

POTENTIAL JURORS' PERCEPTIONS OF COMMUNICATION IN MASKS

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The COVID-19 pandemic has challenged courts to implement practices that protect the health of both the administrators and consumers of justice during in-person proceedings, such as requiring the use of facemasks. Masks introduce interesting new questions for justice professionals. For example, what are potential jurors perceptions about masks' impact on communication? A survey of MTurk™ workers (N = 177) revealed respondents had a modest belief that masks could interfere with communication across actors, including the ability to understand information and assess “truth” in interactions. Respondents who were Native American, older, Catholic, Republican, and/or conservative tended to believe more strongly that masks interfere with communication. Implications of these findings for practice and future research are presented.

Keywords. masks, communication, jurors, courts, pandemic

“People in masks cannot be trusted.”
~ *Fezzik, Princess Bride*

Jurors experience intense communication challenges when evaluating a case in court, including having to consume substantial amounts of oftentimes complex and conflicting information. For example, jurors are charged with interpreting judicial instructions,

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assessing credibility of witness testimony, and weighing the merits of attorney arguments. Much of this communication is verbal with some nonverbal components (e.g., facial expression), and its effectiveness is essential to a fair trial promised in the constitution as well as reaching a legally appropriate verdict. The COVID-19 pandemic, however, introduces an entirely new set of communication and other challenges for courts (Baldwin et al., 2020; National Commission on COVID-19 and Criminal Justice, 2020).

Although many courts transitioned to virtual hearings to help reduce the spread of the virus, some continue to operate in-person while encouraging or requiring masks/shields and social distancing when interacting in public as recommended by health officials (e.g., see National Council of Juvenile and Family Court Judges, 2020; Supreme Court of Tennessee, 2020). Even though effective vaccines for COVID-19 are now available, there is little doubt universal health precautions will be prominent as courts slowly return to more typical operations (e.g., see Metropolitan News-Enterprise, 2021). Safety measures in an enclosed courtroom setting typically involve everyone wearing masks – not just the jurors – and likely include reorganizing space to promote six feet of social distancing, use of face shields, or employing other types of physical barriers to help limit virus transmission. Given that correctly worn masks visually obstruct approximately 2/3rds of the face, interesting questions arise as to whether they will affect jurors' abilities to effectively receive important verbal information from court actors (e.g., witnesses) as well as assess facial expressions and other nonverbal behaviors. [1]

In a trial setting, jurors are selected during *voir dire* whereby the judge and attorneys can question potential jurors and de-select those who could be particularly damaging to a given case or who are otherwise inappropriate to serve. Once seated on a trial, jurors are charged with deciding the case (e.g., guilty or not guilty). To do this effectively, jurors first must hear and understand their charge and the instructions on how to reach a fair and just decision in the case. Then they are tasked with hearing details about the case that are presented by many sources including judges (e.g., admonitions), attorneys (e.g., theory of the crime), and defendants or witnesses (e.g., testimony). While hearing evidence, jurors also assess the credibility of the presenting source, which in turn can impact the degree to which evidence is persuasive (e.g., credibility and emotion – see following sections; Miller & Burgoon, 1982). In theory, any substantial changes to typical expected interactions between persons in a given context – such as when presenters in *court* are *wearing masks* – could impact jurors' and other observers' assessments and final decisions (e.g., expectancy violations/theory – see following sections; Burgoon & Hale, 1988).

Although there have been studies that measured support for and demographic differences in people wearing masks *themselves* (Brenan, 2020), ours is one of the first to our knowledge that investigates people's general perceptions of their ability to understand and assess communication when various *others* are wearing a mask. As social psychologists operating at the intersection of social science and the law and with valuable existing data collected for a jury/trial consultation that did not materialize (see Methods), our chosen framework for application and analyses for this study is court hearings. The purpose of this research was twofold. First, the study investigates the degree to which people perceive

that masks would interfere with accurately receiving communications from various sources (Research Question 1). Second, it investigates demographic differences in these perceptions (Research Question 2). Given our sample of adults who would be jury eligible, our findings have early yet interesting implications for jury selection and communication in the courtroom as well as other high stakes settings during a pandemic.

