

Prejudice in Police Profiling

Assessing an Overlooked Aspect in Prior Research

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Social science analyses of racial profiling in the context of discretionary police stops and subsequent interrogations have tended to rely on a framework dictated by federal case law, namely, they have focused on disparate impact by race as the basis for deeming profiling discriminatory. Significantly, neglected in profiling studies have been considerations of the role of prejudice. Analogizing to profiling about the sources of prejudice, activators of prejudice, and legitimacy gained from acting on prejudice, among key decision makers in other institutional domains—namely, employers in the workplace and brokers/landlords in the housing market—the authors maintain that prejudice is a source of profiling. In addition, the authors discuss how identifying the prejudicial roots of profiling enhances one's ability to both judge its propriety and understand the scope of racial prejudice in America. The authors offer suggestions for future research that sheds additional light on the link between racial prejudice and profiling.

Keywords: *prejudice; racial profiling; discrimination; race; police*

In recent years, there has been an outcry of calls from many quarters condemning discrimination associated with racial profiling in the context of discretionary suspicion-based police stops of automobiles and subsequent interrogations (for a review, see Harris, 2002). In this vein, sources ranging from social scientists (Engel, Calnon, & Bernard, 2001; Harris, 1997, 1999; Thatcher, 2001; Tomaskovic-Devey, 2001), the popular press including newspapers such as *The New York Times* ("Racial Profiling Was the Rule, New Jersey Finds," 2000) and *The Washington Post* ("Driven to Extremes," 1996), high-level elected officials

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such as the president of the United States (Harris, 2002), and even a large number of police departments (Harris, 2002) have been united in decrying this widely employed practice that tends to operate on an informal basis (see Harris, 2002).

Significantly, the spate of criticisms directed at profiling derive from a conception of discrimination that is adopted from the U.S. Supreme Court and federal district courts in their recent adjudication of profiling cases. In this vein, an increasing number of courts have held that the discriminatory impact on African Americans of profiling is likely to render it unconstitutional, particularly under the equal protection clause of the 14th Amendment (*Chavez v. Illinois State Police*, 2001; *Illinois v. Wardlaw*, 2000; *United States v. Armstrong*, 1996; *United States v. Waldon*, 2000).

Specifically, courts have increasingly ruled it is discriminatory to use race—especially when it is not accompanied by other suspicious criteria, for example, location, behavior, and so on—as the basis for selectively enforcing public safety.

However, largely absent in recent analyses of profiling is any notion of “racial animus” (Thatcher, 2001) or racial “prejudice” (Harris, 2002). This omission is particularly surprising among social scientists: They have documented that prejudice drives discrimination in their analyses of analogous decision making among key—predominantly White—actors in other institutional domains, namely, the workplace (Kirschenman & Neckerman, 1991; Pettigrew, 1985; Wilson, 1997) and the housing market (Charles, 2001; Farley, Steeh, Krysan, Jackson, & Reeves, 1994; Yinger, 1995). In fact, emerging from these other lines of research is the conclusion that the autonomous legal status of discriminatory “impact” from purposeful discriminatory “intent” frequently represents a “false antinomy” (Pettigrew, 1985). Specifically, practices in the workplace and residential spheres deemed by courts to be discriminatory because of their race-specific impact are often rooted in elements of animus or racial prejudices that characterize contemporary society (Pettigrew, 1985; Pettigrew & Martin, 1987).¹

Accordingly, in this article we are concerned with assessing the importance of prejudicial intent as a source of racial profiling. In particular, we argue primarily through analogizing to dynamics among key decision makers in other institutional domains that examining this neglected aspect in previous research broadens our understanding of profiling. Overall, the article proceeds in several stages: After assessing racial profiling in studies by those most equipped to move beyond an impact-based analysis—specifically, social scientists—we identify the tenets of contemporary prejudice as well as the manner in which they have formed the basis for discriminatory treatment by analogous actors in other institutional domains. Finally, we draw parallels between other key decision makers in the performance of their job functions and the police in profiling.

