Racial profiling

Rebekah Delsol considers profiling across the USA and Europe

The recent spate of police killings in Ferguson, Missouri and other cities in the USA have once again highlighted police violence and racial profiling. The shooting of Michael Brown in August 2014, and subsequent protests, speak to the longstanding and widespread abuse of police powers. The Department of Justice's investigation into the Ferguson Police Department found that African-American drivers are more likely to be stopped, more likely to be searched, more likely to be cited and arrested and more likely to received multiple citations during single incidents (United States Department of Justice Civil Rights Division , 2015). This is racial or ethnic profiling or colloquially known as being stopped and cited for the offence of 'DWB' – 'driving while black or brown,' a twist on the crime of driving while intoxicated.

Racial profiling is the use by the police of generalisations based on race, ethnicity, religion or national origin, rather than individual behaviour, specific suspect descriptions or intelligence. It is used as the basis for suspicion in directing discretionary law enforcement actions such as stops, identity checks, questioning, or searches among other tactics. Put simply, police officers are racially profiling when they view people as suspicious because of who they are, what they look like, or where they pray, rather than what they have done. It is often confused with 'criminal profiling,' which relies on forms of statistical categorisation of groups of people according to

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identifiable characteristics believed to correlate with certain behaviours, such as serial killer or hijacker profiles. The reliability of these tools is questionable but racial profiling in particular rests on flawed notions about race and crime. It assumes that someone's race is knowable from their appearance and that there is a consistent and statistically significant relationship between race and propensity to commit crime.

The USA has a long history of racist policing, rooted in slavery and the enforcement of segregationist 'Jim Crow' laws. The current understanding of racial profiling developed out of the 'drug courier profile' that was created in the mid-1980s by the Drug Enforcement Agency (DEA) in an effort to combat interstate drug trafficking under the rubric of the 'war on drugs.' The DEA trained local law enforcement officials to look for 'indicators', based on a drug courier profile, that included race as well as behavioural clues such as nervousness or the use of rental vehicles. There was no evidence that that African-Americans and Latinos/as were more likely to use or transport drugs than their white counterparts, yet the DEA training materials described and pictured predominately minority faces. The targeting of minorities for traffic stops, searches and fines thus became common practice and embedded in policing policy and structure in police forces

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across the country. After the attacks of September 11th 2001, the 'war on terror' extended the practice through aggressive enforcement of immigration laws, intrusive security screening in airports and removal from planes targeted at Muslims or those perceived to be of Arab or Middle Eastern descent.

A similar pattern in evident in the UK. With an equally long history of racist policing, claims about racial profiling in stop and search practices go back decades and have been implicated as a trigger of public disorder in 1981, 1985 and 2011. Home Office data has routinely shown that black people are stopped and searched at between 4 and 7 times more than white people (Delsol and Shiner, 2015). The lack of systematic tracking of police practice makes identifying similar practices in other countries difficult. However, racial profiling has been identified in a range of different policing practices and contexts, including mass controls in public places, stop and search and identity checks, sweeps of buses and trains, and data mining and raids on places of worship, businesses and organisations. An observational study of transport hubs in Paris found that blacks were 6 times more likely, and Arabs 7.6 times more likely, to be stopped than white Parisians (Goriset al., 2009). In parts of Spain, Moroccans and Romanians were respectively 7 and 10 times more likely to be stopped than ethnic Spanish, and these groups are also more likely to be subjected to more intrusive measures such as searches of their belongings (Delsol, 2009).

Narrow definitions of racial profiling describe situations where actions are based *solely* on the basis of a person's race or ethnicity. In practice, this has allowed police forces to deny the existence of racial profiling, where activities are legally justifiable but nonetheless racially biased such as the use of pretext traffic stops. Broader definitions recognise that decisions are usually made on a number of factors including race. This wider definition

reflects the fact that racial profiling may occur irrespective of whether this is a deliberate policy of targeted minority groups or routine institutional practices. Patterns of profiling can also be seen in discriminatory treatment after a stop has taken place, such decisions to go on to search, more intrusive searches, citations and arrests.

The link to other forms of profiling suggests that there is something scientific and efficient about racial profiling. The reality is very different. Race is a social construct; not knowable by sight. Racial profiles are both over-inclusive in the sense that many, indeed most, of the people who fit into the category are entirely innocent, and under-inclusive in that many other criminals or terrorists who do not fit the profile will escape police attention. Racial profiling also faces the problems of predictability and evasion; the more predictable police profiles become, the easier it is for perpetrators to adapt to circumvent the profile. The ineffectiveness of racial profiling is illustrated by consistently low hit or arrest rates for policing actions based on racial profiling. There is surprising consistency in data coming out of the USA, the UK and Europe demonstrating similar 'hit' or arrest rates across racial groups. In several studies, ethnic minorities are less likely to be arrested or have contraband or other 'seizable' evidence found following a search. This refutes the proposition that minorities are more likely to be involved in crime and illustrates that racial profiling represents an ineffective use of police resources.

Racial profiling also comes with heavy costs for those targeted. Profiling exacts a high price on individuals, groups, and communities that are singled out for disproportionate police attention. For the individual singled out, stopped and detained the experience, often of

frequent repeat encounters with the police, can be frightening and demeaning. Racial profiling stigmatises whole groups, reinforcing and fuelling racial tensions and contributing to the over-representation of ethnic minorities in other parts of the criminal justice system. Racial profiling damages police-community relations, undermining trust and confidence and deterring cooperation.

The damage that racial profiling can do is slowly being recognised. In the USA, the Obama Administration convened a task force to explore policing and community relations in the wake of police shootings and protests. In March this year, the task force recommended independent criminal investigations into police shootings, the adoption of policies to address racial profiling, including collection and sharing of data on stops, frisks, summonses, arrests and crimes, the demilitarisation of policing and relaxing the police approach to mass demonstrations. Here the Home Secretary, Theresa May, initiated a process of reforms around stop and search in 2013. This included strengthening the Code of Practice governing the use of the powers, training for officers, with focus on 'unconscious bias' and the 'Best use of Stop and Search Scheme', a voluntary scheme that binds police to wider recording of stop and search and its outcomes, introduces a lay observer scheme, improved complaints mechanisms and limits the use of controversial section 60 power. Yet, two years on, a recent review found that stops are still unrecorded, guidance is lacking, and disproportionality remains too high (Her Majesty's Inspectorate of Constabulary, 2015).

In other countries, with little to no recognition of racial profiling,

community groups are forcing the issue onto the public agenda and demanding change. In France, 13 individuals are suing the French state for discriminatory stops in the first class action of this type. In Melbourne, Australia, a similar class action brought by African-Australians was settled last year with the implementation of an action plan including a pilot for recording all stops. In Spain and Sweden, local communities use twitter to warn migrants where immigration stops are taking place.

The fact that racial profiling occurs in different countries and contexts and has such a long history belies the institutional nature of the problem. Racial profiling speaks to ideas about race, ethnicity and religion embedded in societies and the structures of policing. To change it will take more than recommendations or voluntary schemes but structural and systematic reform both inside and outside of the police. While it remains to be seen if there is political will to do so, communities and those on the receiving end of profiling continue to protest the need for change.

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