Racial Bias in Policing: Interventions

Minahil Amin
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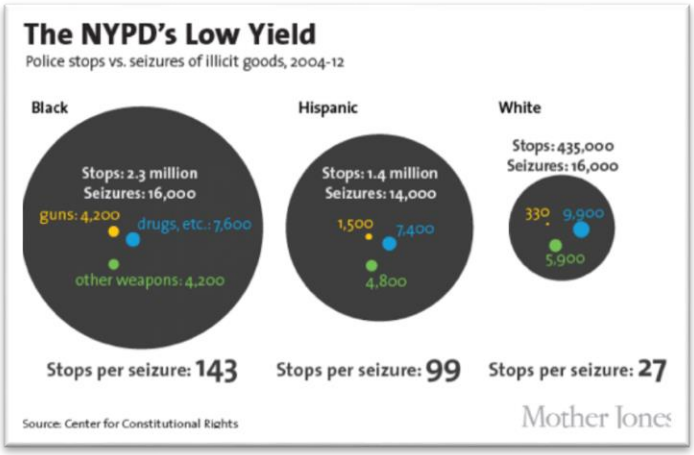
Executive Summary

There is strong evidence of widespread racial discrimination in policing in the United States, as illustrated by the events of the past year, especially Ferguson. Specifically, police disproportionately target and use unreasonable force against African-Americans. This discrimination can be partially attributed to individual police officers' implicit racial biases. Two major social psychological interventions can help counteract the biases that lead to racial discrimination in policing: developing ethical scripts and related simulations to help officers prepare for situations where implicit bias is salient and changing the default rule for whether police officers should engage perceived threats with violence.

Evidence of widespread racial discrimination in policing

In the past year, several nationally-covered events – Michael Brown in Ferguson, Eric Garner in New York, Trayvon Martin, and Tamir Rice - have brought the fairness of the American law enforcement system into question. These events compel an investigation of the intersection of racial discrimination and law enforcement, with a focus on police bias. A Justice Department investigation opened after Michael Brown's shooting in Ferguson found "routine patterns and practices of racism in Ferguson, including the excessive use of force and unjustified arrests." Despite being 67% of the population, African Americans were the targets of 88 percent of the cases in which the Ferguson department used force, and of all of the 14 canine-bite incidents for which racial information was available.[i]

In studying the New York Police Department's "stop and frisk" policy, Columbia Law Professor Jeffrey Fagan found that even controlling for crime rate, the racial makeup of a precinct is a good predictor of the number of stops.[ii] The stops also did not correlate with actual criminal activity:



Racial bias – a root cause

The Department of Justice's investigation on racial discrimination among Ferguson's police and courts found that the "disproportionate burden on African Americans [in terms of targeting, arrests, and use of force] cannot be explained by any difference in the rate at which people of different races violate the law. Rather, our investigation has revealed that these disparities occur, at least in part, because of unlawful bias against and stereotypes about African Americans. We have found substantial evidence of racial bias among police and court staff in Ferguson."[iii]

Recent research examining whether race influences people's decisions to shoot criminal suspects confirms this bias; studies found that police officers were more likely to mistakenly shoot (i.e., shoot an unarmed suspect) when the suspect was Black than when the suspect was White.[iv] Police officers were more likely to focus their gaze on a Black face compared with a White face if they had been subliminally primed with crime related concepts.[v] Recent work by Goff et al more

specifically links police officers' use of force against African American suspects and children to their level of implicit dehumanization of African Americans. In particular, the implicit dehumanization of Black children predicted the extent to which police officers overestimate the age of Black suspects, how culpable those Black suspects are perceived to be, and the extent to which officers were more likely to use force on Black suspects and children than suspects and children of other races throughout their career, controlling for how much suspects resist arrest or are located in high-crime areas.[vi]

Moreover, there is evidence that African Americans and Whites, alike, display shooter bias (increased likelihood of shooting unarmed African Americans); these findings imply that the cultural stereotypes associated with African Americans (such as "African Americans are violent") can effect police behavior despite the absence of explicit bias.[vii]

In sum, police officers have racial biases, and may act detrimentally on these biases, contributing to the racially-disparate policing outcomes for African Americans described above.

The case for social psychological interventions

As Thaler and Sunstein articulate in their book *Nudge,* the case for social psychological interventions is strong when people do not have resources (time and energy) or motivation (accountability or incentives), and when decisions are ambiguous and complex.[viii]

Police work matches this criteria to a T; as John Violanti, a research associate professor in UB's Department of Social and Preventive Medicine in the School of Public Health and Health Professions and 23-year veteran of the NYPD, states: "Policing is a psychologically stressful work environment filled with danger, high demands, ambiguity in work encounters, human misery and exposure to death."

Research on the impact of stress on police officers' mental and physical health shows that police officers have higher risks of high blood pressure, insomnia, increased levels of destructive stress hormones, heart problems, post-traumatic stress disorder, and suicide as compared to the general population.[ix] The high amounts of stress and uncertainty in police work increases the likelihood of unethical behavior.[x] Supporting this point, research has shown that police officers who reported higher levels of stress reported more acts of deviance.[xi]

Interventions

Two major interventions can help mitigate police officers' racial-bias-motivated behavior: recognizing implicit bias, creating ethical scripts for situations where this bias may manifest, and supplementing these scripts with training; and changing the default rule for when police should engage in violence.

Ethical scripts and related training

Automatic stereotypes and prejudice are influenced by, (a) self- and social motives, (b) specific strategies, (c) the perceiver's focus of attention, and (d) the configuration of stimulus cues.[xii] Police departments can help mitigate bias by addressing factors (a) and (b).

