CLARIFYING THE CONCEPT OF RACIAL PROFILING IN CANADA

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To successfully reduce racial profiling requires a clear understanding of the term, its origins and use, and how it differs from the police practice of criminal profiling. The current absence of conceptual clarification among police personnel, coupled with the lack of systematic race-based data on police-initiated encounters with citizens, has undermined efforts to better understand and address the problem of racial bias in policing. These issues are compounded by the dearth of empirical research on police decision making in encounters in the community, which would help to identify the cognitive and operational factors that influence the decisions of officers.

INTRODUCTION

Racial profiling is a key issue in Canadian policing and has significant implications for individuals, communities, police services, and governments. To successfully develop policies and initiatives to address and reduce racial profiling requires a clear understanding of the term, its origins and use, and how it differs from the police practice of criminal profiling. Similarly, how racial profiling and criminal profiling are defined, and by whom, significantly affects the focus of research studies as well as how the findings of those studies are interpreted. It also affects the assessment of whether a police service or an individual police officer has or does engage in racial profiling.

The identification of a police decision as racial profiling is complicated by the vast amount of discretion that officers have and the challenges and implications of imposing, a priori, guidelines on decision making. Efforts to structure and confine police discretion have been made, generally without success, over the past four decades. Most successful have been specific policies designed to limit the discretion of police officers in specific instances, such as in cases of domestic violence. Whether and the extent to which similar limits may be imposed to

reduce racial profiling remains to be seen, and is complicated by a blurring of definitional boundaries between different types of profiling.

CRIMINAL PROFILING AND RACIAL PROFILING: CONNOTATIONS AND CONFLATION

Criminal and racial profiling are two concepts that are generally viewed to be mutually exclusive spheres of decision making by police practitioners. In reality, however, a "pervasive ambiguity" surrounds the very meaning of each of these concepts which, in the absence of clarification, can (and does) lead to their conflation on the frontline and in discussions of racial profiling and policies designed to address it.

Criminal profiling has a long history in policing, and involves the identification of behavioural and physical "indicators" that are intended to assist in the detection of potential or actual criminality (Canter, 2010; Kocsis, 2006). Proponents of criminal profiling insist that 'race' and ethnicity do not, on their own, constitute risk indicators, and that it is 'behaviour' and the situational context rather than 'people' (that is, particular segments of the population) that receive greater scrutiny.

Although research on the efficacy of criminal profiling has produced widely divergent results, with a considerable amount of evidence to suggest that some forms do not constitute effective investigatory tools, the practice has gained considerable institutional legitimacy among policing agencies. Indeed, for many police personnel, the term "profiling" is associated with the detection of criminality and is utilized based on strategies learned in training and applied in the field.

The term "racial profiling", in contrast, has negative connotations and is associated with discriminatory policing practices that involve overt displays of racial bias by officers in their encounters with citizens. In many communities of colour the very term "profile" (similar to the term "carding" which, in most jurisdictions in Canada, is called "street checks") is synonymous with racially-biased policing practices that are discriminatory against individuals and communities, reflecting historical antecedents and unequal power relations.

However, while criminal profiling and racial profiling are theoretically distinct, these concepts often fuse in practice and in dialogue such that stereotypes that link certain segments of the population with heightened criminal propensity can shape police decision making in very problematic ways.

To be sure, any one decision that is made by a police officer may involve a myriad of factors: political, organizational, and individual, as well as the situational context within which the decision is made. Police services may be under pressure from municipal councils, the media, and the community to address the high rates of crime and disorder in certain areas of a given jurisdiction. This may have been precipitated by a series of criminal incidents, one high profile criminal event, or be a consequence of long-standing issues. Police officers can report feeling caught in the middle between the expectations of their organization, the requirements of the law, and the perceptions of community residents. As such, the "performance culture" of policing, and the pressures officers may feel to accrue "hits" may actually promote the practice of racial profiling (Cashmore, 2001). The operational focus that equates officer efficacy with enforcement activities has also created an organizational culture wherein police officers view themselves primarily as "law enforcers" instead of public servants, which only serves to exacerbate the problem.

A CALL FOR CANADIAN RESEARCH

The current absence of conceptual clarification among police personnel (which is due in part to police training protocol), coupled with the lack of systematic race-based data on police-initiated encounters with citizens, has undermined efforts to unpack the conflation between criminal and racial profiling (to the extent that this is possible), and to better understand and address the problem of racial bias in policing. These issues are compounded by the dearth of empirical research on police decision making in encounters in the community, which would help to identify the cognitive and operational factors that influence the decisions of officers. This, in turn, would facilitate a determination of the nature and extent of biased policing in a police service, and allow for delineation of situations of racial profiling vs. criminal profiling, so that officers can better understand the demarcation between these two practices. Critical to this research would be an exploration of the perspectives of both the police and community residents on what would constitute racial profiling in a particular case, and why.

A constructive dialogue on racial profiling and criminal profiling and the development of strategies to address the former is also hindered by an absence of structures and processes to facilitate funding, collaboration, the dissemination of research findings, and the implementation of research-informed police policies and strategies. Canadian police boards have traditionally not had the capacity to conduct independent research, but have instead relied on information provided from research conducted outside of the Canadian context (which raises important issues of generalizability), or is more anecdotal and not based on empirical field research.

In the absence of research that will facilitate a clear delineation between racial profiling and criminal profiling, it is likely that the relationship between police services and communities will continue to be characterized by conflict and a lack of productive

communication. By clarifying the dialogue on criminal profiling and racial profiling, police organizations and communities can begin to create relationships of trust and mutual understanding, which will in turn increase the safety and security of community residents and their equal treatment under the law.

Finally, though racial profiling is among the most visible, acknowledged, and quantifiable examples of bias in policing, there are myriad other, often less obvious examples of racial bias and disproportionality in the criminal justice system that warrant equal attention on the part of scholars, practitioners and policy makers. These include (but are not limited to) discrimination and disparity in other areas of policing, as well as at the pre-trial, sentencing, probation and parole stages.

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