MASKS AND COMMUNICATION

The Centers for Disease Control and Prevention (2021) currently recommends unvaccinated citizens wear masks when gathering indoors and when in crowded outdoor public spaces as a means to limit the spread of COVID-19, and a number of states require use of masks as a condition for some businesses to operate (e.g., see State of Nevada, 2020). Although many people endorse and abide by mask wearing directives as a matter of personal/public health and civic duty, the use of masks in the United States is controversial and politicized. A substantial number of citizens either downplay the importance of wearing masks or actively resist wearing masks for reasons including: face coverings being uncomfortable or ineffective, mandated masks being perceived as a violation of civil liberties, and unsubstantiated claims the pandemic is a hoax and/or a nefarious effort to control the larger population (McKelvey, 2020). Other resistance to masks in general is posited to be rooted in fear (e.g., of clowns; McCluskey, 2019) and anxiety (e.g., racial stereotypes; Christiani et al., 2020); altogether suggesting mask use in our society is a complicated issue.

Given the importance of using masks in public as a universal precaution in the fight against COVID-19, assessing public opinion and demographics of mask use has been a priority to inform strategic planning and messaging. One major Gallup poll (Brenan, 2020) found that of respondents: 44% “always” wear mask outside their homes; 30% “sometimes”, “rarely”, or “never” use a mask; women, Democrats, and Northeasterners were most likely to “always” use a mask in public; 51% with annual household incomes under \$36,000 “always” use masks outside their homes; and the majority of Republicans claimed they wear masks inconsistently or infrequently [either sometimes (18%), rarely (9%) or never (27%)]. Another poll conducted by Pew Research Center (Igielnik, 2020) similarly found that, on average, White people and Republicans were least likely to wear masks.

Understanding who is or is not likely to wear masks and their underlying reasons for doing so is an important public health endeavor, but it is only part of the larger issue at hand. Face coverings for the nose and mouth literally “mask” communication as they cover a substantial portion of the face. As routine mask usage by the public was relatively uncommon until the pandemic, little is known about how it might interfere with communication in certain high stakes contexts in our culture that normally do not include masks. Although we consider our study applied research and hold that masks are an obvious and literal physical barrier to both verbal and non-verbal communication, we do ground the study in expectancy violation theory as informed by an established literature on expression/emotion signaling and witness credibility.

Expectancy Violation Theory and Emotions

Masks likely contribute to violations of what is expected from speakers both directly (i.e., not being accustomed to seeing others present in masks) and indirectly (i.e., interfering with verbal and non-verbal communication pathways; e.g., see Atcherson, 2017, for considerations with hard of hearing populations). Expectancy violation theory posits a “cold” cognitive process whereby people enter social interactions with expectations about the other person’s verbal and nonverbal behavior based on the context of the interaction (Burgoon & Hale, 1988; McAuliff & Kovera, 2012). When these expectations are violated in some way, people assign a positive or negative valence to their perceived meaning behind the violation, and then act accordingly (Burgoon & Hale, 1988). For example, when nonverbal behavior violates normative expectations in the legal setting, the actor tends to be viewed as deceptive (Bond et al., 1992), leading to suspicion and skepticism (Ask & Landström, 2010). When expectations of witness emotionality are violated, jurors tend to evaluate the victim more negatively (Ask & Landström, 2010; McAuliff & Kovera, 2012). Specifically, compared to witnesses who conformed to emotional expectancies (i.e., “upset”), calm witnesses were perceived as less credible, having a less favorable character, and less likely to be a “real” victim (Ask & Landström, 2010; Bosma et al., 2018).

Not all “upset” emotional displays are considered appropriate, however (e.g., Golding et al., 2003); complainants with either an unusually calm or hysterical emotional display were both viewed as displaying inappropriate emotion. In turn, perceived inappropriate victim emotion has been associated with reduced guilty verdicts compared to an expected and moderately sad complainant (i.e., teary but not hysterical; Golding, et al., 2003). Additionally, perceived appropriateness of emotional response appeared to affect mock jurors’ guilt thresholds: among “inappropriate” victim emotional display conditions, strong estimates of defendant guilt still often resulted in not guilty verdicts. In contrast, in the “appropriate” victim emotional display conditions, the same strong estimates of defendant guilt always resulted in a guilty verdict (Golding et al., 2003).