SOCIAL SCIENCE ANALYSES OF DISCRIMINATION IN PROFILING

In the last half dozen or so years, approximately 15 studies by social scientists have touched on the discriminatory bases of racial profiling in the context of discretionary police stops of automobiles and subsequent interrogations (Banks, 2001; Engel et al., 2001; Fagan, in press; Garrett, 2001; Gross & Livingston, 2002; Harris, 1997, 1999, 2002; Skolnick & Capolovitz, 2001; Smith & Alpert, 2002; Smith & Petrocelli, 1997; Taylor & Whitney, 1999; Thatcher, 2001; Tomaskovic-Devey, 2001). In these studies, the discriminatory basis of profiling tends to constitute one issue in the examination of broader issues, including most often the incidence of profiling and its constitutional/legal validity.

Overall, these studies have tended to focus on themes involving the discriminatory impact of profiling that reinforce and build on those identified in federal case law (for exceptions, see Harris, 2002; Tomaskovic-Devey, 2001). Specifically, several themes have emerged on a repeated basis as rationales for concluding that profiling should be deemed unconstitutional.²

Rule of law. First, concerns for the “rule of law” should lead to the rejection of policies such as profiling that place grossly disproportionate burdens of public safety on an identifiable social group. Significantly, as Thatcher (2001) recently argued, police practices that distribute their burdens equally force each of us to ask: “Am I willing to pay this price in the fight against crime: Are my gains in safety large enough to counteract the added burden of stops, searches, and delays that I have to endure?” Overall, when one group bears the disproportionate burden of public safety, the majority who are not profiled do not have to ask these questions, which constitutes a form of political cheating as those who do not assume a burden and are given a “free ride.”

Racial egalitarianism. Second, race-based profiling violates a general ideal, racial egalitarianism, namely, that existing patterns of social disparity between racial groups should as an ethical ideal be reduced. Specifically, this ideal holds that disproportionate burdens on groups that live with a legacy of past discrimination and consistently suffer from a disproportionate share of social burdens in other areas of life today are an evil to be avoided where possible.

Racial tension and police legitimacy. A third reason why police should be deterred from profiling rests on considerations of social cohesion and governmental legitimacy. Significantly, the reactions of both those who observe stops as well as those who are stopped on a race-specific basis are likely to exacerbate racial tensions. Specifically, observers are likely to draw one of two conclusions: Either people who are stopped are dangerous and prone to crime or law enforcement is biased against those stopped. Furthermore, those who are

stopped disproportionately are likely to develop antipathy toward law enforcement and the criminal justice system.

Evidence that these themes have predominated in social science discourse on the discriminatory aspects of profiling is revealed in a content analysis of these social science articles. Table 1 presents the results of the content analysis.

Results indicate that terminology regarding the inadvertent consequences of racial profiling are dominant: In explicating the dynamics of profiling, terms associated with *burden*, *impact*, and *result* appear nearly twice as often as terms that connote any kind of intentionality or purposefulness such as *prejudice*, *intent*, or *purpose*. In short, findings document that in social science analyses of racial profiling among the police, a form of discrimination is posited as determinative that focuses disproportionately on race-based impact and pays far less attention to the importance of prejudice or race-based animus.

PREJUDICE AND STEREOTYPES IN AMERICAN LIFE

Racial prejudice is “an antipathy [directed toward an outgroup] based upon a faulty and inflexible generalization” (Allport, 1954, p. 9). Significantly, racial prejudice is rooted in stereotypes, “a set of beliefs about the perceived attributes of members of a particular social category” (Bobo & Massagli, 2001, p. 94). Stereotypes are broadly distributed across the population and are part of the “normative repertoire” (Allport, 1954) that derives from day-to-day functioning in a cultural community (Bobo & Massagli, 2001). Stereotypes are not in a statistical sense aberrant but are rather the product of a basic cognitive function—the need to classify, categorize, and form judgments about objects in our environment (Allport, 1954; Sears, 1988). Overall, stereotypes serve the function of “racializing” (Omi & Winant, 1994, p. 1980) the most minute phenomenon of everyday life: Stereotypes ranging in content about groups’ temperament, intelligence, athletic ability, aesthetic preferences, and dispositions toward wealth/poverty and criminality ensure that race constitutes a primary cleavage in representing the social world (Allport, 1954; Bobo & Massagli, 2001).

