, he approached the cashier to pay. The cashier, Blake Jones, stopped opening cigarette boxes, put his packing knife down on the counter, and began ringing up Lee's purchase.

Jones informed Lee of the total cost. The cameras show Lee reaching in his pocket and beginning to pull out his wallet. Then for no apparent reason, Lee yelled out "NO!" picked up the packing knife from the counter, and stabbed Jones' neck, hitting his carotid artery.

As Jones fell to the ground, the tapes show Lee looking over the counter at the victim, who was rapidly losing blood. He dropped the knife on the countertop, slowly sat on the floor, and began rocking back and forth. He continued in this manner until the police arrived. Blake Jones died of severe blood loss.

When police arrived at the scene, Lee was observed seated on the floor, his knees pulled up to his chest, slowly rocking back and forth. He appeared dazed by the sudden police presence and was not immediately responsive to officers' orders for him to lie

down on the floor. He was handcuffed, placed into a police car, and taken to central booking.

Once at the police station, he was photographed and fingerprinted. Police noted that when the flash on the camera went off he began looking around the room nervously. He was jerking his upper body back and forth, as if trying to avoid something. When asked about this, he responded, “Laser beams... can’t you see them?... beam... dream... team... cream...” and began laughing.

Records state that Winston Lee suffers from a mental illness known as paranoid schizophrenia. Since his arrest, he has been placed on an anti-psychotic medication.



Stock photo, used for illustrative purposes, posed by model, and purchased from iStock.com under a [standard license](#).

© iStock.com/SensorSpot

### Appendix K – Juror Questionnaire (Study 1 & 2)

**INSTRUCTIONS: You will now be asked to answer a number of questions about what you have read in newsletter.**

1. If it was your responsibility to provide a verdict decision, how likely would you find Winston Anderson:

(a) Guilty of 2<sup>nd</sup> degree murder?

1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_ 6 \_\_\_\_\_ 7 \_\_\_\_\_  
Not at all \_\_\_\_\_ Completely

(b) If so, how many years would you be comfortable sentencing Winston Anderson to prison? \_\_\_\_\_

2. If it was your responsibility to provide a verdict decision, how likely would you find Winston Anderson:

(a) Not Criminally Responsible on account of Mental Disorder?

1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_ 6 \_\_\_\_\_ 7 \_\_\_\_\_  
Not at all \_\_\_\_\_ Completely

(b) What (if any) disposition do you believe the defendant deserves? (pick only one)

- Detention in hospital
- Conditional discharge
- Absolute discharge

If you selected **detention in hospital**, please enter a number of years: \_\_\_\_\_

If you selected **conditional discharge**, what condition(s) would you place on the individual?

- Live in a particular location
- Mandated medication/treatment
- Attend assessment for treatment/counselling
- Banned from a particular location
- Other: \_\_\_\_\_

3. Please explain why you chose the verdicts that you indicated above:

## Appendix L – Manipulation Check Questions (Study 1)

**INSTRUCTIONS: You will now be asked to answer a number of questions about what you have read in newsletter.**

A verdict of NCRMD is not the same as which finding?

- Not guilty
- Not criminally responsible
- Guilty

Which of the following dispositions is available in NCRMD cases?

- 10 years in prison
  - Life imprisonment
  - Conditional discharge
- 

In duress, individuals did not:

- Have actus reus
- Have criminal intent
- Commit a criminal act

An individual may use duress as a defence in what circumstance?

- Compulsion by threats
- Self-defence
- Ignorance of the law

**INSTRUCTIONS: You will now be asked to answer a number of questions about what you have read in the vignette.**

What was Winston charged with?

- First degree murder
- Second degree murder
- Manslaughter
- Assault with a deadly weapon

What mental illness does Winston have?

- No mental illness
- Depression
- Schizophrenia
- Bipolar disorder
- Substance use disorder

What race was the perpetrator?