Victims who are emotional during testimony tend to make defendants appear guiltier and increase conviction rates among lay people (Kaufmann et al., 2003; Regan & Baker, 1998) as well as police officers (Bollingmo et al., 2008). Winkel and Koppelaar (1991) also found that, when verbal content was held constant, emotional victims were perceived as more credible, truthful, and without blame for the crime being committed (i.e., rape) versus “numb” victims. In fact, even when the strength of evidence was manipulated, mock jurors were 20% more likely to convict the defendant in an emotion-congruent \times ambiguous evidence condition than in an emotion-incongruent \times strong evidence condition, with overall conviction rates highest in an emotion-congruent \times strong evidence condition (Kauffmann et al., 2003).

Although expectancy violation theory posits a more “cold” or “passive” cognitive process, there is an affective response mechanism or perspective proposing that jurors’ *own* emotional reactions also inform subsequent judgments. This approach to assessing others’ presentation and credibility is considered a “hot” or “active” cognitive process, as it portrays judgments as arising at least in part from extraneous variables (Ask & Landström,

2010). Although a relatively new approach in psychology and law, this proposed mechanism has received some empirical support, including findings that emotionally involving testimonies attract more attention, are perceived as more credible, and are better remembered (Nisbett & Ross, 1980), and that emotional reactions to a message are related to message persuasiveness (Nabi, 2002). Interestingly, and with implications for longer or complex trials, appraisal tendencies associated with a specific emotion appear to non-consciously affect future judgments and decisions by providing a perceptual lens for interpreting future situations (Lerner et al., 2007) and inferring credibility.

Expression and Credibility

As demonstrated in the work on expectancy violations and appraisal tendencies, words alone are not the sole factor contributing to violation (or not) of expectancies of jurors. Indeed, a substantial component of communication in social settings is nonverbal factors related to emotional displays such as gestures and facial expressions (De Stefani & De Marco, 2019; Ekman, 1993). Facial expressions in particular provide valuable information about a person's emotional experience. Being able to interpret a facial expression requires deducing how the person "really" feels (Zaki, 2014). This habitual process sustains the belief that observing the demeanor of others is vital for understanding the other and engaging in deception detection and has been canonized in the legal system. For example, in his ruling on *Government of Virgin Islands v. Aquino*, Judge Freedman noted:

[D]emeanor is of the utmost importance in the determination of the credibility of a witness. The innumerable telltale indicators which fall from a witness during the course of his examination are often much more of an indication to a judge or jury of his credibility and the reliability of his evidence than is the literal meaning of his words. (1967, p. 548)

Jurors might perceive witnesses or victims who wear a mask as less credible because concealing a large portion of the face can negatively influence perceptions of the credibility of the mask wearer. Source credibility literature suggests that a source's attractiveness (Patzner, 1983), likeability (e.g., confident, relaxed, positive; Brodsky et al., 2010; Miller & Burgoon, 1982), and non-verbal behavior (e.g., eye contact, tension; Miller & Burgoon, 1982), can reduce perceptions of the source's credibility and therefore reduce the persuasiveness of their message (Mondak, 1990; Sternthal et al., 1978). For example, Miller and Burgoon (1982) found that when evaluating deceitfulness of a speaker, people rely on factors such as the speaker's tension and nervousness, excessive gesturing and swallowing, and unnatural smiles or tight faces. However, it is important to note that people are generally ineffective at deception detection so concealing these factors might actually *improve* credibility assessments (Young & Hagan, 2020).

Although expectancy theory and source credibility research provide an important research framework, how people perceive communication with various others wearing masks is an issue that is largely unstudied by science outside of perhaps healthcare where facemasks are normative (e.g., see Mendel, 2008), and it is particularly unclear how mask usage intersects with communication in other high stakes contexts such as courts. To the

best of our knowledge, the current research is one of the first of its kind to help determine whether people believe that masks will affect their ability to pay attention to, hear/understand, and detect truth in both lay and expert speakers such as those in court/trial contexts.

METHOD

Data for this study were collected as part of a larger preparation for a jury selection/trial consultation where mask wearing was an anticipated issue. The case ultimately did not proceed, and data collection was self-funded by the second author. Data were collected using Amazon Mechanical Turk (Mturk™) – a crowdsourcing Internet marketplace that monetarily compensates community members for participating in studies. Mturk™ is frequently used for online data collection and workers are generally considered representative of the adult population of the United States (Levay et al., 2016). A total of 177 participants responded to a larger COVID-19 related online survey that included demographic questions and a six-item scale developed by two of the authors to assess perceptions of masks and communication from various potential sources (e.g., laypersons, experts). The University of Nevada, Reno Institutional Review Board approved the study in May 2020 (protocol #1608332-1), and the survey subsequently launched July 11, 2020 and closed July 15, 2020.

