

THE TESTING COLUMN

URBAN LEGENDS ABOUT THE BAR EXAM

by Susan M. Case, Ph.D.

At our Portland Annual Conference in April, we reported on research concerning four urban legends about the bar exam. Each legend relates to minority performance on the bar exam, and each was suggested to me by examinees, law school faculty, or bar examiners to explain the lower performance of minorities on the bar exam. In a series of studies based on the July 2005 MBE, we concluded that each of these legends was false.



average, the difference between the two scores was zero. On the right side of the curve are those who scored higher on the essays than on the MBE. On the left side of the curve are those who scored higher on the MBE than on the essays. While a few individuals scored as many as 50 points higher on the essays than on the MBE, most scored consistently on each format. The two sides of the curve are symmetrical, indicating that the number of people who had higher scores on

MYTH #1. MINORITIES SCORE LOWER ON THE MBE THAN THEY DO ON PERFORMANCE TESTS AND ESSAYS.

FACT #1. ALL ETHNIC GROUPS PERFORM CONSISTENTLY ON THE MBE AND WRITTEN TESTS; NO FORMAT PROVIDES AN ADVANTAGE TO ONE GROUP OVER ANOTHER.

Figure 1 shows the relative performance of each ethnic group on MBE questions as compared to essays or performance tests. For each individual examinee, we calculated a "difference score" by subtracting the examinee's MBE score from the examinee's essay score (on the MBE scale). On

Figure 1

All ethnic groups perform consistently on the MBE and written tests; no format benefits one group over another.

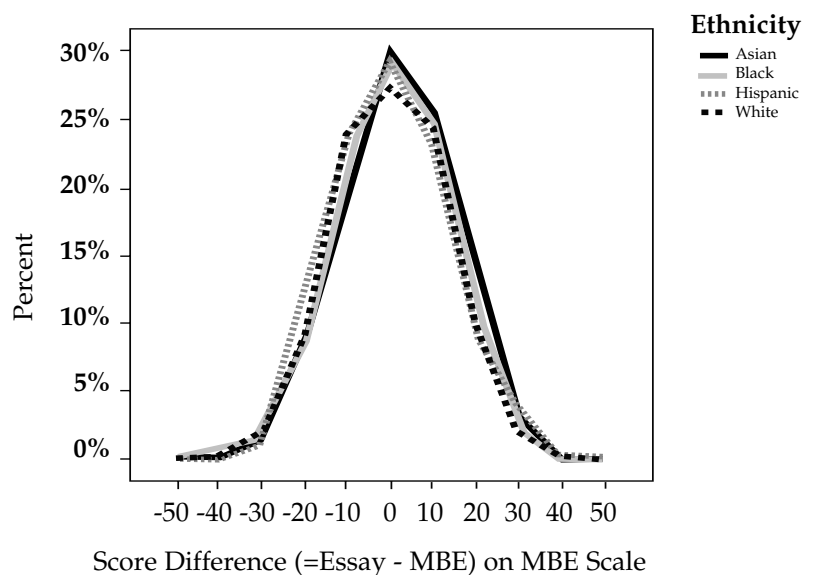
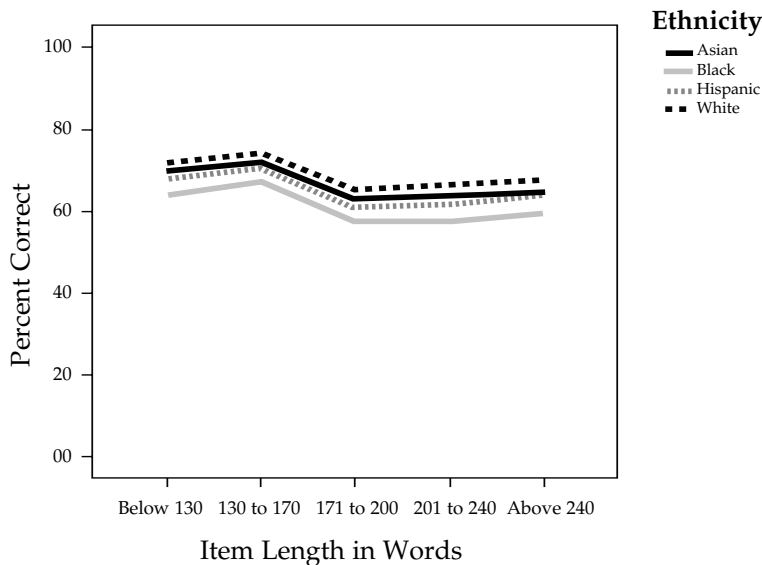


Figure 2

The difficulty of a question is only slightly related to its length, and this difference in difficulty is consistent across ethnic groups.



the MBE was the same as the number of people who had higher scores on the essays.

Figure 1 includes a separate curve for each of four ethnic groups: Asian, Black, Hispanic, and White. The curves are on top of each other, indicating that the difference between MBE scores and essay scores is the same for each of these groups.

Of course, some individuals perform better on the written portions of the bar exam than on the MBE. But the reverse is also true. And the numbers who do better on one format are equal to those who do better on the other format, regardless of ethnicity.

MYTH #2. MINORITIES SCORE RELATIVELY LOWER ON MBE QUESTIONS OF GREATER LENGTH THAN THEY DO ON SHORTER MBE QUESTIONS.

FACT #2. THE RELATIVE PERFORMANCE OF ETHNIC GROUPS IS CONSISTENT REGARDLESS OF THE LENGTH OF THE QUESTION.

