

Race and the Development of Juvenile Justice Policy


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Implicit Racial Bias

Implicit bias involves “attitudes or stereotypes that affect our understanding, decision-making, and behavior without our even realizing it.”

Implicit bias *functions automatically*, including in ways the person *would not endorse* if he or she had conscious awareness.

Implicit bias....

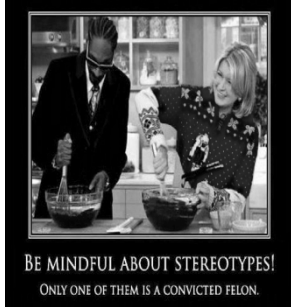


- We all rely on cognitive short cuts to
 - filter information we receive
 - fill in missing data
 - categorize people and information according to cultural stereotypes.

Implicit Bias

Stereotypes we associate with a particular category, i.e. elderly = frail.

Attitudes are positive or negative feelings we have about a group. E.g., positive feelings about people who attended our alma mater; negative feelings about people from a rival school.



Implicit Racial Bias and Juvenile Justice Policy

How does bias impact our understanding of the system and what it is supposed to do?

How does bias impact decisions we make about the structure of the juvenile justice system? And the policies that govern the juvenile justice system?

How does bias affect our day-to-day behavior in the juvenile justice system?

FOUNDATIONAL PRINCIPLE: YOUTH ARE DIFFERENT



- YOUTH LESS CULPABLE
- YOUTH DON'T MERIT SAME PUNISHMENT OR SANCTIONS AS ADULTS
- THERE ARE MORE APPROPRIATE AND MORE EFFECTIVE REHABILITATIVE RESPONSES TO ADOLESCENT DELINQUENCY

Race and the Fragility of Distinctions Between Juveniles and Adults (2012)

- Measured extent to which the public believed that youth who commit serious crimes should be considered less blameworthy than adults who commit the same crime.
- Measured public support for LWOP sentences for juveniles in non-homicide cases.

Aneeta Rattan, Cynthia S. Levin, Carol S. Dweck, Jennifer L. Eberhart, *Fragility of the Legal Distinction between Juveniles and Adults*, PLoS ONE 7(5)(2012)

Race and the Fragility of Distinctions Between Juveniles and Adults (2012)

METHODOLOGY

- Participants were asked to read factual information about the Supreme Court case _____ regarding the appropriateness of the LWOP sentence for juveniles.
- Participants read about a 14-year-old male with 17 prior convictions who brutally raped an elderly woman.
- Researchers manipulated one word in the fact pattern – For some, the youth was described as black. For others, the youth was described as white.

Race and the Fragility of Distinctions Between Juveniles and Adults (2012)

FINDINGS

WHEN THE RACIAL IDENTITY OF THE PERPETRATOR WAS BLACK, PARTICIPANTS WERE:

- (a) More likely to believe that juveniles were no less culpable and no less blameworthy than adults
- (b) More likely to support JLWOP sentences and other related policies

Race and the Fragility of Distinctions Between Juveniles and Adults (2012)

SIGNIFICANT THAT STUDY CONTROLLED FOR:

- Political ideology of the participants
- Participants' warmth (or absence of warmth) toward Black Americans

Aneeta Rattan, Cynthia S. Levin, Carol S. Dweck, Jeifer L. Eberhart, *Race and the Fragility of the Legal Distinction between Juveniles and Adults*, PLoS ONE 7(5)(2012)

Essence of Innocence: Consequences of Dehumanizing Black Children (2014)

SERIES OF 4 STUDIES DESIGNED TO

- Examine whether perceptions of innocence differed by race and the severity of crimes committed.
- Examine whether “dehumanization” contributes to the perception of black children as less innocent.