- White
- Asian
- Aboriginal
- Photo of perpetrator was not shown

## Appendix M – Debriefing Form (Study 1)

### Debriefing Form (Study 1)

#### Perceptions of Criminal Law and Offenders

You have just participated in a study assessing perceptions of legal constructs and offenders involved in the criminal justice system. We are primarily interested in the influence of education about the Not Criminally Responsible on account of Mental Disorder (NCRMD) defence on perceptions of offenders with mental illness. We believe that perceptions of the NCRMD defence and the likelihood of applying this verdict can change when individuals are exposed to education. The manipulation was the type of education provided, half the sample received education on the NCRMD defence and the other half received education on the duress defence. The general hypothesis for our study is that those individuals exposed to the NCRMD education will exhibit more positive attitudes towards the NCRMD defence, and those that read the duress education sheet will have more negative attitudes towards the NCRMD defence. We also hypothesize that participants exposed to the Asian perpetrator will have more negative attitudes towards the NCRMD defence and provide harsher verdicts in comparison to participants who were exposed to the White or unidentified perpetrator.

We would greatly appreciate you not sharing the details of this study with other students in case those students elect to participate in our study. The knowledge that we have shared with you could impact how participants respond to the study materials when taking part in the study.

At this point, we would like to thank you very much for participating in the present study. Should you wish to find out more about the results of this study, or have additional questions concerning your participation in this study, feel free to contact:

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## Appendix N – Consent Form (Study 2)

### Perceptions of Criminal Law and Offenders

#### Study Team:

**Principal Investigator:** Paul Davies, Ph.D., Psychology Department, UBC Okanagan, (250) 807-8727, email: [Paul.G.Davies@ubc.ca](mailto:Paul.G.Davies@ubc.ca)

**Co-Investigator:** Marina Le, M.A., Psychology Department, UBC Okanagan, (250) 899-3302, email: [marina.le@ubc.ca](mailto:marina.le@ubc.ca). This study is for Marina Le's doctoral dissertation and, once completed, will be published on cIRcle. That is, it will be publically available on the internet.

**Sponsor:** This study has no funding support.

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**Study Procedures:** If you volunteer to participate in this study we would ask you to read an article on a legal topic and a newsletter about a crime as well as watch a short video. You would also be asked to answer some questions about your opinions on legal constructs and verdict decision on the crime. We will also ask you to fill out a series of short questionnaires. We will never ask you to reveal any information, however, that could be used to connect your identity with your responses on the questionnaires. You will also be asked to fill out a few questions about yourself (e.g., age, gender, etc.). The entire task should take you approximately 1 hour.

**Potential Risks and Discomforts:** There are no foreseeable risks or discomforts with this task, but if at any time you feel uncomfortable while performing this task you are free to end this study. You may withdraw from this study at any time if you no longer wish to participate without any penalty to your course standing.

**Potential Benefits to Subjects and/or to Society:** A potential benefit to participating in this research is that participants will gain an understanding of the research process, and will be able to directly experience how data are collected for psychological research. Further, participants will enjoy the satisfaction of knowing that they helped contribute to the current literature within forensic psychology. At the end of the study you will be provided with a debriefing form including the researchers' contact information so that you can find the results of this study in the future, if you are interested.

**Alternatives to Participation:** The alternatives to participating in this research study are to write a paper or participate in another research study that offers course credit.

**Remuneration/Compensation:** Upon completion of this study, you will earn credit points for an introductory psychology course that offers SONA course credit (1). If you are in more than one class, you can specify which class you would like to add points to online at <http://ubco.sona-systems.com>. It is important to note that credit will only be awarded to those students who are registered in PSYO 111 or 121 that offers research credit.

**Confidentiality:** This online survey company is hosted by Qualtrics, an easy-to-use, top-tier survey tool platform that offers a wide range of features. It complies with the BC Freedom of Information and Protection of Privacy Act (FIPPA) because the survey data is kept secure and is stored and backed up in Canada.

All information collected from this study will be kept confidential. All data will be identified only by code number and kept on password-protected and encrypted computers for a minimum of five years following publication, as required by the University, before being destroyed. You will not be identified by name in any reports of the completed study.

**Contact for Information about the Study:** If you have any questions or desire further information with respect to this study, you may contact Dr. Paul G. Davies (by email: [paul.g.davies@ubc.ca](mailto:paul.g.davies@ubc.ca)) or Marina Le (by email: [marina.le@ubc.ca](mailto:marina.le@ubc.ca)).

