

# Encyclopedia of Crime and Punishment

## Racial Profiling

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Race-based policing, sometimes referred to as racial profiling, is best described as a practice whereby a police officer makes a law enforcement decision, for example, a decision to stop a motorist, primarily on the basis of the motorist's race or ethnicity. During the last years of the twentieth century, serious charges of racism were leveled against some of the nation's largest police departments because of the disparity that exists between the proportion of minority drivers in a population and the proportion of minorities that are stopped, searched, or issued a traffic citation. There is a growing perception that some police officers and/or their departments are highly—and inappropriately—influenced by the race or ethnicity of the driver when making a decision to stop a vehicle and then, subsequent to the stop, conduct a search of the vehicle.

Preliminary evidence suggests that a correlation exists at least between the race of the driver and the probability of being stopped and searched. However, the race of the motorist does not appear to affect the probability of receiving an actual citation.

## The Extent of the Problem

There is a small but compelling body of literature supporting the assertion that race plays an important role in a police officer's decision to stop and/or search a motorist. Most of the evidence in support of this assertion either is anecdotal or relies on statistical comparisons of the disparity between the proportions of minorities in a population and those stopped by the police and/or subjected to a vehicle search. These studies indicate that the proportions of minorities stopped by the police are higher than their proportional representation in the community or among licensed drivers.

Even though some disparity exists between the proportions of minority drivers and those actually issued citations for bona fide violations of the traffic law, this disparity does not appear to be substantial. Comparisons between the racial proportions of licensed drivers and those actually issued tickets, convicted for violating traffic laws, or both, do not appear to indicate a wide (i.e., statistically significant) disparity. of more concern is the apparent disparity between racial groups with respect to the probability of being subjected to a vehicle search pursuant to a traffic stop. The available research

indicates that minorities in general, and blacks in particular, are more likely to be searched during a traffic stop than white motorists.

## Potential Explanations

The most salient question, once a disparate pattern of this nature is identified, is to ask why it is occurring so regularly and consistently. So far, three potential explanations have been proposed.

### The Possibility of Individual or Institutionalized Racism within the Police Organization

Most police administrators would be quick to dismiss racism within the police organization as a plausible explanation. Indeed, most of the research indicates that extralegal factors (including race, class, gender, and age) do not affect police decision making significantly. [p. 1336 ↓ ] There is some limited evidence, however, suggesting that some police officers and/or departments discriminate against racial minorities and that there are significant public relations problems between the police and minority communities in the United States. In addition, a few police administrators have encouraged—through policy or other directive—individual officers to target racial minorities for enforcement. For example, an official document that surfaced during the litigation of a lawsuit alleging racial profiling encouraged state troopers to watch for drug dealers and traffickers who are “predominately black males and females” (Harris 1999: 565). In the late 1980s, a county sheriff's department established a highway drug interdiction unit. This unit was issued and instructed to use a drug courier profile that included twenty-two “indicators” of likely drug couriers. Race, based on “intelligence information from other law enforcement agencies,” was among these indicators (Harris 1999: 568).

# Drug Courier Profiles That Include Race as a Key Indicator

Profiling is not new to policing. Even relatively inexperienced police officers learn very quickly to respond to hunches and “suspicious” behavior. One may argue legitimately that certain subjective behaviors are consistent with potentially dangerous situations or are “typical” of some types of criminality. Men are more likely to commit crime than women. Teenagers commit more crime than senior citizens. Abusive spouses tend to maintain a pattern of abusive behavior. For the most part, profiles serve a legitimate purpose by improving the efficiency of police officer decision making, and in many respects, they improve officer safety.

