

Psychological Research Has Changed How We Approach the Issue of Biased Policing

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Dr. Fridell, former Director of Research at PERF and a national expert on bias in policing, has developed a training program called "Fair and Impartial Policing (FIP)," which is based on social psychologists' research into the nature of human biases.

Researchers report that bias and prejudice have changed in our society. According to Professor Susan Fiske of Princeton University, "This is not your grandparents' prejudice." Lamentably, police agencies have been dealing with the "racial profiling" problem based on outdated notions of prejudice. It's time to catch up with the science—to update our thinking, our discussion, and our interventions—because this is what we are supposed to do in this era of evidence-based policing.

In our grandparents' time, bias was most likely to manifest as "explicit bias." A racist is an example. Such a person holds conscious animus towards groups, such as African-Americans or transgendered individuals. A racist "owns" these views and may talk about them openly.

In contrast, modern bias is most likely to manifest as implicit bias. Implicit biases—such as those against gay people, women, people of color, Muslims, or homeless persons—impact on our perceptions and can impact on our behavior. They can occur below our conscious awareness. And unfortunately, implicit biases manifest even in individuals who, at the conscious level, *reject* biases, prejudices and stereotyping.

Bias starts with our automatic tendency to categorize individuals. We categorize individuals and objects to make sense of the world, which includes categorizing people we don't know according to group membership. We then attribute to these individuals the stereotypes associated with their group. As stated above, this does not require animus; it requires only *knowledge* of the stereotype. Implicit bias, like explicit bias, can produce discriminatory actions.

MAINSTREAM RECOGNITION OF IMPLICIT BIAS

This scientific knowledge about bias has seeped out of the esoteric academic journals and into the lay literature, through books like "Blink," "Blind Spot," "Everyday Bias," and "Hidden Bias."

This concept is also finding its way into legal decisions. Supreme Court Justice Ruth Bader Ginsburg, discussing the implicit bias claims associated with a gender discrimination lawsuit against Walmart, reported that the law allows discrimination claims "not only when such practices are motivated by discriminatory intent, but also when they produce discriminatory results."

And U.S. District Court Judge Shira A. Scheindlin, when reflecting on the stop and frisk practices of the NYPD, suggested that "unconscious biases" might explain some of the police

behaviors that she deemed constitutional violations.¹

In policing, implicit bias might lead line officers to automatically perceive a "crime in the making" when they observe two young Hispanic males driving in a mostly Caucasian neighborhood. Implicit bias might cause police command staff members to decide, without any crime-relevant evidence, that a planned gathering of African-American college students bodes trouble, while a gathering of white undergraduates does not.

Moving beyond racial and ethnic biases, implicit bias might lead an officer to be consistently "over-vigilant" with males and low-income individuals and "under-vigilant" with female subjects or people of means. Where there is a motor vehicle accident with two different versions of what happened, implicit bias might lead an officer to believe the Caucasian man in the white shirt and tie driving the BMW, and to disbelieve the Hispanic man in jeans and a pick-up truck.

TRAINING CAN HELP MANAGE IMPLICIT BIAS

The bad news out of the research is that implicit biases are widespread and manifest even in well-meaning individuals. The good news comes from the large body of research that has identified how *motivated individuals* (this is where "well-meaning" comes into play) can reduce their implicit biases, or at least ensure that their implicit biases do not affect their behavior.

The modern science of bias is finding its way into the training programs of various professions, such as medicine and education. A survey described in the *Wall Street Journal* in January 2014 asked corporations with diversity programs about their bias training². Five years ago, 2 percent trained on implicit bias. Today 20 percent do so, and the estimate is that 50 percent of these corporations will provide training about implicit bias in five years.

Around the country, traditional racial-profiling training programs have not been based on science and have reflected outdated understandings about prejudice. Many such training programs have conveyed the message, "Stop being prejudiced," with an emphasis on reducing animus toward stereotyped groups. From the science, we now know that this message is ill-suited for most individuals in modern society, including most individuals in policing, who may not have explicit prejudices.

More important, individuals receiving such messages can be offended precisely because they do not believe they are biased—producing a backlash against these efforts.

Thanks to the Justice Department's COPS Office, the

1. *Floyd et al v. The City of New York*, Opinion and Order, 08 Civ. 1034 (SAS). U.S. District Court for the Southern District of New York. August 12, 2013. http://www.nylj.com/nylawyer/adgifs/decisions/scheindlin_floyd.pdf

2. "Bringing Hidden Biases Into the Light: Big Businesses Teach Staffers How 'Unconscious Bias' Impacts Decisions." *The Wall Street Journal*, January 9, 2014. <http://online.wsj.com/news/articles/SB10001424052702303754404579308562690896896>

Fair and Impartial Policing (FIP) training program brings the modern science of bias to policing. Five curricula target various subsets of agency personnel: command-level, senior level managers, first-line supervisors, academy recruits or patrol officers, and trainers.