**Contact for Concerns about the Rights of Research Subjects:** If you have any concerns about your treatment or rights as a research subject, you may contact the Research Subject Information Line in the UBC Office of Research Services at 1-877-822-8598 or the UBC Okanagan Research Services Office at 250-807-8832. Please reference the study number H18-02854 when contacting the Complaint Line so the staff can better assist you.

**Consent:** Your participation in this study is entirely voluntary and you may refuse to participate or withdraw from the study at any time without jeopardy to your class standing. If you would like to withdraw your data from analysis after completion of the online questionnaire, please contact one of the researchers with your participant ID number (for identification purposes) via email to do so.

By clicking **Yes**, you are indicating that ‘I understand the procedures described above. My questions have been answered to my satisfaction, and I agree to participate in this study.’

Yes

## Appendix O – Video Transcripts (Study 2)

### Jury Instructions (from off camera judge)

Winston Anderson has raised the issue of mental disorder. Winston Anderson must prove that it is more likely than not that he is exempt from criminal responsibility due to mental disorder at the time the offence was committed.

To decide whether Winston Anderson is exempt from criminal responsibility by reason of mental disorder, ask yourselves the following questions:

1. Is it more likely than not that Winston Anderson was suffering from a mental disorder at the time of the act?
2. Is it more likely than not that Winston Anderson's mental disorder made him/her incapable at the time either of (a) appreciating the nature and quality of the act or (b) knowing the act was wrong?

I will now review each of these questions with you.

First – is it more likely than not that Winston Anderson was suffering from a mental disorder at the time he committed the act (or omission)?

A mental disorder is a disease of the mind. A disease of the mind is any illness, disorder, or abnormal condition that impairs the human mind and its functioning. A disease of the mind does not include a self-induced state caused by alcohol or drugs, or transitory mental states, such as hysteria or concussion.

This is the legal definition of disease of the mind and it is the definition you must apply. I tell you as a matter of law that paranoid schizophrenia is a disease of the mind. It is for you to decide whether it is more likely than not that Winston Anderson was suffering from paranoid schizophrenia at the time of the act.

If your answer to this question is yes, go on to the next question. If your answer is no, then Winston Anderson is not exempt from criminal responsibility due to mental disorder.

Second – Is it more likely than not that Winston Anderson's mental disorder made him incapable at the time either of (a) appreciating the nature and quality of the act or (b) knowing the act was wrong?

A person does not appreciate the nature and quality of an act if he or she does not know what he or she is doing, or does not foresee and understand the consequences of his act. The consequences refer only to the physical consequences, not the legal consequences.

Next, ask yourselves whether the mental disorder deprived Winston Anderson of the capacity to decide rationally whether the act was wrong and, therefore, to make a rational choice about whether to do it.

“Wrong” means morally wrong, judged by the everyday standard of the ordinary person. It does not mean legally wrong, and it does not mean wrong according to Winston Anderson’s own personal moral beliefs.

To reach the special verdict of not criminally responsible, it is not necessary that you find that Winston Anderson was incapable by reason of mental disorder of both appreciating the nature and quality of his act and knowing that the act (or omission) was wrong. As long as each of you find that his mental disorder made him incapable of either one or the other, you do not have to agree on which one.

Ask yourselves whether it is more likely than not that Winston Anderson’s mental disorder at the time made him incapable either of (a) appreciating the nature and quality of the act or (b) incapable of knowing the act was wrong.

If the answer to this question is yes, then you must find Winston Anderson not criminally responsible by reason of mental disorder.

### Mixed Transcript

[Jury Instructions from Judge]

[Foreman]: Let us take an initial vote, please write down whether you find Winston Anderson guilty of second degree murder or not criminally responsible on account of mental disorder. *{all jurors: writes on paper}*. 2 of you thinks Winston Anderson should be found guilty and the other 2 thinks he should be found NCRMD. Lets discuss our rationale.

[Pro-P]: Winston Anderson's "jittery" behaviour seemed weird. His was speaking gibberish. What was he saying? "laser beams, team, cream?" He seems kind of crazy.

[Anti-P]: He didn't seem crazy, he seemed like he was gonna steal something. He was clearly trying to stay hidden from the security cameras and wasn't listening to police orders. Nothing crazy about a criminal.

[Pro-P]: Well... if he was going to steal something, why would he go up to the cashier in the first place? Based on the criteria they gave us, it sure seems like he has paranoid schizophrenia. He was hallucinating because he was jerking his body back and forth trying to avoid something and he was mumbling. It is clear that he wasn't all there at the time of the offence.

