

Racial Bias and Public Policy

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Abstract

This article explores psychological science on race bias and its implications in several domains of public policy, with special attention paid to biased policing as an illustrative example. Race bias arises from normal mental processes, many outside our conscious awareness and control. This research directly applies to public policy, especially where concerned with regulating behavior and managing uncertainty. Research links both implicit and explicit racial bias to behavior, and uncertainty exacerbates the influence of bias in decision-making. Sample policy domains—where psychological research, race bias, and public policy intersect—include education, employment, immigration, health care, politics/representation, and criminal justice. Psychological research informs policy by documenting causes and processes, by expert testimony in court, and by generating and evaluating interventions to reduce race bias.

Keywords

bias, prejudice, stereotyping, criminal justice, policing

Tweet

Psychological science reveals how race bias operates, with policy applications to law, jobs, school, and health.

Key Points

- The psychology of race bias documents roles for categorization, stereotyping, prejudice, discrimination, and subtle biases.
- Relevant policy domains include criminal justice, employment, education, and health care.
- Racial bias in policing provides an illustrative case.
- Psychological research can inform policy by documenting causes and processes, by expert testimony in court, and by generating and evaluating interventions to reduce race bias.

Introduction

The End Racial Profiling Act (ERPA) has been introduced during almost every U.S. Congress since the year 2001. It is a reasonable piece of legislation, with a cogent definition of racial profiling, an unambiguous (if not enforceable) ban on the practice, prescriptions for relevant data collection, and provision for block grants to support departments working to ameliorate biased policing. Although racial profiling is widely condemned, and ERPA has many co-sponsors in the House and the Senate, the bill has yet to even receive a floor vote.

Racial profiling—the use of race, ethnicity, or national origin by law enforcement officials in deciding whom to stop, search, or detain—particularly illustrates the usefulness

of the psychological science on race bias for public policy. Policing is perhaps the most concrete domain of public policy: Laws meet citizens with often life-altering results. Racial profiling has been well documented in many jurisdictions in the United States (Glaser, 2014). Universally condemned and generally taboo, racial profiling has been statutorily banned (but with little in the way of enforcement mechanisms) and/or relevant data collection has been mandated in most U.S. states. The Department of Justice (2003) has banned it in federal law enforcement. A nationally comprehensive and enforceable policy, however, appears beyond the will of the U.S. Congress, highlighting the crucial interplay of American politics and policy: Concerns over security and public attitudes impede efforts to mitigate racial bias.

This article aims to summarize some central aspects of the psychology of racial bias (e.g., categorization, stereotyping, prejudice, discrimination, subtle forms of bias) and to sample relevant policy domains (e.g., criminal justice, employment, education, health care). These illustrate how and why psychological science can inform public policy in race-related domains. The particularly potent case of race bias in policing affords an exploration of opportunities for translating the basic science of psychology into policy practice.

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Psychology of Racial Bias

Although it may be tempting to pathologize prejudice, psychologists have determined that intergroup biases arise from *normal* mental processes. This does not mean that bias and any resulting discrimination are desirable. Bias typically comes from our strong, innate tendencies to (a) categorize objects and people into groups (Allport, 1954; Bruner, 1957), (b) prefer things (and people) merely because they are familiar (Zajonc, 1980) or because they belong to our group (Tajfel & Wilkes, 1963), (c) simplify a complex world (e.g., with stereotypes; Fiske & Taylor, 1991), and (d) rationalize inequities (Eagly & Steffen, 1984). Although most people shun racial bias, racial discrimination remains prevalent because prejudice can influence our judgments and behaviors in subtle, unexamined ways. Most biases can operate outside of conscious awareness and control, nevertheless distorting our judgments and making discriminating all the more difficult to avoid (Greenwald & Banaji, 1995).

Racial Bias and Public Policy: The Role of Uncertainty

Racial bias can be implicit (relatively unconscious) or explicit (conscious; see Blair, Dasgupta, & Glaser, in press, for a review). Both implicit and explicit biases are widespread and lead to powerful, negative outcomes. At the explicit level, for example, one need only to enter the phrase, “Why are [insert group label here] people . . .” into a Google search bar and scan the suggested topics to see that racial stereotypes are alive and well, and often disparaging. Psychological research has also demonstrated that cultural stereotypes are ubiquitous, and this explicit knowledge is independent of prejudice level (Devine, 1989). That is to say, one does not need to be explicitly prejudiced (harbor negative feelings) against a racial or ethnic group to be influenced by the stereotypes about that group.