Phillip Atiba Goff et al., *Black Children*, 106 J. Personality & Soc. Psychol. 526 (2014)

Essence of Innocence: Consequences of Dehumanizing Black Children (2014)



METHODOLOGY

- In one study, participants were shown a series of pictures of white, black or Latino children and asked to estimate the child's age. Participation sorted youth into 6 age subgroups: 0-4, 5-9, 10-13, 14-17, 18-21, 22-25
- Participants were asked to assess the perceived “innocence” of white children, black children and children generally.
- In another of the 4 studies, participants were shown images of misdemeanor and felony crime scenarios and asked to assess the age and culpability for the suspects.
- Participants also completed the Attitudes Toward Blacks Scale, Personalized IAT, and the Dehumanizing IAT

Essence of Innocence: Consequences of Dehumanizing Black Children (2014)

Findings:

- The general public:
 - Perceived African American felony suspects as **4.53 years older** than they actually were
 - Perceived white youth as **less culpable** when suspected of a felony than when suspected of a misdemeanor
- Among law enforcement:
 - Also rated African American felony suspects as **4.59 years older** than they actually were
 - Also perceived white youth as **less culpable** when suspected of a felony than when suspected of a misdemeanor

Goff, P.A., et al. (2014). The essence of innocence: Consequences of dehumanizing Black children. *Journal of Personality & Social Psychology*, 106, 526-545.

Essence of Innocence: Consequences of Dehumanizing Black Children (2014)

Study participants perceived:

- Youth ages 0–9 as equally innocent regardless of race
- Black children as significantly less innocent than other children at every age group, beginning at the age of 10
- Innocence of Black children age 10–13 equivalent to that of non-Black children age 14–17
- Innocence of Black children age 14–17 equivalent to that of non-Black adults age 18–21.

POLICY AND PRACTICE IMPLICATIONS

Black youth are more likely to be seen as similar to adults prematurely!

- For middle class white males, the period of time when boys are not held fully responsible for their actions can extend well into their late 20s. Sociologists Michael Kimmel, *Guyland: The Perilous World Where Boys Become Men*, New York, Harper Collins. (2008)
- Black children may be viewed as adults as soon as 13, with average age overestimations of Black youth exceeding 4.5 years. Atiba Goff, et al. *Journal of Personality and Social Psychology*
- Category of "childhood" is seen as less essential for Black youth than non-Black youth.

POLICY AND PRACTICE IMPLICATIONS?

Black adolescent offenders are seen as more deserving of adult treatment than identical white adolescent offenders

- BLACK YOUTH ARE TRANSFERRED TO ADULT COURT AT HIGHER RATES THAN OTHER YOUTH
- AND ONCE THEY ARE TRANSFERRED THEY RECEIVE SENTENCES THAT ARE SIGNIFICANTLY MORE PUNITIVE THAN WHITE YOUTH.
- PUBLIC SUPPORT FOR SENTENCES LIKE JLWOP IS GREATER WHEN THE PUBLIC BELIEVES THAT BLACK YOUTH WILL RECEIVE THIS SENTENCE

Policy & Practice Among Juvenile Justice Stakeholders

Implicit Bias & Probation Officers

Research on pre-disposition reports:

George Bridges and Sara Steen,
Assessments of Juvenile Offenders: Attributional Stereotypes as Mediating Mechanisms, American Sociological Review, Vol. 63, pp. 554-570 (August 1998)

METHODOLOGY

- Studied 233 narrative reports written by probation officers in anticipation of disposition.
- Predicted that there would be a relationship between youth's race and probation officer's perception of the causes of crime, likelihood of recidivism, and sentence the youth would receive.

Findings

- Reports on black youth were more likely to include negative internal attributions (personality, values) than reports on white youth.
- Reports on white youth were more likely to include negative external attributions (environment, peers) than reports on black youth.
- Black youth were judged to have a higher risk of reoffending than white youth.