[Anti-P]: I'm not saying he doesn't have a "history" *{air quote}* of mental illness, but whose to say that he wasn't just some junkie high on meth or acid? Surely being high would also impair his judgment and make him not listen to the cops.

[Pro-P]: That's possible... but drugs weren't mentioned in the case. Clearly this guy didn't know what was going on. I don't think he was in a clear state of mind to know that stabbing Blake Jones was wrong. If he knew his actions were wrong, he probably wouldn't have stayed at the crime scene, sitting on the floor, rocking back and forth.

[Anti-P]: It is weird that he stayed at the crime scene, but that could have been due to immense guilt for stabbing Blake. Eeevery person knows that taking a life is morally wrong. That is just common knowledge. What he did was wrong, by any person's definition, and there should be consequences.

[Pro-P]: If this guy has schizophrenia, he needs help not punishment. There will be severe consequences for Winston if he does not get the treatment he needs. His condition could get worse. If he goes to prison, they probably wont give him the help he needs and just leave him in his cell with other... violent... offenders.

[Anti-P]: All my friends go to that 7-11, I don't care about Winston, I care about my peoples. If he doesn't go to prison, he could be let free and could hurt someone else.

*[Pro-P]*: Actually, \*holds up education sheet\* “research has shown that individuals deemed NCRMD are two times less likely to reoffend than general offender populations”. If he gets help, he’ll get better and wont hurt anyone anymore.

*[Anti-P]*: Is that really a risk we should take? I’ve read that risk assessments use past behaviour when considering how likely he is to do the same thing in the future. So, if he took a life once, there’s potential that he could do it again. There’s good reason to not release him into the community.

*[Pro-P]*: A verdict of NCRMD does not necessarily mean that he would be let free. There is a chance that he could be given an absolute discharge, or be released. But there are also the two other options. He could be conditionally discharged, so he would be supervised in the community, or detained in a psych ward, where he’s under 24-hour supervision.

*[Anti-P]*: Yah, that’s all well and good if he ACTUALLY goes along with his treatment. There is always a chance a that he could not listen, stop taking his medication, and then he gets worse and then he hurts somebody again.

*[Jury foreman]*: Let us take a final vote. please write down whether you find Winston Anderson guilty of second degree murder or not criminally responsible on account of mental disorder. *{all jurors: writes on paper}*. Half of us thinks Winston Anderson should be found guilty and the other half thinks he should be found NCRMD. We will take a break and continue discussion until we reach a unanimous decision.

## PRO-NCRMD Transcript

*[Jury Instructions from Judge]*

*[Jury foreman]:* Let us take an initial vote, please write down whether you find Winston Anderson guilty or not criminally responsible on account of mental disorder. *{all jurors: writes on paper}*. We have a unanimous vote, all of us think Winston Anderson should be found NCRMD. Lets discuss our rationale.

*[Pro-P 1]:* Winston Anderson's "jittery" behaviour seemed weird. His was speaking gibberish. What was he saying? "laser beams, team, cream?" He seems kind of crazy.

*[Pro-P 2]:* I completely agree. He also seemed a bit paranoid by avoiding the cameras and super out of it when the police showed up. It seems like has some sort of mental illness.

*[Pro-P 1]:* Based on the criteria they gave us, it sure sounds like he has paranoid schizophrenia. He was hallucinating because he was jerking his body back and forth trying to avoid something and he was mumbling. It is clear that he wasn't all there at the time of the offence.

*[Pro-P 2]:* Yeah... he also had some strange responses to people who interacted with him. For example, yelling NO when Jones told him the total cost and going on a tangent when the cops asked him about his jerking movements. He was clearly out of touch with reality and I question whether he knew what he was doing. But what if it was something else? Could he have been high on drugs like acid?

*[Pro-P 1]:* That's possible... but drugs weren't mentioned in the case. Clearly this guy didn't know what was going on. I don't think he was in a clear state of mind to know that stabbing Blake Jones was wrong. If he knew his actions were wrong, he probably wouldn't have stayed at the crime scene, sitting on the floor, rocking back and forth.