Significantly, the gap created by the physical impossibility of acquiring direct information as well as processing and forming evaluative judgments about objects in our environment is filled by the readily available judgments of external sources and social psychologically based needs related to such issues as esteem and status maintenance (Allport, 1954; Blumer, 1958). Accordingly, stereotypes are acquired through several analytically distinct but often overlapping sources. Specifically, they may have a cognitive underpinning—social learning—that encompasses patterns of socialization/interaction (Bobo & Massagli, 2001; Sears, 1988) and exposure to media-disseminated messages (Gilens, 1999; Wilson, 1997). Also noteworthy is an affective base to stereotypes, self-interest (Allport, 1954; Bobo & Massagli, 2001), which encompasses both individual and cooperative variants. These variants capture the importance of direct

TABLE 1: Content Analyses of 15 Recent Social Science Analyses of Racial Profiling

<i>Language of Discriminatory Impact</i>	<i>Language of Discriminatory Intent</i>
Number of citations: 69	Number of citations: 36
Three most common terms	Three most common terms
1. <i>Burden</i> : “undue burden,” “unjust burden,” “unfair burden”	1. <i>Prejudice</i> : “prejudice”
2. <i>Impact</i> : “unfair impact,” “discriminatory impact,” “illegal impact”	2. <i>Intent</i> : “discriminatory intent,” “illegal intent”
3. <i>Result</i> : “discriminatory result,” “unfair result”	3. <i>Purpose</i> : “discriminatory purpose,” “illegal purpose”

(i.e., oneself) and indirect (i.e., significant others in one's life, i.e., family, friends, and co-ethnics with whom one identifies) symbolic and material advantages that accrue from stereotyping (Schuman, Steeh, & Bobo, 1985).

Stereotypes—irrespective of their source—make social categories (e.g., racial groups) salient and activate an existing bundle of preexisting perceptions and information about them. This existing cognitive structure or schema about African Americans, Hispanics, Asians, and Whites organizes and directs information taken in by individuals in any specific situation. That is, stereotypes bias perceptions and the meaning assigned to objects and events in the immediate situation. Furthermore, as Bobo and Massagli (2001) recently noted, stereotypes are not neutral. They are not merely a shortcut in which order is substituted for the great confusion of reality. Stereotypes serve critical functions: They play a pivotal role in guaranteeing self-respect, and they are a basis for projecting on the world a justification for specific values and rights and for defending positional differences and/or justifying the unequal distribution of material and symbolic rewards. In short, stereotypes are the fortress of tradition, and from behind its defenses those who benefit from the status quo feel safe in the positions they occupy and justified in the rewards they receive (Bobo & Massagli, 2001). Finally, additional social psychological research establishes that stereotypes are acted on when there is both opportunity and motivation to do so (Blumer, 1958; Fiske, 1998; Pettigrew, 1985). *Opportunity* refers to power to exert formal or informal control over the objects of stereotypes (Fiske, 1998). *Motivation* encompasses having an incentive to act or deriving a benefit from acting on one's stereotypes—such as gaining legitimacy in one's position or socioeconomic gain (Pettigrew, 1985).