Example – Two 17-year-old boys

No prior criminal history for either one
Both charged with first degree robbery with a firearm
No injuries in either incident
One case: gas station robbery
Other case: robbery of two motels

One boy was black, the other was white

Compare

Ed: "This robbery was very dangerous as Ed confronted the victim with a loaded shotgun. He pointed it at the victim and demanded that he place the money in a paper bag. This appears to be a premeditated and willful act by Ed....There is an adult quality to this referral. In talking with Ed, what was evident was the relaxed and open way he discussed his life style. There didn't seem to be any desire to change. There was no expression of remorse from the young man. There was no moral content to his comment."

Lou: "Lou is the victim of a broken home. He is trying to be his own man, but...is seemingly easily misled and follows other delinquents against his better judgment. Lou is a tall emaciated little boy who is terrified by his present predicament. It appears that he is in need of drug/alcohol evaluation and treatment."

POLICY AND PRACTICE IMPLICATIONS?

Beyond Disposition Recommendations

- Eligibility for Diversion
- Eligibility for Specialty Courts
- Perceived Violations of Diversion
- Response to Violations of Probation
- Program Referrals

Implicit Racial Bias

HOSTILITY, NERVOUSNESS, FURTIVE GESTURES

- Several studies have found that individuals are more likely to interpret ambiguous behavior by blacks as
 - more aggressive and
 - consistent with violent intentions
- while interpreting the same behavior by whites as harmless.



IRB RESEARCH: PERCEPTIONS OF HOSTILITY

- Study: Participants viewed brief movie clip in which a target's facial expression morphed from unambiguous hostility to unambiguous happiness and vice versa in a second clip.
- Participants with higher levels of implicit bias took longer to perceive black faces change from hostile to friendly, but not white faces.
- In the second clip, participants perceived the onset of hostility much earlier for black faces than white faces
- Kurt Hugenberg & Galen V. Bodenhausen, *Prejudice and the Perception of Facial Threat*, 14 *SYCH SCI* 640-643 (2003).

IRB RESEARCH & POLICE: WEAPONS PERCEPTION

- Study: Participants viewed series of black or white faces and then determined whether the faint outline of an ambiguous object that slowly emerged on the screen was crime-related or neutral.
- Participants were quicker to see a crime-related object when associating the object with a black face than with a white face.

Jennifer L. Eberhardt, et al.,
Visual Processing, 87 J. PERSONALITY & SOC. PSYCHOL. 876,
881 (2004)

POLICY AND PRACTICE IMPLICATIONS?

If we know that the behavior of Black youth is perceived as more hostile or aggressive than the same behavior by white youth, then what impact on policy?

- Appropriateness of Stop and Frisk
- Policies regarding Use of Force by Police
- Mandatory Training for Police, Probation Judges

WHAT DO WE NEED TO DO?

- **EDUCATE** POLICYMAKERS AND THE PUBLIC ON THE **EFFECTS IMPLICIT RACIAL BIAS** (WHICH EXISTS OVER AND BEYOND EXPLICIT RACIAL PREJUDICE)



Consider
the unique and compounding impact of
various policies on black youth, families and
communities

- Incarceration depresses the total earnings of white males by 2 percent, of Latino males by 6 percent, and of Black males by 9 percent.
- More young African American men (20 to 34) without a high school diploma or GED are currently behind bars (37%) than employed (26%).
- 11.4% of African American children have an incarcerated parent, whereas only 3.5% of Latino children and 1.8% of White children.

Racial Impact Analysis Exercise

1. Who developed the policy? Who should have been involved in developing the policy?
2. How does the policy utilize data? Was the data used sufficient to the task? What data collection could have been helpful? How could data have been gathered if it was not readily available?
3. What other information would have been useful to gather? How could it have been gathered?
4. How does the policy take into account root causes? What would be a good systems analysis for this policy? What compounding dynamics might come into play? What social determinants come into play?
5. Does the policy manage the presence of implicit bias in system actors? How could it better manage the presence of implicit bias in either the policy, its implementation, or its evaluation?
6. How would you craft a good implementation plan? Who should be involved? What evaluation should be conducted? What data collected?