Respondents ranged in age from 20 to 74 years ($M = 40.38$, $SD = 12.63$), with a slight majority identifying as male (57%) and the remainder female (43%). The majority of respondents identified as White American (74%), followed by African American (10%), Asian American (6%), Native American (6%), and Hispanic American (4%). Nearly half of the sample reported their political affiliation as Democrat (47%), followed by Republican (39%), Independent (10%), and no-affiliation (5%). Most reported being Catholic (38%), while the remaining identified as Protestant (21%), Agnostic (15%), “other religion” (10%), “believe in God but having no religious affiliation” (9%), and Atheist (7%).

Lastly, general political orientation, orientation on social issues, and orientation on economic issues were assessed. On average, respondents were moderates who tended toward more liberal views on social issues and more conservative views on economic issues (see Table 1).

Table 1. Summary of Political Orientation

Item	Mean	Median	Mode	SD
How liberal or conservative are you?	4.0	4.0	6.0	2.0
How would you describe your political views with regard to <i>social</i> issues?	3.9	4.0	6.0	2.0
How would you describe your political views with regard to <i>economic</i> issues?	4.3	4.0	6.0	1.9

Note. Range = 1 to 7; with 1 = *Very Liberal*, 2 = *Liberal*, 3 = *Slightly Liberal*, 4 = *Middle of the Road*, 5 = *Slightly Conservative*, 6 = *Conservative*, 7 = *Very Conservative*.

RESULTS

Research Question 1

Our first research question asked: To what degree do people perceive that masks would interfere with accurately receiving communication from others? Six items regarding perceptions of mask usage and communication were rated by participants on a 5-point Likert-type scale (1 = *strongly disagree* to 5 = *strongly agree*; see Table 2). We averaged participant ratings across these items for an overall measure/index of perceptions, with higher scores indicating more negative perceptions of how masks might interfere with a potential juror's ability to accurately receive communication from various types of court actors ($M = 2.52$, $SD = 1.23$). Results suggest that participants held a moderate belief that there would be communication interference when various types of speakers wear masks, with the biggest concern centering on masks making it easier for the wearer to lie or "stretch" the truth ($M = 2.60$).

Table 2. Perceptions of Masks and Communication

Item	<i>M</i>	<i>SD</i>
1. When people wear masks, it distracts me from paying attention to their message.	2.37	1.38
2. When people wear masks, it is difficult to tell if their statements are true.	2.47	1.37
3. When people wear masks, it is difficult to understand the content of their message.	2.52	1.37
4. When people wear masks, it is easier for them to lie or "stretch" the truth.	2.60	1.40
5. I would prefer that authority figures not wear masks when they are giving complex statements so I can better understand their message.	2.59	1.35
6. I would prefer that authority figures not wear masks so I can better tell if they are telling the whole truth.	2.49	1.44
OVERALL	2.51	1.23

Note. Items were all moderately to highly correlated ($r_s = .67$ to $.82$; $p_s \leq .001$). Overall score used in analyses is an average of the items, $\alpha = .95$, with higher scores indicating more negative perceptions of how masks might interfere with their ability to receive and assess a communication.

Research Question 2

Our second research question asked: What demographic differences exist across potential jurors in their attitudes toward masks and communication? Utilizing the mean score for perceptions about mask wearing detailed above (i.e., higher scores indicating more negative perceptions of how masks might interfere with a potential juror's ability to accurately receive communication from various types of court actors), we explored differences across the categories of demographics collected (see Table 3). [2]

Age. There was a significant effect of participant age on "negative perceptions of mask wearing" ($F(1, 174) = 5.62$; $\beta = -.18$; $p = .02$) such that as participant age increased their negative perceptions of mask wearing decreased.

Gender. There was no effect of participant gender on “negative perceptions of mask wearing” ($t(174) = .46; p = .65$).

Race. There was an effect of participant race on “negative perceptions of mask wearing” ($F(4, 172) = 3.80; p = .01$). Native Americans were significantly more negative in their perceptions as compared to White Americans ($p = .01$), African Americans ($p = .03$), and Asian Americans ($p = .01$).

Religion. There was an effect of participant religion on “negative perceptions of mask wearing” ($F(5, 171) = 3.89; p = .00$). Catholics were significantly more negative in their perceptions compared to Protestants ($p = .07$) [3] and Agnostics ($p = .00$).