Racial attitudes have steadily become less negative over the last century, and attitudes toward race- and policy-relevant issues (e.g., integrated neighborhoods and schools, interracial marriage) have become much more tolerant (Schuman, Steeh, Bobo, & Krysan, 1997), with increasing willingness to vote for a Black candidate for president (Roper Center, 2011), culminating in the actual election of Barack Obama in 2008. However, as substantial research shows, *implicit* bias is ever-present. People associate racial groups with specific attributes (e.g., crime, weapons, simply “goodness” or “badness”) outside of conscious awareness and control. Such associations are separate from explicit attitudes, though typically correlated (Nosek et al., 2007). Even people committed to being egalitarian can and likely do still harbor racial bias implicitly (Fazio, Jackson, Dunton, & Williams, 1995; Plant & Devine, 1998).

Attitudes and beliefs predict behavior (Ajzen & Fishbein, 1977; Fredricks & Dossett, 1983). More specifically, in

response to racial outgroups, explicit attitudes predict verbal treatment (such as conversation length and quality) and deliberative responses (such as juries’ decisions). In contrast, implicit associations predict non-verbal behavior (such as body language and interpersonal distance; Dovidio, Kawakami, & Gaertner, 2002; Dovidio, Kawakami, Johnson, Johnson, & Howard, 1997) and they have been shown to influence important judgments and behaviors (see Greenwald, Poehlman, Uhlmann, & Banaji, 2009; Jost et al., 2009, for reviews). Both channels can cast a chill over high-stakes encounters. These insights can have implications for public policy, which often seeks to regulate consequential behavior.

Policy analysis and practice is also about managing uncertainty. Policymakers manage by estimating uncertainty—placing probability estimates on outcomes and “confidence intervals” (margins of error) around costs and benefits, and they seek solutions that maximize net benefits and minimize uncertainty. However, policymakers never have complete information that will fully determine predictions. Consequently, most policy decisions occur under uncertainty and ambiguity. Furthermore, individual decisions by government officials or with government oversight (e.g., police decisions to stop or use force, prosecutorial decisions, national security decisions, health care decisions) are made under uncertainty and often with time pressure and distraction.

One of psychology’s established influences on public policy is the understanding that decision-making under uncertainty is often irrational (Tversky & Kahneman, 1973). Contrary to economic theory’s prevailing assumption that people rationally maximize utility, psychological research has shown otherwise. Particularly under uncertainty, people engage in *heuristic* processing, using cognitive shortcuts to make judgments (Chaiken, Liberman, & Eagly, 1989; Petty & Cacioppo, 1986). Stereotype-based judgments are a common heuristic, conserving mental resources when judging other people, who present overwhelming, but incomplete information (Fiske & Taylor, 1991). For example, when people’s cognitive resources are constrained (e.g., they are tired or distracted), their judgments of others tend to be more stereotype-influenced (Bodenhausen, 1990). This is one reason for a special relationship between psychology and public policy, particularly in the domain of judgments regarding social groups. Psychological science offers empirically derived insights about decision-making and behavior under uncertainty, both at issue in interracial encounters, both difficult to predict, but both central to public policy.

Sample Policy Domains Where Race Matters

Race bias and policy intersect in several key domains, areas where race bias is particularly consequential and where relevant research findings are already available—education, employment, immigration, health care, political representation, and criminal justice.

Education. The American Psychological Association, Presidential Task Force on Educational Disparities (2012) recently found racial disparities in outcomes at all educational levels, partly due to some groups experiencing specific types of bias. Two examples are teacher expectancy effects and stereotype threat.

Students demonstrably perform to their teachers' expectations, even if the expectations are randomly manipulated and students do not know what they are (Rosenthal, 1991). Teachers tend to underestimate the abilities of minority students, and these expectancies perpetuate inequality in education (Weinstein, Gregory, & Strambler, 2004).