For at least two decades, the War on Drugs heightened awareness of the dangers of illicit drugs. Police departments are motivated by both a sincere desire and intense public support to reduce the supply of drugs substantially. This desire became even more intense when civil forfeiture laws enabled police departments to benefit financially from aggressive drug enforcement through the seizure of large quantities of cash and valuable assets from convicted drug couriers. In their zeal to “get tough on drug dealers,” many departments developed or used profiles to assist officers in identifying potential drug couriers and traffickers. Although this can be a legitimate enforcement resource, there is a very real potential for abuse, particularly when the indicators used are not consistent with the realities of drug trafficking or are based inaccurately on the race of the suspect. “Blacks constitute 13% of all drug users, 37% of those arrested on drug charges, 55% of those convicted and 74% of drug offenders sentenced to prison” (ACLU 1999: 7). The very fact that the vast majority of drug offenders sentenced to prison are black could lead an otherwise misinformed individual to believe that the nation's drug couriers are predominantly black. As a result, when considering who, or what, to target for aggressive drug interdiction, blacks would appear to be the logical choice. This is a classic example of how a limited knowledge of the intricacies of the criminal justice system can be dangerous.

In 1996, the United States Supreme Court, in *Whren v. U.S.*, validated a long-standing police practice commonly referred to as pretextual stops. A pretextual stop occurs when

a police officer observes and then follows a “suspicious” person (e.g., an individual meeting a drug courier profile) until he or she violates a traffic law. When this occurs, the officer then has the necessary probable cause to stop the individual. Once the individual has been stopped, the officer may then conduct a plain-view search of the vehicle and its occupants. In addition, the officer may ask the driver's permission to search the vehicle. A surprisingly large percentage of drug traffickers will consent to a search. If no drugs, large amounts of cash, or drug paraphernalia are found, then, more often than not, the motorist is released without receiving a citation.

## Differential Deployment of Policing Resources

Normally, police officers are not purposely deployed according to the racial representation within a city. Rather, police administrators routinely concentrate on policing resources in high-crime areas or densely populated portions of the city, or on reducing response times. Unfortunately, in most American cities, some of these areas have a predominantly minority population. Regardless of their particular beat assignment, all officers are subject to the same performance standards. Given this, one would expect that in areas of highly concentrated police resources, the per capita number of enforcement actions would routinely exceed that of the lower crime areas or less densely populated portions of the city. In short, a disparity in enforcement actions with respect to race may be an inadvertent result of the department's deployment strategy.

[p. 1337 ↓ ]

## Future Research

Future developments with regard to race and policing depend in a large part on the extent to which community leaders, scholars, and the policing community choose to investigate allegations of race-based policing. So far, a number of recommendations

have been made to guide future researchers. As response to the issue matures, research recommendations will likely increase.

Race-based policing, like many other issues in criminal justice, is difficult to evaluate objectively. Problems plaguing researchers for many years (e.g., a lack of credible and consistent data, less than willing agency administrators, incomplete data sets and political showmanship) will likely present themselves in this area of research. There are, however, a few potential methodological obstacles that appear to be particularly relevant to this research agenda.

## Contextual Differences

Drug interdiction on the interstate highway system is a different type of police operation than routine patrol in an urban setting. It appears that racial profiling may be a more useful explanation for disparity arising from interstate highway or drug interdiction enforcement, while differential deployment resulting in a disparate effect may be more useful for explaining disparity in urban settings. Of course, it would be unwise to limit inquiry to a single explanation. Racially influenced profiles also may be evident in routine urban patrol decision making. The challenge for future researchers is to identify these potential contextual differences and evaluate the results accordingly.

## Issues regarding Police Department Self-Reports

The most prominent contemporary recommendation for collecting data on race-based policing involves requiring police departments to record the race or ethnicity of all individuals they contact in an official capacity. Some researchers propose that this data should include the reason for the stop, the race or ethnicity of the driver, whether the driver received a citation, whether the officer requested permission to conduct a search, and the results of the search.

For many years, researchers have known that individuals behave differently when cognizant of an observer. Asking the police to report routinely the race or ethnicity of all individuals they contact undoubtedly will generate questions from officers on how the information will be used. An honest response might leave some officers with the perception that, should the data reveal a disparate pattern in enforcement decision making, they or their departments may be subjected to public scrutiny and even disciplinary action. This has the potential for influencing the data-gathering exercise by threatening the validity of the information. Individual responses could include incomplete reporting, outright deception, and/or the failure of an officer to make a legitimate contact out of fear that it may be perceived to be racially motivated. Although there is no evidence that the police routinely will be dishonest in this regard, the reactivity issue is important precisely because critics of the research might consider the resulting data invalid and thereby dismiss important findings.