Significantly, a sizable literature in sociology and social psychology has traced the structure and evolution of racial prejudice in the United States (Allport, 1954; Bobo, Kluegel, & Smith, 1997; Pettigrew, 1985; Schuman et al., 1985). In this vein, evidence indicates the form it has taken has changed drastically in recent decades. Specifically, traditional Jim Crow prejudice, which is characterized by its foundation in stereotypes regarding the biological bases of

racial differences in perceived psychological attributes/dispositions and behavioral differences as well as support for segregation across institutional spheres, has given way to a more “subtle” and “benign” (Bobo et al., 1997) form of prejudice that is grounded in stereotypes about cultural and motivational differences between racial groups (Bobo et al., 1997; Schuman et al., 1985). Stereotypes underlying the more contemporary form of prejudice—which has variously been labeled *laissez-faire racism* (Bobo et al., 1997), *symbolic racism* (McConahay & Hough, 1976; Sears, 1988), and *contemporary prejudice* (Pettigrew, 1985)—are characterized by notions that equality, at least in principle, should govern relations between racial groups and support for integration across institutional spheres (Schuman et al., 1985). Overall, the contemporary form of racial prejudice is based on widespread but relatively benign stereotypes rather than the ill will and overt hostility of the classic bigoted personality that more closely captures the nature of the Jim Crow form of prejudice (Bobo et al., 1997).

PREJUDICE ACROSS INSTITUTIONAL DOMAINS

There is a significant basis in social science research for maintaining that police are guided by prejudice in profiling in a similar manner as it directs key decision makers in other institutional domains, namely, employers in the workplace and landlords/brokers in the housing market. In this vein, parallels across institutional domains fall into three discrete categories—the sources of prejudice, the activators of prejudice, and the legitimacy derived from acting on prejudice. These parallels are discussed in the following and are also summarized in Table 2.

First, social science research has established that stereotypes forming the basis of contemporary prejudice are underpinnings of decision making among key actors in the domains of work and the housing market. In this regard, emerging from a distillation of recent research spanning survey-based, experimental-based, and case studies/ethnographic methods (Anderson, 1990; Charles, 2001; Collins, 1997; Farley et al., 1994; Galster & Keeney, 1988; Kasinitz & Rosenberg, 1996; Kirschenman & Neckerman, 1991; Lake, 1981; Moss & Tilly, 2001; Newman, 1999; Pearce, 1976) is that discriminatory practices denying Blacks with equivalent human capital credentials as Whites similar access to the labor market and Blacks with equivalent financial resources as Whites similar residential options are undergirded by a range of stereotypes that depict Blacks as unsuitable workers and neighbors. In particular, two kinds of negative stereotypes about Blacks can be identified. The first are interpersonal traits that constitute variants of “dirtiness/uncleanliness” (Anderson, 1990) and “laziness” (Kasinitz & Rosenberg, 1996; Moss & Tilly, 2001). The second are behavioral dispositions and capture variants of “disinterest in keeping up property” (Farley et al., 1994; Galster & Keeney, 1988) and preferences for “living off welfare and

TABLE 2: Prejudice Across Three Institutional Domains

		<i>Profiling</i>	<i>Renting/Selling Real Property</i>	<i>Hiring</i>
Sources of prejudice	Domain-relevant stereotypes	Minorities drug/gang prone	Minorities will not “keep up” neighborhood	Minorities unproductive workers
Activators of prejudice	Social-psychological mechanisms	Statistical discrimination; attribution bias	Statistical discrimination; attribution bias	Statistical discrimination; attribution bias
Legitimacy from acting on prejudice	Responsive to aspects of the public in order to:	Maintain norms of social control	Maintain existing values in real property and quality of residential life	Maintain productive and stable workforce

disinterest in work” (Anderson, 1990; Kirschenman & Neckerman, 1991; Moss & Tilly, 2001).

