PROFILING AND POLICE LEGITIMACY: PROCEDURAL JUSTICE, ATTRIBUTIONS OF MOTIVE, AND ACCEPTANCE OF POLICE AUTHORITY

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ABSTRACT

This paper reports the results of four studies that investigate racial profiling as an attribution about police motives. Each study explores, first, the types of police behavior that heighten or lessen the occurrence of profiling attributions and, second, the consequences of such attributions. Results support prior studies in finding that judgments about whether the police are profiling are associated with the level of public support for the police. The studies then extend the analysis of subjective profiling judgments by examining their antecedents. The findings support the procedural justice hypothesis that the fairness with which the police exercise their authority influences whether members of the public view the police as profiling.

During the past several years racial profiling issues have been central to public discussions of police-community relations. President Bush has
labeled such profiling "wrong" and argued that it must end. Both Congress and a number of states have considered or passed laws designed to lessen it. More than 80 percent of Americans have said that they "disapprove" of it (Gallup poll, December, 1999). Profiling has been blamed for a variety of ills, from increasing friction between the police and minority communities to overall decreased confidence in and cooperation with the police.

The issue of racial profiling—that is, situations in which legal authorities may be acting, at least in part, based on the race of a person—can be considered from a number of perspectives. Legal scholarship focuses on whether and when profiling based on ascribed characteristics such as race, gender or age is or ought to be illegal (Harris, 1999; Kadish, 1997; Knowles and Persico, 2001; Meeks, 2000; Thompson, 1999). Criminologists have been interested in determining how often profiling based on ascribed characteristics actually occurs (Lamberth, 1998; Rudovsky, 2001). Police institutions have focused on profiling as a reflection of possible racism among legal authorities that leads to "bias-based" policing (Fridell, Lunney, Diamond and Kubu, 2001). Although each of these perspectives differs in their specific focus, they all attempt to study the actual behavior of legal authorities.

This analysis approaches profiling from a different perspective, looking at the attributions the public makes for the behavior of legal authorities. In doing so, we distinguish between profiling attributions, in which a person attributes the behavior of the police to the ascribed characteristics of the person they are dealing with, and behavioral attributions, in which a person attributes police behavior to actions of that person. In other words, our analysis focuses on the subjective experience of feeling profiled rather than the objective one of being profiled. We do this because we believe that the experience of receiving police attention based on one’s race—regardless of whether profiling has occurred—may be responsible for many of the negative associations of racial profiling.

Observational studies of the behavior of legal authorities suggest that those authorities seldom make overt statements that link their behavior to racial profiling. They do not say, for example, "I stopped you because you are black" (Sherman, 1999). When they do provide reasons or explanations for their actions the reasons legitimize the actions, as when the police say that the person "fits the description of someone who is wanted for a crime." Thus those stopped by the police must infer why they were stopped, often based on unclear, ambiguous cues. From this perspective, we can view the subjective experience of being profiled as an aspect of people's more general desire to understand events.

In this study we ask two questions. First: What are the consequences when someone makes a profiling attribution to explain police behavior? Does the inference, regardless of its validity, affect support for the police?
That argument is supported by a Weitzer and Tuch study (2002) demonstrating that when people believe that profiling is widespread and/or that they have been profiled, their support for the police fades. This is consistent with the more general finding that highly visible incidents of police misconduct toward minorities weaken support for the police (Weitzer, 2002). Our first goal is to demonstrate that subjective assessments such as these are significant in predicting the public’s support for the police on a variety of measures.

Our second question is: What factors shape inferences about whether profiling has occurred? What variables are people relying on when they make judgments about police behavior? Research suggests that minorities are more likely than whites to say that the police had no legitimate reason for stopping them (Lundman and Kaufman, 2003). Are there factors beyond race that predict whether people—minorities and nonminorities—feel profiled?

One suggestion is that people’s belief in the fairness of how the police exercise their authority might affect whether they make profiling attributions, because a profiling attribution is a judgment that the police are in some way being unjust. But what determines whether people will find the police fair? The procedural justice model argues that people judge fairness based on several process-based criteria (Tyler, 2000; Tyler, Boeckmann, Smith and Huo, 1997; Tyler and Huo, 2002). Fair procedures have been argued to have three components: (1) quality of decision making—perceived neutrality and consistency; (2) quality of treatment—being treated with dignity and respect, having one’s rights acknowledged; (3) trustworthiness—believing that the authorities are acting out of benevolence and a sincere desire to be fair.