Political affiliation. There was an effect of participant political affiliation on “negative perceptions of mask wearing” ($F(3, 173) = 3.30; p = .02$). Democrats significantly differed in their perceptions from Republicans ($p = .01$), with Democrats being less negative overall.

Political orientation – general. One item assessed “How liberal or conservative are you?” (e.g., see generally Crawford et al., 2017; Panno et al., 2018) with possible responses ranging from low (*very liberal*) to high (*very conservative*). There was an effect of participant general political orientation on “negative perceptions of mask wearing” ($F(1, 174) = 31.49; \beta = .39; p = .00$), such that as participants identified as more conservative they reported more negative perceptions of mask wearing.

Political orientation – social issues. One item assessed “How would you describe your political views with regard to *social* issues?” (e.g., see generally Crawford et al., 2017; Panno et al., 2018) with possible responses ranging from low (*very liberal*) to high (*very conservative*). There was an effect of participant political views on social issues on “negative perceptions of mask wearing” ($F(1, 175) = 50.92; \beta = .48; p = .00$), such that participants who identified as more socially conservative were associated with more negative perceptions of mask wearing.

Political orientation – economic issues. One item assessed “How would you describe your political views with regard to *economic* issues?” (e.g., see generally Crawford et al., 2017; Panno et al., 2018) with possible responses ranging from low (*very liberal*) to high (*very conservative*). There was an effect of participant political views on economic issues on “negative perceptions of mask wearing” ($F(1, 175) = 31.00; \beta = .38; p = .00$), such that participants who identified as more economically conservative were associated with more negative perceptions of mask wearing.

Table 3. Demographic Differences in Perceptions of Masks and Communication

Variable	Frequency (%)	β	<i>M</i>	<i>SD</i>
Age	--	-.18*	--	--
Gender				
Male	57		2.55	1.19
Female	43		2.46	1.28
Race				
White American	74		2.44 ^c	1.23
African American	10		2.82 ^b	1.42
Hispanic American	6		1.93	.88
Asian American	6		2.03 ^c	.70
Native American	4		3.65**	.79
Religion				
Catholic	38		2.98***	1.06
Protestant	21		2.32 ^a	1.20
Believes / No Affiliation	9		2.19	1.58
Atheist	7		2.19	1.22
Agnostic	15		1.97 ^d	1.07
Other	10		2.43	1.32
Political Affiliation				
No affiliation	5		2.63	1.17
Democrat	47		2.23*	1.19
Republican	39		2.84 ^c	1.15
Independent	10		2.35	1.52
Political Orientation				
General	--	.39***	--	--
Social	--	.48***	--	--
Economic	--	.38***	--	--

Note. *M* and *SD* are for overall perception scores regarding masks and communication. Lower perception scores = more positive attitudes; higher perception scores = more negative attitudes. * $p \leq .05$; ** $p \leq .01$; *** $p \leq .001$. ^a = significant pairwise at $p \leq .10$; ^b = significant pairwise at $p \leq .05$; ^c = significant pairwise $p \leq .01$; ^d = significant pairwise $p \leq .001$. Average age is 40 years (range 20 to 74 years). Political orientation is directional low/liberal to high/conservative (see Table 1).

DISCUSSION

The current study sought to elucidate potential communication challenges related to mask wearing in the context of court hearings and the current COVID-19 pandemic. We collected data from an online survey with Mturk™ workers that included a measure developed to assess perceptions of communication when various *others* wear masks. Specifically, we were interested in better understanding possible perceived challenges that

might exist, and how those perceptions might differ across demographics. Our intent in presenting this research was to add to the literature on an important emerging topic in a high stakes context (i.e., courts) that has been previously unexplored.

Our findings suggest that respondents on average were moderately concerned that masks will interfere with receiving and assessing communication from others. However, there was substantial variability in responses on our measure, indicating some people are not at all concerned while others are quite concerned. Responses to individual items on this measure suggested that participants were least concerned that masks would distract them; perhaps an indicator that mask usage is becoming more common/normal and people are adjusting to the presence of masks in their day-to-day lives. In contrast and perhaps of most import for our current court/justice/legal context, participants reported being most concerned about masks allowing wearers to “stretch the truth” during interactions; a finding consistent with prior literature on the importance of facial expression on assessments of credibility (Kaufmann et al., 2003).