Another contributor to racial disparities is stereotype threat, which occurs for individuals from stigmatized groups in situations where a stereotype applies. These individuals then experience distraction related to the applicable stereotype, and often underperform as a result. Stereotype threat has been implicated in academic underperformance for many groups, the most common being women and African Americans (Spencer, Steele, & Quinn, 1999; Steele & Aronson, 1995). Stereotype threat has direct policy implications: (a) Women and minorities are underperforming on standardized testing, and therefore being underrepresented in high-status fields and positions, and (b) psychological research has identified easy interventions to reduce the effects, such as educating students about stereotype threat (Johns, Schmader, & Martens, 2005), changing students' theories about the malleability of intelligence (Aronson, Fried, & Good, 2002), or self-affirmation (Cohen & Garcia, 2014).

Employment. The American Sociological Association found that "race and ethnicity play significant roles in determining job placement and career opportunities" (Spalter-Roth & Lowenthal, 2005, p. 1). In addition, race-based disparities occur in employment and unemployment rates, industry type, job type and position, and pay. Successful lawsuits demonstrate that claims of bias were warranted. Pepsi Beverages Company, Yellow Transportation Company, Albertsons LLC, and Abercrombie and Fitch Stores, Inc. are just a few major companies successfully sued in the last 10 years for systemic discrimination (U.S. Equal Employment Opportunity Commission, *Eradicating Racism and Colorism From Employment*, 2013). Furthermore, randomized audit experiments demonstrate biased responses of real firms to identical resumes sent by ostensibly Black and White job applicants (Bertrand & Mullainathan, 2004; see also Pager, 2003).

Psychological research helps explain why race matters to employment. Implicit biases lead to disparities in employment recruitment and hiring recommendations (Jost et al., 2009). Experiments also demonstrate how racial bias can operate in the workplace. In one study (Word, Zanna, & Cooper, 1974), White participants sat farther away, made more speech errors, and spent less overall time interviewing Black applicants compared with White applicants. In a follow-up study, some White

participants—those who were treated like Black applicants from the first study—were judged less adequate for the job and more nervous than those who were treated like the White applicants.

The current jurisprudence on employment discrimination requires, in most cases, evidence of *intent to discriminate*. The likelihood that much discrimination results from implicit biases and is therefore not intentional at the individual level has led legal scholars to call for changing how discrimination cases are litigated and adjudicated (e.g., Krieger, 1995).

Immigration. Attitudes regarding race, ethnicity, and nationality play a central role in the immigration policy domain. As one study demonstrated, the ethnicity of research participants and of those they judged predicted attitudes toward immigration policies and hypothetical immigrant families, even controlling for economic and legal concerns (Lee & Ottati, 2002). Immigration policies often reflect these attitudes. Naturalization laws dating back to 1790 established limitations on the immigrants from particular countries, often reflecting shifts in xenophobic attitudes among U.S. citizens (LeMay & Barkan, 1999). In 1882, the Chinese Exclusion Act barred Chinese immigrants (Calavita, 2000). More recently, Arizona's SB 1070 requiring law enforcement officers to determine immigration status during routine civilian stops arguably results in racial and ethnic discrimination (Campbell, 2011), and research showing that famous White foreigners are implicitly associated more strongly with being *American* than famous non-White Americans are (Devos & Banaji, 2005) indicates that racial or ethnic minority status is a risk factor for discriminatory immigration enforcement.

Health care. Racial disparities in health outcomes and health care delivery in the United States have been well documented (e.g., Pamuk, Makuk, Heck, & Reuben, 1998). Psychologists and medical researchers have repeatedly demonstrated that one factor contributing to poor health outcomes is perceived racial discrimination itself, which is a psychosocial stressor that can lead to a number of harmful physiological responses (Clark, Anderson, Clark, & Williams, 1999; Flores, Tschann, Dimas, Pasch, & de Groat, 2010; Williams, Yu, Jackson, & Anderson, 1997). Physicians' treatment decisions present another important pathway through which racial attitudes may affect patient health outcomes. Physicians' implicit racial biases have been shown to predict their treatment decisions (Green et al., 2007); the strength of physicians' implicit anti-Black bias was negatively associated with their likelihood of prescribing the warranted treatment for Black patients and positively associated for White patients.