This perspective has been widely applied to the issue of regulation. The resulting model, the process-based model of regulation (Tyler, 2003; Tyler and Huo, 2002), hypothesizes that people will evaluate police actions using procedural justice criteria (Tyler, Boeckmann, Smith and Huo, 1997; Tyler and Lund, 1992; Tyler and Smith, 1997). We therefore predict that assessments of racial profiling, like other police actions, will be associated with judgments of police procedural fairness.

The first study tests these arguments using people’s inferences about their personal experiences with the police and is based on a study of a sample of Oakland and Los Angeles residents. The second study tests these arguments on both personal and general levels and is based on a study of a sample of young people living in New York City. The third and fourth studies test the same arguments using people’s judgments about the general prevalence of profiling and are based on samples of New York City residents.
STUDY ONE:
PERSONAL EXPERIENCES IN CALIFORNIA

Study One examines people's personal experiences with the police and the judgments they make about those experiences. We examine the extent to which people attribute being stopped by the police to profiling factors and the effect this attribution has on two aspects of public support for the police: willingness to accept the decision the police make and satisfaction with the police. We also treat profiling attributes as a dependent variable and examine possible contributing factors, including those related to procedural justice (quality of treatment, quality of decision making, trust) and distributive justice (fairness of outcome, objective and subjective favorability of outcome), as well as a number of demographic variables. We predict that attributions of profiling will lead to less acceptance of police decisions and to reduced satisfaction with the police, and that these attributions will be most affected by procedural justice factors.

METHOD

Using telephone interviews with residents of two cities in California, we explored the inferences that people make about their personal encounters with the police in situations in which they are stopped by the police while on the street or in their cars. Respondents were asked a series of structured questions about their general views on law and legal authority and their recent personal experience with police.

PARTICIPANTS

Participants were residents of Oakland and Los Angeles and were drawn from the population using a sampling frame that over sampled from minority areas of each city. All were screened for recent personal contact with the police or courts to produce a sample of 1,656 respondents, each of whom had recent personal contact with one of these authorities. Each respondent was interviewed about their most recent contact. This analysis focuses on the 521 respondents whose most recent contact was being stopped by police. Of these, 163 were white, 186 black and 172 Hispanic.

DEPENDENT VARIABLES

- Willingness to accept the decision. A four-item index (alpha = 0.80). The questions were: "I willingly accepted the decisions he/she made", "In a similar situation in the future, I would like to see the situation handled in the same way", "I considered going to someone
to try to change the decision (reversed)” and “The officer could have handled the situation better than they did (reversed)”.

- Satisfaction with the police officer. A two-item index (alpha = 0.92). The questions were: “He/she did a good/bad job dealing with my situation” and “How satisfied were you with the way he/she handled the situation?”

INDEPENDENT VARIABLES

- Profiling attributions. Five items (overall alpha = 0.68). The questions were: “How much do you think that what happened to you was due to your race, ethnicity, sex or age?”; “How much do you think that what happened to you was due to what you said or did in the situation? (reverse coded)” ; “Did you receive a better or worse outcome than others would be in a similar situation due to your race?”; “Were you treated better or worse than others would be in a similar situation due to your race?”; “Did you receive the outcome you thought you would in a situation of this type prior to the encounter?”. In the case of indicating that one received something better or worse than others, and/or something unexpected, receiving what others would receive or what one expected is coded as low in profiling, receiving something better or worse, or unexpected, as high on being profiled. Similarly, saying what happened is due to one’s race reflects being profiled, saying it is due to what one did reflects not being profiled.

Judgments about the actions of the police were divided into five categories, each with its own items and scale.

- Trust in the motives of the authority. A five-item scale (alpha = 0.95). The items were: “[He/she] considered my views”; “[He/she] tried to do the right thing by me”; “[He/she] tried to take account of my needs”; “[He/she] cared about my concerns”; and “I trust [him/her]”.

- Police neutrality—the quality of decision making. A three-item scale (alpha = 0.82). The items were: “I was treated the same as anyone else would be in the same situation”; “He/she was basically honest”; “He/she made decisions based on the facts”.

- Police respectfulness—the quality of interpersonal treatment. A three-item scale (alpha = 0.92). The items were: “He/she treated me politely”; “He/she showed concern for my rights”; and “He/she treated me with dignity and respect”.