Racial bias is a sensitive topic, and individual police officers may be reluctant to identify their biases, especially if they must do so unilaterally without the support of their peers and higher-ups. In addressing factor (a), police departments and leadership should objectively address the fact that all people have biases, and that despite the best intentions, these biases influence actions. The shooter bias among African American officers provides especially compelling evidence for this point. Research suggests that biases are malleable and making people aware of their unconscious biases can help them reduce (or "cognitively correct" for) these biases.[xiii] Further research has found that

individuals who are made aware of their implicit biases are motivated and able to implement "controlled" (that is, unbiased) behaviors.[xiv]

To address factor (b) and help officers develop "controlled" behaviors, police departments can help officers create an ethical script of sorts to run through when they identify a target to ensure they aren't just falling prey to stereotypes, and implement training that builds on these scripts. Dr. Lorie Fridell at Fair and Impartial Policing has produced curriculums on this topic for both recruits/patrol officers and first-line supervisors. Her recommendations include the following:

- At the basic level, law enforcement recruits should be challenged to identify key police decisions and scenarios that are at greatest risk of manifesting bias, such as traffic stops, consent searches, reasonable suspicion to frisk, and other procedures—and then reflect on the potential impact of implicit bias on their perceptions and behaviors in those scenarios.
- Seasoned officers should be similarly challenged at in-service and other training venues.
- Supervisors should be challenged to consider how implicit biases may manifest not only in themselves but also in their subordinates.
- Officers at all levels should be versed not only in diversity training but also in training on cultural competency, Fourth Amendment restrictions, and professional motor vehicle stops.[xv]

While ethical scripts are necessary and useful, they require supplemental training in order to be acted upon in situations of high stress, specifically in cases where officers are confronted with the decision to shoot. For these cases, police departments can implement firearm-simulation training and shooting practice aimed directly at reducing the impact of implicit bias.

Research indicates that training can help reduce the extent to which implicit bias influences the decision to shoot. A study testing this hypothesis among police officers found that after

extensive exposure to the training program, the officers were able to eliminate shooter bias. Specifically, although the officers were biased toward mistakenly shooting unarmed Black more than unarmed White suspects on the early trials, this bias was eliminated on the later trials.[xvi] In past studies, trainings have included "shoot/don't-shoot decisions for target silhouettes that appear suddenly, either armed or unarmed" at the firing range, "interactive video simulation[s] of . . . potentially hostile suspect[s]," and "simulated searches, [in which police] confront live actors armed with weapons that fire painful but nonlethal ammunition."[xvii] A study of 237 police officers found that police officers who have received extensive training make better decisions in shooter simulations than civilians. Unlike trained police officers, untrained participants consistently "set a lower (i.e., more lenient or 'trigger-happy') criterion for Black, rather than White, targets."[xviii]

There is evidence, however, that these trainings do not address the implicit biases themselves. In the study with 237 police officers, the officers showed bias in the time it took for them to make the shoot/don't-shoot decisions, and these times were similar to the community sample. It required less time for trained officers to accurately respond "to targets congruent with culturally prevalent stereotypes (i.e., armed Black targets and unarmed White targets) . . . [than] to stereotype-incongruent targets (i.e., unarmed Black targets and armed White targets)."[xix] While firearm training may not reduce police officers' implicit biases themselves, it can still help officers mitigate the impact of their biases. Police departments should partner with researchers to test the efficacy of variations of these trainings among more robust samples of police, and then scale high-efficacy trainings.

Changing the default

Thaler and Sunstein argue that when choice is complicated and difficult, and when outcomes of these choices are unclear, people rely on defaults, that is pre-programmed choices.[xx] In the case of

officer choice to engage in violence, the default may encourage engagement or may not be clear. The common law default imposes a duty to retreat, which requires an actor to avoid an altercation unless his back is to the wall. This means, if someone attacks a pedestrian on the street, the pedestrian has a duty to run away or otherwise avoid engaging with the attacker, so long as it is reasonably safe to do so.[xxi]

However several states have made this default more ambiguous with "stand your ground" laws, which eliminate the duty to retreat, and instead allow "an individual to defend against violence without retreating, so long as the individual is lawfully present in that place." Between 2005 and 2009 over fifteen states adopted some form of the "castle doctrine," which eliminates the duty to retreat before using deadly force under certain circumstances.[xxii] These laws are problematic because they compel police officers to assess a threat and engage with it, as well as create an ambiguous threshold for the use of deadly force. They encourage officers to take immediate action if they perceive a person to be "threatening or suspicious." As described above, implicit biases make it difficult for people to accurately assess threats. Studies have shown that "identical ambiguous behaviors are more often interpreted as violent when the perpetrator is Black, rather than White" and that "those with high levels of implicit bias perceive Black faces as more hostile than identical White faces."[xxiii]

Given the pervasive presence of implicit racial biases and their influence on decision-making, state laws should be revised to create a default that discourages police officers from engaging perceived threats with violence; reinstating the common law duty to retreat is one option that provides such a default.

Conclusion

Implicit racial bias is a pervasive phenomenon and police officers are not immune to it. There is substantial evidence demonstrating that police officers have and detrimentally act upon their implicit racial biases. To mitigate the impact of these biases, police leadership can recognize the existence of implicit racial bias, help officers develop ethical scripts for when these biases are salient, implement firearm simulations that decrease this bias in the decision-to-shoot, and change the default response to perceived threats. These recommendations are limited in that they do not address how police organizational culture can mediate (either bolster or hinder) these interventions or how these biases are developed and perpetuated, but they provide a starting point to preventing the tragedies of the past year.

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