There were demographic differences in these perceptions across the sample. Respondents who were Native American, older, Catholic, Republican, and/or conservative (i.e., general, social, and economic) tended to report stronger beliefs that masks could interfere with communication. Although our sample was small, the finding that conservativeness is associated with higher levels of perceived communication challenges is consistent with the general politicization of mask wearing that has emerged in this country (McKelvey, 2020). The finding that Native Americans in particular were concerned about communication interference with masks is interesting given evidence that this group in particular (and minorities in general) are more at risk for contracting COVID-19 and suffering disparate outcomes (e.g., see Mineo, 2020). That would suggest mask wearing would be widely encouraged and expected in minorities. Yet, clearly there is concern in some groups that masks would interfere with receiving and assessing communication or are perhaps stigmatizing or otherwise problematic; a finding also consistent with prior literature on differences in communication strategies/preferences by race (e.g., see Christiani et. al, 2020).

Implications

Our findings have implications for courts seeking to administer timely and effective justice while also ensuring the safety of in-person court hearings during the COVID-19 pandemic. Although effective communication in high stakes settings such as courts is important for all actors involved, aside from the defendant themselves, it is perhaps most important for jurors who are charged with hearing and assessing evidence/arguments to reach verdicts. The presentation of evidence and arguments falls substantially to witnesses and attorneys. Requiring court actors to wear masks that cover the nose and mouth could potentially interfere with effective communication on a number of dimensions, a view that is generally supported both in the literature and in our findings.

In light of the perceived challenges to communication introduced when speakers wear masks, we offer some initial recommendations for courts and others in related high stakes settings when full remote operations are neither possible nor appropriate. Although

unlikely given space restrictions in most courtrooms, one strategy could include socially distancing the speaker to the degree so that no mask is required. Perhaps more realistic given the typical court environment, some form of social distancing could be coupled with barriers that do not obstruct viewing the face – such as clear face shields or Plexiglas barriers. Alternatively, masks are available that were designed for use with hard of hearing populations that have a clear panel/window over the mouth to facilitate lip reading and reading expressions (National Deaf Center, 2020). Recorded or remote testimony by video also is an option for trials, yet introduces another host of communication, due process, and logistical issues to be addressed (Baldwin et al., 2020; National Commission on COVID-19 and Criminal Justice, 2020).

Ultimately, although more research is clearly needed and all Centers for Disease Control and Prevention recommended guidelines should be followed at a minimum, attorneys could consider requesting accommodations to allow for critical testimony without a mask if at all possible and it is safe to do so. When masks must be utilized, judges should enhance their instructions to guide jurors navigating the trial process (e.g., acknowledge potential issues around communicating in masks and suggest strategies to compensate, explicitly direct jurors not to allow masks to influence their assessments) and to enhance efforts to check juror understanding/comfort with communication (e.g., “Can you understand [party] OK?”). All parties in the hearing should be reminded that masks can interfere with both verbal and non-verbal communication, that masks can be frustrating for the wearer and observer and to be patient, that speakers should strive to speak with more volume and clarity, and that presenters should consider supplemental visual materials (e.g., closed captions, charts, pictures, videos).

Although not the primary objective of this article, we do offer two specific ideas for legal practitioners dealing with masks at trial. First, if masks will be required during the trial and the lawyer plans to present witnesses, our initial findings suggest demographics matter: lawyers and/or trial consultants involved in *voir dire* might want to de-select jurors from certain groups associated with negative perceptions of mask wearing. For instance, our results indicate that older, Catholic, Republican, and/or conservative potential jurors tend to report higher levels of perceived communication problems when people wear masks – with conservatives and Republicans reporting the most negative perceptions. As a general rule, potential jurors can be de-selected for these characteristics (but importantly, not solely due to race; see *Batson v. Kentucky*, 1986). In contrast, a lawyer who is not intending to present mask-wearing experts might want to retain these same jurors if the opposing counsel will have mask-wearing witnesses. Either way, our results suggest demographics can serve as an alert for attorneys to ask additional questions of certain potential jurors to ensure that they can still be fair and impartial even to witnesses that wear masks.