- Fairness of outcome received from the police. A three-item scale (alpha = 0.91). The items were: “I received the outcome I deserved”; “The outcome I received was fair/unfair”; “I received the outcome I deserved according to the law”.

Objective favorability of outcome. Researchers coded the favorability of the outcome. The scale ranged from a neutral outcome to more negative outcomes (ticket, fine, taken to jail).

Demographics: race, age and gender. Respondents provided their race and age in response to direct questions; gender was noted by observation.

RESULTS

The hypotheses were tested using structural equation modeling (Arbuckle, 1997). Willingness to accept the decision and satisfaction with the decision maker were used as two indicators of a single latent variable predicted by two types of independent variable. The first of these, background variables, included the actions of the police (the neutrality of decision making; the quality of interpersonal treatment; trustworthiness); the outcomes of the experience (the distributive fairness of the decision; the objective favorability of the decision); and background characteristics of the person (race, age, gender). These were allowed to predict all subsequent variables in the model. The second was whether the police profiled the person in this situation—a latent variable based on the five questions listed. This inference was allowed to predict subsequent variables in the model, and was predicted by background factors. These inferences were allowed to predict the dependent variable, and each was potentially predicted by any of the background variables, as well as by profiling attributions. In other words, the model allowed all possible causal paths to occur, and the significance of each was tested.

Figure 1. Profiling and decision acceptance: Study One-Personal experiences in California. High scores indicate neutral, polite, trustworthy policing, favorable and fair outcomes, feeling profiled, and being willing to accept the decision.
The results of this model are shown in Figure 1. All significant paths (p < .05 or higher) are shown. The model fit the data adequately (CFI = 0.80; NFI = 0.78), and 85 percent of the variance in the latent dependent variable was explained. A single model combining white and minority respondents is shown because separate analyses of the two groups indicated that the results were similar within each of them.

The first hypothesis is that when people make profiling attributions they become more resistant to accepting police decisions. The dependent variables were the willingness to accept the decision and evaluation of the authority. The results indicate that those who made a profiling attribution were less willing to defer to authorities (beta = -0.37, p < .001).

The second hypothesis is that police behavior shapes the attributions people make. In particular, the procedural justice model argues that how fair the police are shapes people’s judgments about police actions (Tyler and Huo, 2002). The findings strongly support this perspective. Those who believe that the police are neutral are less likely to feel profiled (beta = -0.09, p < .05). Those who experience high quality interpersonal treatment—politeness, respect, acknowledgment of their rights—are also less likely to feel that they have been profiled (beta = -0.60, p < .001). Finally, those who trust the motives of the police are less likely to think that they have been profiled (beta = -0.41, p < .001). Further, these same factors influence decision acceptance.

DISCUSSION

When people think the police are profiling them the authority of the police is weakened. This confirms the findings of prior studies. However, these findings also suggest that there are clear policing strategies that effectively minimize the likelihood of profiling attributions. In particular, if the people are treated fairly it is less likely that they will think the police guilty of profiling.

Interestingly, once the various factors in the model have been incorporated, there was no independent direct influence of ethnicity, age or gender on acceptance of police decision. This finding is consistent with Tyler and Huo’s argument (2002) that ethnic group differences in police-related behavior can be explained by a psychological model. This analysis brings in an additional issue that Tyler and Huo (2002) did not address,

1. Tyler and Huo (2002) use a more complex causal framework in which they treat procedural justice and trust as two consequences of assessments of quality of decision-making and quality of treatment. This analysis uses a simpler model, with quality of decision-making, quality of treatment, and trust viewed as aspects of procedural justice.
the question of racial profiling. However, when this was incorporated into an overall psychological model, as in the analysis shown in Figure 1, no direct influences of ethnicity on willingness to accept police decisions were found.

STUDY TWO: NEW YORK YOUTH TELEPHONE SURVEY

Study Two first seeks to confirm the findings of Study One by examining personal experiences with the police. It then extends the analysis to consider general views on the prevalence of profiling in the community. It looks at the effects of both feeling personally profiled and thinking that profiling is prevalent by examining the effects of these feelings on two types of support, judgments regarding the quality of police performance and of police-minority relations. We then look further at factors that influence profiling judgments, including procedural justice, instrumental judgments about the police and demographic variables. We predict that profiling judgments will influence support for the police, and will themselves be influenced most strongly by procedural justice.