In FIP training, all groups learn about the science of bias and acquire skills for reducing and managing their biases. The recruits engage in activities, including role-plays, that make it clear that policing based on stereotypes and biases is unsafe, ineffective and unjust.

Supervisors learn skills to aid them in identifying bias in their subordinates and intervening when they suspect it. With supervisors, we discuss how identifying the appropriate supervisory response to biased policing can be challenging. Not only is biased behavior very difficult to prove, but, for the officers whose biased behavior is not intentional or malicious, "disciplinary" action would be inappropriate.

Command-level personnel are introduced to the comprehensive program for producing fair and impartial policing.

Two PERF Members Discuss Measuring Biased Policing

At PERF's Annual Meeting in San Francisco in May, two police chiefs discussed how they have been thinking about issues of racial, ethnic, and other biases:

KALAMAZOO, MI CHIEF JEFF HADLEY:

Research Showed We Had a Problem With Disparate-Impact Traffic Stops and Searches

When I arrived in Kalamazoo as the police chief in 2008, the community wanted to know whether or not the department racially profiled. I thought it was a good question, so I began a process that would answer that question in a reasonable and responsible way.

We brought in an outside consulting organization, Lamberth Consulting, that had credibility in the industry. Their methodology is thorough and is respected by federal courts.

When we began, we didn't even have the necessary system in place to collect the data we needed to properly analyze this question. So we first had to build the necessary internal infrastructure, and then collect the data we needed.

After we had collected data for a full year, our consultant analyzed the data and found a significant disparate impact in our interactions with African-Americans. This was found in both our traffic stop data and in our post-stop activity data, including consent searches.

We had kept the community informed throughout this process and promised to tell them the truth when we had results. We told them that if the data showed we had issues to deal with, we would deal with them in a forthright and responsible manner.

Everyone in the community was waiting on the results, but before it came out publicly, we wanted to share the findings with our officers and key individual community leaders. You certainly don't want to release something like that publicly without letting your troops know first. But as you all know, anything that is released in-house will be in the media within hours, so we had to handle this release on a very tight timeline.

The discussion with our officers was an extremely difficult conversation to have. The officers had a tough time taking the bad news, but we reiterated that the first step to dealing with this



They learn about state-of-the-art practices to produce fair and impartial policing in the realms of policy, training, leadership/supervision, accountability, measurement, outreach to diverse communities, and recruitment/hiring.

When the FIP trainers walk into a room (particularly with the line-level cops), the reception usually ranges somewhere between defensive and hostile. This is a natural and understandable consequence of our previous discussions of this issue in this profession—again, based on outdated notions of how bias manifests itself.

However, pretty quickly as the training proceeds, the arms unfold and the stern looks dissipate, as the participants come to understand that there is no finger pointing, no blaming, just a discussion of how our minds work and what we all need to do to reduce and manage our human biases.

This is the way we *should* be talking about the national issue of biased policing finally.

Additional information is available at www.fairandimpartialpolicing.com.



was coming out and telling the truth.

The Community Asks: How Can We Help?

The community handled the information very well. There were two things we heard in response: 1) You're not telling me anything I don't know; and 2) How can we help? That reaction was a tremendous relief, because we felt that we could move on with making necessary changes.

One of our key changes was to issue a consent-to-search policy which states that officers must have reasonable suspicion before they can ask for consent to search on a pedestrian stop or a traffic stop. As we all know, nothing prohibits us constitutionally from walking up to an individual and asking, "Do you mind if I take a look at what's in your pockets?" But if we don't have reasonable suspicion, there really isn't any reason for us to do that.

This change has generally been well-received by officers. There are always some who resist change, but what we're really doing here is making our department more legitimate.

We also have arranged for all of our officers to receive Fair and Impartial Policing training.

SALT LAKE CITY CHIEF CHRIS BURBANK:

We Should Set Uniform Standards For Collecting and Analyzing Data

I'm not an expert on this topic, but the experts say there is bias in our profession. We accept that, and we've struggled to determine what that bias is and how we can change things. The benchmark that we in the profession have traditionally used is whether the percentage of stops you make of a certain race matches up to the percentage of your population who are members of that race. The idea is that if they match, you're okay, but if they don't match, you're not okay.

It's a very simple—and inaccurate—formula. There are much more sophisticated ways of analyzing this.

What we need to do is gather all the necessary information, and make sure everyone is gathering the same information. Right now we often compare apples and oranges. One department will have a consultant collect and analyze data, and then make a comparison to another city where data was collected and analyzed by a different consultant.

If we all collect the same types of data and use the same benchmarks, we can make meaningful comparisons. This would be similar to how we all gather much of the same crime data.