Politics/representation. Minorities are underrepresented at virtually every level of governance, but this disparity is perhaps most apparent at the national level. Hispanic citizens make up 16.8% of the U.S. population, yet only 6.0% of Congress self-identifies as Hispanic. Similarly, African Americans

occupy only 8.0% of the seats in Congress, despite making up 14.1% of the U.S. population (Helderman, 2013; U.S. Census Bureau, 2012). Racial bias likely accounts for part of this underrepresentation. Data from the American National Election Studies collected during the 2008 U.S. presidential election revealed that explicit and implicit anti-Black biases reliably predicted the tendency to vote for the White candidate, John McCain, and against the Black candidate, Barack Obama (Finn & Glaser, 2010; Payne et al., 2009).

Racial Bias in Policing: An Illustrative Case

Psychological research has shown that some policing decisions are affected by racial bias. Reflecting concerns about wrongful police shootings of unarmed Black men, a batch of studies demonstrated that people implicitly associate Blacks with weapons (Payne, 2001), will recognize weapons sooner if they are paired with subliminal images of Black men (Eberhardt, Goff, Purdie, & Davies, 2004), and are faster to shoot Black men holding guns than White men holding guns and more likely to erroneously “shoot” unarmed Black than White men in a simulation (Correll, Park, Judd, & Wittenbrink, 2002). This *shooter-bias* is related to the strength of one’s implicit associations between Blacks (vs. Whites) and weapons (Glaser & Knowles, 2008).

The relevance of these findings to policing is not purely speculative: The weapon-recognition finding replicates with a sample of police officers, and 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 (Eberhardt et al., 2004). Shooter-bias, too, has been replicated with multiple, large samples of police officers (Correll et al., 2007; see also Peruche & Plant, 2006).

Racial bias in police use of lethal force appears to be a real and pronounced phenomenon with dire consequences for affected victims, families, communities, and departments. Bolstering this evidence is the finding that, in 10 known incidents of off-duty officers being fatally shot by on-duty officers, 9 of the victims were Black or Hispanic (New York State Task Force on Police-on-Police Shootings, 2010).

Far more common than shooting or even using non-lethal force is the decision about whom to stop for investigatory purposes. For the same reasons that activating thoughts of crime causes police officers to look at Black people (Eberhardt et al., 2004), police are more likely to conduct discretionary stops and searches on Black and Hispanic people (Glaser, 2014). In decisions made by law enforcement officers to stop and question civilians, policy guidance coming from command staff is likely to be influential to the extent that supervisors expect a large number of stops. This will require officers to stop people at lower levels of suspicion.

The evidence from New York City’s *Stop & Frisk* program is telling. For much of the last decade and a half, the New York Police Department (NYPD) was stopping hundreds of

thousands of pedestrians annually, peaking at nearly 700,000 in 2011. Whites who were stopped and searched in the years studied yielded contraband and weapons at higher rates than did Blacks and Hispanics (Jones-Brown, Gill, & Trone, 2010). From the framework of *outcome test* analyses of racial profiling (e.g., Knowles, Persico, & Todd, 2001), this is evidence of biased policing—White suspects probably have to present with greater suspiciousness to get stopped.

Given the *due process* and *equal protection* clauses of the *Bill of Rights*, racial profiling is unconstitutional. Nevertheless, the policy direction delivered by the courts has allowed officers a great deal of discretion, rendering racial profiling an ineffective criminal defense. In *Terry v. Ohio* (1968), the Supreme Court set a “reasonable suspicion” standard for “pat-downs” of civilians (p. 8), resulting in the colloquial term *Terry stop* for such interactions. They extended this logic to vehicle stops, essentially ruling that racially biased stops are permissible provided there is a race-neutral pretext (*Whren v. United States*, 1996). However, in a few civil cases the courts have agreed with legal scholars about the unconstitutionality of stops based on driver race or ethnicity. Some of these cases, such as the Oakland, California, “Riders” civil rights lawsuit, have resulted in court-administered consent decrees that include orders to cease and desist in biased practices and require data collection by officers on all stops.

Despite the permissive nature of the Supreme Court’s rulings in cases alleging racial profiling, some state legislatures have enacted laws banning the practice. According to the Northeastern University Data Collection Resource Center, as of 2011, 28 U.S. states had enacted laws relating to racial profiling.