In fact, no existing social science research has systematically assessed stereotypes in the context of profiling. However, a plausible case that stereotypes are a crucial source of profiling derives from findings regarding how deep-rooted and widely held domain-specific stereotypes relating to crime—which one researcher characterized as forming the “hallmark” of contemporary prejudice (Bobo et al., 1997)—are among the American population. In this vein, results from several recent survey-based analyses indicate that stereotypes regarding both interpersonal traits and behavioral dispositions associated with criminality—namely, items that constitute themes related to violence (Peffley, Hurwitz, & Sniderman, 1997) as well as those that capture engaging in antisocial activity such as associations with drugs and gangs (Peffley & Hurwitz, 1997)—obtain higher levels of support than parallel negative stereotypes associated with suitability as workers and neighbors among both gender gaps, across age groups, and categories of social class and non-Black racial groups (Dimaggio, Evans, & Brysan, 1996; Gilens, 1999; Peffley et al., 1997; Peffley & Hurwitz, 1997). Accordingly, it should not be surprising that in the past half dozen or so years several criminologists have maintained that the pervasive, stereotypically rooted “color coding” of crime has permeated the criminal justice system and is driving the decision making of key actors such as judges, parole officers, and criminal lawyers (Harris, 2002; Walker, Spohn, & Delone, 2000).

In addition, a series of experimentally based studies (Pettigrew & Martin, 1987), survey-based analyses (Tomaskovic-Devey, 1993; Wilson, Sakuma-Lemessy, & West, 1999), and ethnographies case studies (Anderson, 1990; Newman, 1999) that examined prejudicial dynamics identified several critical

social psychological-based cognitive processes—namely, *statistical discrimination* and *attribution bias*—used by analogous decision makers to the police when exercising discretion in the performance of job functions. Significantly, these cognitive processes tend to be pronounced in specific contexts and serve to “activate” (Allport, 1954) the stereotypes that comprise contemporary racial prejudice. In particular, they operate among those who render decisions regarding social control over racial minorities—for example, employers and real estate brokers/landlords—but lack complete information for doing so (Pettigrew & Martin, 1987). Accordingly, decision making is often predicated on minimal information, such as the identification of one’s race at for example the outset of a job interview (Kirschenman & Neckerman, 1991; Moss & Tilly, 2001) or pursuant to completing a racial status question on a job or rental application (Kasinitz & Rosenberg, 1996; Moss & Tilly, 2001). Statistical discrimination operates when key—primarily White—decision makers such as employers, real estate brokers, and landlords assign the perceived average characteristics (i.e., stereotypes) of that group to any one of its members, adversely affecting prospects for being hired in the workplace as well as being able to rent and purchase real property (Tomaskovic-Devey & Skaggs, 1999; Wilson et al., 1999). Confirmatory attribution bias refers to the tendency of employers and realtors/landlords to selectively accentuate negative aspects of the physical appearance, characteristics/traits, credentials, or behavior of racial minorities (Pettigrew & Martin, 1987; Wilson, 1997). In this regard, information that disconfirms preexisting stereotypes is dismissed as an aberration, whereas information that reinforces stereotypes are highlighted and viewed as normative (Pettigrew, 1985; Wilson, 1997).

No research has explicitly examined the extent to which cognitive processes resembling statistical discrimination and attribution bias operate in the context of profiling by the police. Nevertheless, there are bases in social science research for maintaining they should be at least as pronounced in the sphere of profiling as hiring among employers and the selling/renting of real estate by brokers and landlords. Specifically, experimentally based research and case studies have found that both cognitive processes function in inverse relation to the amount of predecision contact with minority groups (Pettigrew, 1985). In this regard, contact provides information that can help to overcome cognitively based forms of bias. However, the context of profiling is distinct from the workplace or the real estate market: Police have no opportunity to have contact with citizens prior to reaching decisions regarding whether to engage in suspicion-based stops of their automobiles. In addition, these same studies also indicate that statistical discrimination and attribution bias function in direct relation to the severity of domain-specific stereotypes. Accordingly, the relatively pronounced nature of stereotypes regarding Blacks’ penchant for criminality should serve to render cognitive processes such as statistical discrimination and attribution bias integral to profiling.