*[Pro-P 2]:* True. I'm pretty sure most "normal" people would run if they just stabbed someone or at least be shocked that they just took a life and move away from the body. He's been diagnosed with schizophrenia before, so that's probably what it is. Since being in custody, he's been put on medication. I think he definitely needs to continue treatment.

*[Pro-P 1]:* Agreed, if this guy has schizophrenia, he needs help not punishment. There will be severe consequences for Winston if he does not get the treatment he needs. His condition could get worse. If he goes to prison, they probably wont give him the help he needs and just leave him in his cell with other... violent... offenders.

*[Pro-P 2]:* I think it's best for everyone and Winston Anderson if he gets treatment. That way he can get better and it would be safer for everyone when he re-enters into the community. Though I know there's a lot of people who think mentally ill can never get better and will always be dangerous.

*[Pro-P 1]:* which is unfortunate because \*holds up education sheet\* “research has shown that individuals deemed NCRMD are two times less likely to reoffend than general offender populations”. If he gets help, he’ll get better and won’t hurt anyone anymore.

*[Pro-P 2]:* I don’t doubt the research and am completely on board with you there. I just know a lot of people have the perception that once Winston Anderson gets deemed NCRMD, that he would be just be let free to roam around in people’s neighbourhoods. However, I know it’s not that simple. There’s three potential dispositions for someone who gets NCRMD isn’t there?

*[Pro-P 1]:* Definitely, A verdict of NCRMD does not necessarily mean that he would be let free. There is a chance that he could be given an absolute discharge, or be released. But there are also the two other options. He could be conditionally discharged, so he would be supervised in the community, or detained in a psych ward, where he’s under 24-hour supervision.

*[Pro-P 2]:* And, there are qualified individuals that would make the right decision for Winston Anderson. Remember that thing about the Review Board?

*[Jury foreman]:* Let us take a final vote, please write down whether you find Winston Anderson guilty or not criminally responsible on account of mental disorder. *{all jurors: writes on paper}*. Again, we have a unanimous vote, all of us think Winston Anderson should be found NCRMD. It looks like we have reached a unanimous decision.

## ANTI-NCRM Transcript

*[Jury Instructions from Judge]*

*[Jury foreman]:* Let us take an initial vote, please write down whether you find Winston Anderson guilty or not criminally responsible on account of mental disorder. *{all jurors: writes on paper}*. We have a unanimous vote, all jury members think Winston Anderson should be found guilty. Lets discuss our rationale.

*[Anti-P 1]:* He didn't seem crazy, he seemed like he was gonna steal something. He was clearly trying to stay hidden from the security cameras and wasn't listening to police orders. Nothing crazy about a criminal.

*[Anti-P 2]:* I agree, it seems like he was hiding himself from the security cameras. Also, not listening to the police and spouting off gibberish when the cops asked him a question makes him seem more defiant than crazy.

*[Anti-P 1]:* Same here. Im not saying he doesn't have a "history" {air quote} of mental illness, but whose to say that he wasn't just some junkie high on meth or acid? Surely being high would also impair his judgment and make him not listen to the cops.

*[Anti-P 2]:* Being high would definitely account for all the things he did and said. But, drugs weren't mentioned in the case. Regardless of what was going through his mind, I think he knew what he was doing. Also, he could've chose to stab anywhere else, but chose the clerk's neck. He probably had a plan for why he chose to stay at the crime scene too.

*[Anti-P 1]:* It is weird that he stayed at the crime scene, but that could have been due to immense guilt for stabbing Blake. Eeevery person knows that taking a life is morally wrong. That is just common knowledge. What he did was wrong, by any person's definition, and there should be consequences.

*[Anti-P 2]:* Definitely, I think it'd be safer for everyone if Winston were locked up. It's only fair, he took someone else's life. They have psychiatrists and psychologists in prison so if he really does have paranoid schizophrenia, they can deal with it in there.

*[Anti-P 1]:* Yes, and I doubt Winston would even get better with their help. If he doesn't go to prison, he could be let free and could hurt someone else.

*[Anti-P 2]:* We don't want that to happen... what did the research say about how likely offenders will recommit crime?

*[Anti-P 1]:* I've read that risk assessments use past behaviour when considering how likely he is to do the same thing in the future. So, if he took a life once, there's potential that he could do it again. There's good reason to not release him into the community or give him an absolute discharge as they call it.