At the federal level, despite years of effort, the long and dogged pursuit of a national policy on racial profiling has yet to yield fruit. The executive branch has been somewhat more successful in enacting policies related to racial profiling, but they typically affect only federal law enforcement.

Although most states have banned racial profiling or mandated relevant data collection, none have articulated effective enforcement mechanisms. Perhaps the most traction in racial profiling policy is at the agency level. Police chiefs’ views on profiling have evolved substantially over recent decades, moving from a tendency toward denial to open recognition of the problem. Departments that do not take proactive steps run the risk of lawsuit and federal investigation. The Center for Policing Equity, a consortium of scores of North American police chiefs and social scientists working to reduce racial bias in policing, is in the process of developing a national database of police stops in an effort to better understand and mitigate racially biased policing.¹ Psychological measures will play a prominent role in this effort. In the absence of effective federal or state regulation, agency leaders are taking initiative to implement policies and practices to reduce the impact of racial bias.

One policy recommendation for reducing racial bias in policing, which should apply well across other domains, is to limit the discretion that officers (or other decision-makers) have in making their judgments. Higher discretion means judgments made with greater uncertainty. Uncertainty invites bias. Officers who are exhorted to make a lot of stops, and who know that any stop with a valid pretext is permissible, will be more likely to have race-crime stereotypes influence their judgments. Reducing discretion should reduce racial disparities.

Helping to Improve Public Policy With Psychological Science Insight

Psychological research can help improve public policy relating to race bias in at least three ways. First, psychological science reveals causes and processes. This is due largely to experimental methods in psychology. The relationship between cause and effect is best understood when the cause can be directly manipulated rather than merely observed. Identifying the actual cause for an unwanted effect is central to creating policy to address such an outcome. A century of psychological research has identified the core mechanisms by which racial bias distorts our judgments and behaviors. The relatively new recognition that much racial bias operates outside of conscious awareness and control has critical implications for policy. Krieger's (1995) seminal legal scholarship applying research on implicit social cognition to employment discrimination can serve as a model for considering how to enforce non-discrimination when conscious intent is not a necessary condition. One approach may be to hold decision-makers (e.g., personnel managers, admissions staff, physicians, police officers) to an *intent to not discriminate* standard instead of the judicial standard of merely lacking an intent to discriminate. The courts have not yet been willing to do this, but agency leaders (e.g., police chiefs) have the latitude to apply such standards.

Second, psychological scientists can provide expert testimony in policy-relevant cases. Because much relevant policy is adjudicated in courts, appropriate research should be represented there. However, providing expertise to lawmakers and executives, as well as non-governmental organizations (NGOs), is another plausible way for psychological researchers to affect policy. To date, much of the social science advisory capacity to government has been from the field of economics, in part because economists can effectively forecast fiscal outcomes, but they extend their expertise far beyond that. Psychologists offer unique and well-established perspectives on racial bias, decision-making, and behavior.

Third, psychological research can generate and evaluate interventions for reducing racial bias and its effects. The example of stereotype threat, discussed previously, is one research domain in which several interventions have been identified and tested (Cohen & Garcia, 2014; Schmader &

Hall, 2014). A more general bias-reducing intervention is *intergroup contact*, where simply having contact with outgroup members dramatically decreases intergroup prejudice (Pettigrew & Tropp, 2006). Educating the public about diversity has also been empirically found to affect long-term thoughts, feelings, and abilities regarding outgroup members (Kalinowski et al., 2013). Intensive counter-attitudinal or non-stereotypic training can decrease bias in hiring (Kawakami, Dovidio, & van Kamp, 2005). Psychological research on race bias is broad and deep, and can be a resource for policymakers.

Conclusion

The intersection of race bias and public policy resonates deeply with Western values. Much of the story of American history reflects a slow but steady march from racial oppression to high acceptance and tolerance, including the election of a Black man to the presidency. Complacency, however, would be ill-advised. Spontaneous social categorization, automatic preference for one's own group, stereotyping, the need to rationalize inequities, and other psychological processes imply that race bias is normative. The mere knowledge of stereotypes, even with conscious repudiation, is sufficient to cause discrimination. That these stereotypes reside beyond conscious access but nevertheless bias our judgments indicates that merely not intending to discriminate is insufficient. Policymakers will do well to pursue methods to mitigate the unintended effects of race bias.

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