Second, lawyers should also think about themselves wearing a mask given they are a primary source of information and persuasion in a trial. Often there is no choice; everyone in the courtroom must wear a mask. But, if lawyers have a choice to wear or not wear a mask during trial, it is a decision that should be made thoughtfully. On the one hand,

because attractiveness, likeability, and expressions influence source credibility (e.g., see Miller & Burgoon, 1982), concealing these factors by wearing a mask could affect jurors' impression of the lawyer. Our results add to these considerations by indicating that some potential jurors could have difficulty with receiving and assessing communication if the authoritative source chooses to wear a mask. Additionally, for jurors who are mask opponents to begin with, the use of a mask could be interpreted as a political statement or issue, thus encouraging these jurors to form negative attitudes toward a lawyer wearing a mask. [4] Thus, the attorney might consider avoiding wearing a mask at all if it can be done safely. On the other hand, not wearing a mask could communicate an indifference to the jury's health or public health (to some jurors who are mask proponents); thus, these jurors could form negative attitudes toward a lawyer who does not wear a mask.

In sum, the stigma of wearing or not wearing a mask in the current politicized climate in our country could introduce additional types of unique evaluations or biases in jurors toward those speaking (e.g., cooperative vs. uncooperative, patriotic vs. unpatriotic). Those involved in jury selection might be well advised to include questions about mask wearing – such as attitudes toward wearing one and perceptions about communicating with others in masks – as long as facemasks are part of our pandemic reality. Such steps during jury selection could help lawyers choose jurors that would be sympathetic to their case.

Limitations and Future Directions

Although an important step in researching the issue of masks and communication in a court setting, there are limitations to our study. For the most part, limitations of this study include the usual cautions regarding self-reported data, sample size, and generalizability. Although the measure of “negative perceptions of mask wearing” appears promising in assessing attitudes, it was not specific to court actors *per se* (e.g., attorneys, witnesses, judges). Rather, it sought public perspectives relative to general communication concerns and several types of actors (e.g., laypersons vs. authority figures). Findings could also be related more to either general disdain for or support of mask wearing versus indicating the degree of concern over communication interference.

Future studies could benefit from a larger sample, testing of actual/selected jurors, improved environmental/context validity (i.e., court actor specific), refining measures to better tease out the dynamics and challenges of communication in masks, and expanding elucidation of individual differences across potential jurors. Direct testing of theory in the context of masks and communication, such as those involving expectancy violation and source credibility used in the present study, will be an important endeavor as the pandemic continues. Our findings regarding minority populations and perceptions of mask wearing are intriguing and suggest an area ripe for culture and communication scholars to explore. Lastly, studies should explore whether masks are actually bad or perhaps good (e.g., neutralizes erroneous emotional clues) for allowing observers to assess credibility/truth in this context.

CONCLUSION

The effective administration of justice requires good communication. When necessary barriers to communication exist, such as when one wears a mask during a pandemic, efforts must be made to offset the potential impact of that precaution on the consumers of justice. The current study highlights that mask usage in court and other high stakes settings could be more than a safety issue or a divisive political issue – the use of masks during in-person hearings also has the potential to complicate how well people hear, assess, and act on information presented at trial in order to reach verdicts. Although more research will be needed to fully understand the impact of masks on communication/testimony in legal settings and how it might inform efforts such as jury selection, we suggest it is critical work that should be of substantial interest to both scholars and practitioners alike given the core conditions of fairness, equity, and overall justice are at stake.

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ENDNOTES

[1] This is a rapidly developing and dynamic area of law; see Mance (2021) for a helpful review of recent cases/decisions regarding witnesses using masks in court.

[2] See Appendix for correlation matrix of interval variables (IVs/DV) used in analyses.

[3] Given our study is exploratory, we opted to use a cutoff value of $p \leq .10$ for significance testing versus the more traditional $p \leq .05$ throughout the analyses and discussion.

[4] Lawyers who do wear a mask should be mindful of what it looks like (i.e., avoid overtly patriotic, highly controversial/political, or other unusual/humorous/frightening masks and keep them plain/professional), or consider a clear face shield or transparent mask if possible.

APPENDIX
CORRELATION MATRIX OF INTERVAL VARIABLES (IVS/DV) IN
ANALYSES

Variable	<i>M</i>	<i>SD</i>	1	2	3	4	5
1. Age	40.38	12.63	1	.042	-.035	-.002	-.177*
2. Political Orientation (General)	4.00	2.00		1	.910**	.836**	.391**
3. Political Orientation (Social)	3.90	2.04			1	.834**	.475**
4. Political Orientation (Economic)	4.31	1.94				1	.388**
5. Negative Perceptions of Masks [DV]	2.50	1.23					1