One method used increasingly by researchers in this arena is to compare the number of stops from the department's official records against the number of stops wherein an officer completed a self-report questionnaire. Similarly, paying attention to increases or decreases in total tickets issued before, during, and after the data collection period may provide some insight into a potential reactivity problem. Finally, some researchers exclude the officer's identification number from the self-report questionnaire. Although this may ensure confidentiality and prevent the department from using the information to discipline the officer, the researcher should also ensure that demographic information about the officer (i.e., race, gender, age, years of service) is included in the data collected.

## Limitations of Proportional Comparisons

Proportional comparisons may be useful for determining whether or not an overall enforcement program results in a disparate effect. However, they provide little insight into the subjective characteristics of a contact that might lead a citizen to believe that his or her race motivated an officer's attention. If a disparate effect is found, then it may easily be explained away by differential deployment. Furthermore, the courts recently have been reluctant to restrict the police discretion in this activity. The primary research question, whether or not the police are individually and/or collectively racially biased



in their decision making, cannot be answered completely on the basis of proportional comparisons alone.

Unfortunately, there are no tests that can, with an acceptable level of reliability, determine whether or not an individual is prejudiced. Perceptions of racism or [p. 1338 ↓ ] prejudice are based largely on the victim's perspective. Admittedly, an individual's perception may not be objectively accurate. All of us develop perceptions of other persons based on misunderstandings or miscommunications. Regardless of their lack of objective reliability, however, perceptions can and do affect an individual's behavior and eventually become an important element of public opinion. Because of this, researchers should include qualitative measures of the perceptions of motorists as part of a comprehensive investigation into the dynamics of race-based policing. This can be achieved through the use of either general or follow-up "quality control" surveys that ask questions relating to the officer's demeanor.

The perception of an event often depends on the life experiences of the victim. For example, if a police officer issues a warning rather than a citation for a bona fide traffic violation, some motorists may consider themselves lucky, while others may feel hassled. It is possible that individuals that experience or witness routine abuse by the police would more likely believe the latter. Evaluations of the motivation of a police officer making an enforcement decision may be incomplete if only objective measures of the event are used. To complete the picture, the researcher should consider the potential effects of various qualitative or subjective measures. This includes the perception of the victim as a variable in the equation.

## The Need for Proportional Comparisons Based on a Truly Representative Sample

The racial distribution of a general population is not necessarily the same as the racial distribution of its subsets. For example, the racial proportions of adults, licensed drivers, or actual users of the roadways may be different from that of the general population. The sampling frame of any research relating to race-based policing should exclude individuals who are not eligible to drive or otherwise not within the purview of police

supervision. Ideally, research of this type should include only those individuals who actually drive or are observed by the police.

Some researchers rely on the number of individuals in the population equal to or older than the driving age, while others are fortunate to know the actual racial composition of licensed drivers within a precinct, district, or city. At least one researcher actually conducts observations of drivers and classifies them by race, gender, and age.

## Summary

One of the most important issues facing American policing today is whether race influences routine law enforcement decisions. A review of the literature indicates that race plays a relatively small role in a police officer's decision on whether to make an arrest or issue a traffic citation. More important, however, it appears that race plays a substantial role in a police officer's decision to search a vehicle subsequent to a legitimate traffic stop. Many contemporary data-gathering proposals include potential methodological flaws that may limit the external validity of research findings. Methodological and data-gathering strategies that account for the differential enforcement contexts, overcome potential reactivity problems, make accurate proportional comparisons, and include appropriate sampling frames should provide more valid information.

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*See also*

- [Discrimination in the Criminal Justice Workplace](#)
- [Drug Courier Profiles](#)
- [Ethnicity and Race](#)

### Further Reading

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#### Court Case

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