Finally, social science research offers an additional basis for concluding that the behavior of police in racial profiling—just as is the case for employers in hiring and brokers/landlords in selling and renting real property—is based on contemporary racial prejudice: Namely, actors in all three domains derive legitimacy from acting on prejudicial attitudes.³ In the context of hiring, employers derive legitimacy from most notably superiors in the form of professional esteem, status, and standing based on their ability to manage an efficient business operation (Hodson & Sullivan, 2001; Leicht & Fennell, 2000). Accordingly, adhering to existing racial norms of exclusion in the workplace that are rooted in racial stereotypes is perceived as advantageous for at least two reasons. First, it ensures that new workers have the requisite personal characteristics (Kirschenman & Neckerman, 1991; Moss & Tilly, 2001), and second, it prevents dominant group workers from becoming disgruntled pursuant to the changing racial composition in the workplace (Blumer, 1965; Collins, 1997). In the realm of selling or renting real property, landlords and brokers are evaluated as competent and successful to the extent they are responsive to community and neighborhood concerns regarding such issues as maintaining existing real estate values and the quality of existing residential life (Galster, 1992; Yinger, 1995). Accordingly, the premium put on fulfilling these professional obligations militates toward making decisions based on stereotypes regarding Blacks' suitability as real estate owners and renters (Yinger, 1995).

Criminologists have documented that police derive their legitimacy from a relatively broad range of the public (Loader, 2000; Scripture, 1997). In this regard, the police—by virtue of both being citizens of areas they serve and deriving their power, prestige, and viability to act on a daily basis from “public trust and confidence” (Chan, 1999, p. 255)—are susceptible to the deep-rooted and widely held sentiments that comprise the prevailing “climate and norms of social control” (Defleur, 1975). Overall, the well-documented embedded and dependent relationship between the police and the public renders the former likely to “professionalize” (Scripture, 1997) the subtle prejudices linking race to crime that permeate the public consciousness. Communities and their citizens play a pivotal role in “setting the police agenda” (Toby, 2000) and are the “eyes to the police” in setting that agenda (Wells, 2001). In fact, one prominent police researcher characterizes the police and the public as jointly involved in the “coproduction of police services” (Walker, 1992).

CONCLUSION

Social science research has not offered a thorough rendition of the dynamics associated with racial profiling: Analyses have tended to mirror those by courts, focusing on its race-specific impact as the justification for deeming it discriminatory. Significantly, these studies by social scientists have overlooked cues

from analyses of analogous key decision makers in other institutional domains—namely, the workplace and residence—that have established that contemporary prejudice underlies racial discriminatory practices in the labor and housing markets. Overall, sufficient parallels exist between the police in profiling and decision makers in other domains—specifically, in the sources of prejudice, the activators of prejudice, and the legitimacy that derives from acting on prejudice—to maintain that prejudice is an underlying causal mechanism in profiling.

Significantly, there are substantial payoffs to supplementing our understanding of the impact of profiling with knowledge about its sources. For example, it offers a broader basis for judging the propriety of profiling. Overall, if our analysis of profiling withstands empirical scrutiny, its animus-based roots should be an impetus for adopting a no tolerance policy toward this police practice on either a formal or informal basis. In this vein, the tenets comprising contemporary prejudice constitute the underpinning of behavior by police that contributes toward making race a divisive cleavage in American life. Specifically, prejudice is implicated in police practices that render Blacks subject to heightened scrutiny in assuming the burden of public safety (Harris, 2002; Thatcher, 2001). Furthermore, animus undergirds police behavior that plays a role in structuring the formation of racially polarized policy- and stratification-relevant worldviews (Bobo et al., 1997). In this regard, Blacks and Whites—irrespective of class affiliation—differ substantially in their commitment to stereotypes associated with the color coding of crime (Gilens, 1999; Walker et al., 2000) as well as levels of mistrust of and perceived discrimination practices by the police (Weitzer & Tuch, 2002; Wilson & Dunham, 2001) and more generally, perceived levels of discrimination in American society (Hochschild, 1995; Kluegel & Bobo, 2001).