*[Anti-P 2]:* An absolute discharge would definitely not be okay. Giving Winston any of the other dispositions for NCRMD, such as giving him conditions in the community, or sending him to a psychiatric hospital just seems like we're letting him off too easy.

*[Anti-P 1]:* Yah, even if he does go to a psychiatric hospital, there is always a chance a that he could not listen, stop taking his medication, and then he gets worse and then he hurts somebody again.

*[Anti-P 2]:* I heard antipsychotic medication has pretty bad side effects. Who would want to take those? This makes him even more likely to go off his meds and continue to be a danger to the community.

*[Jury foreman]:* Let us take a final vote, please write down whether you find Winston Anderson guilty or not criminally responsible on account of mental disorder. *{all jurors: writes on paper}*. Again, we have a unanimous vote, all jury members think Winston Anderson should be found guilty. It looks like we have reached a unanimous decision.

**Appendix P – Juror Questionnaire, Post-Video (Study 2)**

**INSTRUCTIONS:** Please answer the following questions now that you have watched the video.

This is your final decision. Please indicate your verdict. I find Winston:

- Guilty of 2<sup>nd</sup> degree murder
- Not Criminally Responsible on account of Mental Disorder

## Appendix Q – Manipulation Check Questions (Study 2)

**INSTRUCTIONS: You will now be asked to answer a number of questions about what you have read in newsletter.**

A verdict of NCRMD is not the same as which finding?

- Not guilty
- Not criminally responsible
- Guilty

Which of the following dispositions is available in NCRMD cases?

- 10 years in prison
  - Life imprisonment
  - Conditional discharge
- 

In duress, individuals did not:

- Have actus reus
- Have criminal intent
- Commit a criminal act

An individual may use duress as a defence in what circumstance?

- Compulsion by threats
  - Self-defence
  - Ignorance of the law
- 

**INSTRUCTIONS: You will now be asked to answer a number of questions about what you have read in the vignette.**

What was Winston charged with?

- First degree murder
- Second degree murder
- Manslaughter
- Assault with a deadly weapon

What mental illness does Winston have?

- No mental illness
- Depression
- Schizophrenia
- Bipolar disorder
- Substance use disorder

What race was the perpetrator?

- White
- Asian
- Aboriginal
- Photo of perpetrator was not shown

**INSTRUCTIONS: You will now be asked to answer a number of questions about the video you just saw.**

What sex were the people who were **primarily talking** in the mock deliberation?

- Male and male
- Male and female
- Female and female

What were the mock jurors' verdict stances at the **end of the video**?

- All favoured NCRMD verdict
- All favoured guilty verdict
- One favoured NCRMD verdict, the other favoured guilty verdict

## Appendix R – Debriefing Form (Study 2)

### Perceptions of Criminal Law and Offenders

You have just participated in a study assessing perceptions of legal constructs and offenders involved in the criminal justice system. We are primarily interested in the influence of education about the Not Criminally Responsible on account of Mental Disorder (NCRMD) defence on perceptions of offenders with mental illness. We believe that perceptions of the NCRMD defence and the likelihood of applying this verdict can change when individuals are exposed to education. The manipulation was the type of education provided, half the sample received education on the NCRMD defence and the other half received education on the duress defence. The general hypothesis for our study is that those individuals exposed to the NCRMD education will exhibit more positive attitudes towards the NCRMD defence, and those that read the duress education sheet will have more negative attitudes towards the NCRMD defence. We also hypothesize that participants exposed to the Asian perpetrator will have more negative attitudes towards the NCRMD defence and provide harsher verdicts in comparison to participants who were exposed to the White or unidentified perpetrator. Finally, we also hypothesize that participants who watched the video with two jurors who were both in favour of the NCRMD verdict would be more likely to provide an NCRMD verdict themselves in comparison to participants who watched videos with jurors who were mixed in their opinions or in favour of the guilty verdict.

We would greatly appreciate you not sharing the details of this study with other students in case those students elect to participate in our study. The knowledge that we have shared with you could impact how participants respond to the study materials when taking part in the study.

At this point, we would like to thank you very much for participating in the present study. Should you wish to find out more about the results of this study, or have additional questions concerning your participation in this study, feel free to contact:

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