Figure 2 shows the relative performance of each ethnic group on MBE questions by length, with a range of word counts from fewer than 130 words to more than 240 words. On average, questions with 170 or fewer words were slightly easier than those with more than 170 words, but the difference in difficulty was consistent across groups. Regardless of the number of words in a question, on average, Whites performed better than Asians, who performed better than Hispanics, who performed better than Blacks.

MYTH #3. MINORITIES DO RELATIVELY WORSE ON QUESTIONS WITH A HIGHER READING LEVEL THAN THEY DO ON THOSE WITH A LOWER READING LEVEL.

FACT #3. THE RELATIVE PERFORMANCE OF ETHNIC GROUPS IS CONSISTENT REGARDLESS OF THE READING LEVEL OF THE QUESTION.

Figure 3 shows the relative performance of each ethnic group on MBE questions at various levels of reading difficulty. Based on an analysis called Flesch-Kincaid, the reading level of MBE questions ranged from those written at the grade 5–8 level to those written at the 13+ college level. According to the data, the difficulty of the questions was not related to the reading level; the difficulty varied somewhat across reading levels, but did not follow a trend. In this particular MBE, the questions at the grade 9–10 reading level were slightly more difficult than those at the grade 12–13 level. Any differences in the

Figure 3

Question difficulty is not related to the question's reading level, and any differences in difficulty across groups of questions are consistent across ethnic groups.

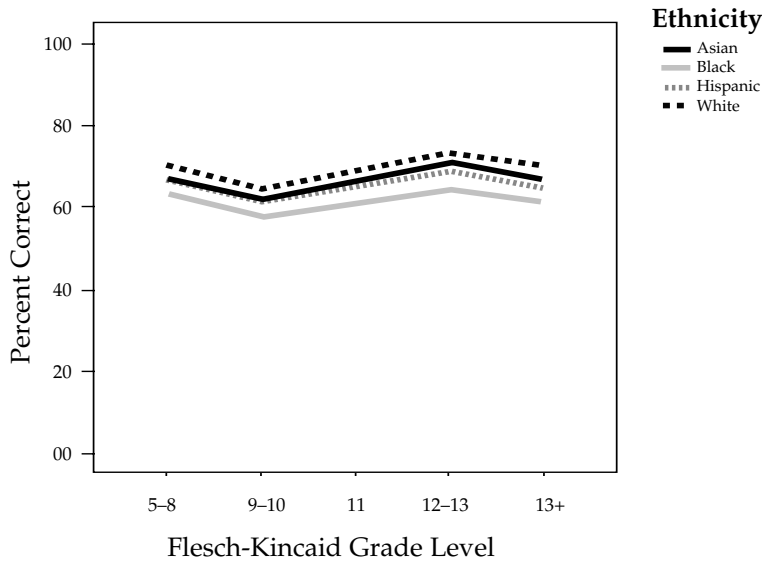
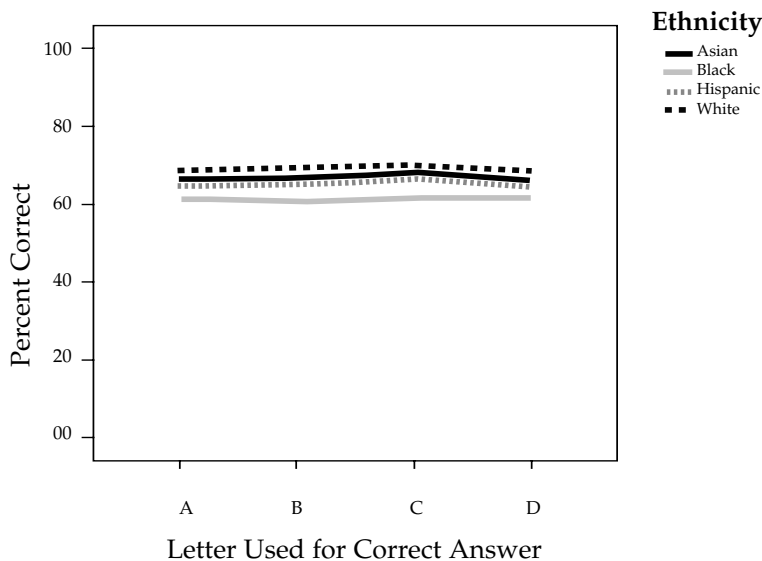


Figure 4

Letters assigned to correct answers do not affect the number of correct answers selected across ethnic groups.




average question difficulty across reading levels were consistent across ethnic groups; the lines for the ethnic groups are parallel across reading levels.

MYTH #4. MINORITIES DO WORSE ON QUESTIONS WHERE THE CORRECT ANSWER IS C OR D THAN THEY DO ON QUESTIONS WHERE THE CORRECT ANSWER IS A OR B.

FACT #4. PERFORMANCE ON MBE QUESTIONS IS CONSISTENT REGARDLESS OF WHICH ANSWER IS CORRECT.

Figure 4 shows the relative performance of each ethnic group on MBE questions sorted by the correct answer. The questions on the MBE were divided into four groups based on the correct answer letter (A, B, C, or D). Questions were similar in difficulty, regardless of the correct answer. Minority groups performed similarly across these questions.

We continue to study issues related to the underperformance of minorities on the bar exam. The proffered explanations examined in this article, while popularly believed, are not supported by the data. They are no more than urban legends. 

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