In addition, assessing the sources of profiling extends our understanding of the scope of contemporary prejudice in America. First, in our analysis, prejudice emerges as pronounced in one sphere of the state—law enforcement. Although no direct evidence is offered in this article, we suspect the level of prejudice in law enforcement is uncharacteristic. In fact, it is well documented that in the post-1965 civil rights era the government has played an enormous role in helping racial minorities to combat discrimination in crucial reward-relevant domains such as the labor and housing markets (Collins, 1997; Farley & Allen, 1987; Wilson, 1997). Second, within the sphere of law enforcement, prejudice operates at the relatively refined job level. Significantly, job-level analyses are conspicuously underrepresented in the social science literature on racial prejudice.⁴ In fact, existing studies identify that two factors operating at the job level—selectivity in recruitment (Pettigrew, 1985) and professional/trade association cultures (Pettigrew & Martin, 1987)—have the potential to blunt prejudice among job incumbents. However, the analysis in this article offers little basis for asserting these factors operate among the police at least insofar as they

are involved in carrying out a critical job function in the area of crime prevention.

Finally, it is crucial to note that the evidence brought to bear on prejudice in profiling in this article is circumstantial. Accordingly, it is necessary to more directly demonstrate the prejudice-profiling link. In this vein, we view as indispensable a multifaceted research strategy analogous to that undertaken in documenting the existence of prejudice among key decision makers across other domains: Administering surveys to assess levels of both Jim Crow and contemporary prejudice among police as well as research participation in drive-alongs provide a more comprehensive basis for linking perceptions with behavior. In addition, we see the need to expand the analyses of research on prejudice in profiling to other minority groups such as Hispanics who are targets for profiling both because they are negatively stereotyped and are often phenotypically distinct (Bean & Tienda, 1987; Portes & Bach, 1985). Finally, gendering (Kane & Schippers, 1996) the prejudicial-profiling relationship within racial categories should also be a research priority as evidence from survey research indicates that racial stereotypes vary in intensity across gender categories (Hochschild, 1995; Kluegel & Bobo, 2001). In sum, these recommendations offer promise in moving us toward a more definitive understanding of the extent to which prejudice operates in structuring a widely employed and controversial practice in the area of crime control.

NOTES

1. In fact, our argument parallels that made by several criminologists in criticizing the state of criminological research. Specifically, they criticize the tendency to examine crime legalistically, namely, by its attributes rather than by focusing on the "motivational and behavioral systems of criminals" (Matza, 1964, p. 3). In this vein, critics maintain the criminal rather than criminal law should be the focus in the construction of etiological theories (Gottfredson & Hirschi, 1990; Matza, 1964). The failure to do so, according to these critics, has resulted in a "passive compliance" (Matza, 1964) in which the state, not the scientist has determined the nature and definition of crime (Gottfredson & Hirschi, 1990). We maintain that racial profiling researchers have capitulated along similar lines: By analyzing profiling within the logic of legal adjudication, namely, a discriminatory impact theory, they have been distracted from examining the motivation and intent of criminal actors, which sheds considerable light on the nature of profiling.

2. Thatcher (2001) provided the most systematic discussion of each of the three bases for discriminatory impact on racial profiling.

3. We realize the same stereotypes and dynamics associated with prejudice structure the decision making of employers in the context of other crucial outcomes such as promotions (Wilson, Sakurai-Lemessy, & West, 1999), wage determination (Tomaskovic-Deve, 1993), and layoffs/firings (Spalter-Roth & Deitch, 1999). We reference just one—hiring—because it is the basis of the most extensive social science literature and it is sufficient to sustain the cross-domain analyses we employ.

4. The major exceptions of course are lenders and brokers in the real estate industry. Overall however, racial prejudice has not been examined across a wide range of jobs.

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