METHOD

In January of 2001 the New York Times poll of New Yorkers focused on the NYPD. The poll completed 721 interviews with a sample of young residents, a range targeted because young people are often the focus of policing activities. The sample was interviewed over the telephone.

PARTICIPANTS

The respondents, all aged between 18 and 26, were residents of New York City. Thirty-seven percent were white, 25 percent black, 27 percent Hispanic and 11 percent other races or ethnicities.

DEPENDENT VARIABLES

- Quality of police performance. A four-item scale (alpha = 0.62). The questions were: "How would you rate the job the police are doing in New York?"; "The NYPD is a good place to work"; "The police are appreciated by their communities"; and "Your friends would approve if you joined the NYPD".
- Police relationship to the minority community. A four-item scale (alpha = 0.71). The items were: "The NYPD is working to improve relations with minority communities"; "The police treat whites and minorities equally"; "Police brutality toward minorities is common
(reversed)”; and “The police are more likely to use deadly force against minorities (reversed)”.

INDEPENDENT VARIABLES

• Prevalence of profiling: “It has been reported that some police officers stop people of certain racial or ethnic groups because the officers believe that these groups are more likely to commit certain types of crime. Do you believe this practice is widespread?” Of those interviewed, 76 percent called profiling widespread, 24 percent did not.

• Justification for profiling: Respondents were also asked to indicate whether they thought that the practice of profiling was justified. Of those interviewed 23 percent thought the practice justified, 77 percent did not.

• Personally profiled?: “Have you ever felt that you were stopped by the police only because of your race or ethnic background? (Yes/no)”

• Police disrespect: “Have you ever been treated disrespectfully by the police? (Yes/no)”.

• Instrumental judgments about the police: “Have the police ever led you to feel personally fearful? (Yes/no)” and “Have the police ever led you to feel safe? (reversed) (Yes/no)”.

• Demographics: Respondents indicated their race in response to a direct question. Gender was noted by observation.

RESULTS

Profiling was indexed in three ways: first, the judgment that profiling occurs, second, that it is not justified and, third, the personal experience of feeling that one has been profiled. These judgments were included in a structural equation model whose dependent variable was a latent variable reflecting quality of police performance and quality of the police relationship to minorities. A single model was used for white and nonwhite respondents after separate analyses revealed similar patterns in the two groups. The results of the analysis are shown in Figure 2. Given the weaker measurement of the variables in this poll, the model does not fit the data as strongly as in Study One (CFI = 0.63; NFI = 0.62). However, 57 percent of the variance in the latent dependent variable was explained.

The results shown in Figure 2 suggest that all levels of profiling inferences—profiling is prevalent, profiling is not justified and feeling personally profiled—undermine performance evaluations and judgments of the quality of the relationship between the police and the minority
community. If people think profiling is more prevalent, they are less supportive of the police (beta = -0.35). If they think it is not justified, they are less supportive (beta = -0.18). And, finally, if they say that they have been personally profiled, they are again less supportive (beta = -0.15).

Figure 2. Profiling and institutional legitimacy. Study Two—NYPD youth survey. High scores indicate the police were respectful, the respondent feels safe, being white, being male, thinking there is a lot of profiling; thinking profiling is justified; thinking that one has been profiled; and high institutional support.

Further, procedural justice shapes profiling judgments. Whether the police are procedurally fair (in this case respectful in their treatment of the respondent during a past personal experience) shapes how likely the person is to say that they have or have not been profiled (beta = -0.50) and to indicate that profiling is or is not prevalent (beta = -0.23), and is or is not justified (beta = -0.20).

Thus, as in Study One, in this study the experience of profiling was damaging to the police because it led both young people and those personally involved in an experience with the police to have more negative views about them.
STUDY THREE:
NYPD MAIL IN QUESTIONNAIRE STUDY

Study Two showed that profiling was important both as a general judgment about the police and in terms of one's personal experiences. Study Three extends this finding and examines the role of profiling in shaping people's general judgments about the police. Here we examine the effect of people's judgments about the prevalence of profiling on support for the police by looking at judgments of police legitimacy and the quality of their performance in fighting crime. Legitimacy has been previously conceptualized as a measure of obligation to obey, confidence in the police and positive affect towards the police (Tyler, 1990; Tyler and Huo, 2002). Performance is an overall assessment of police effectiveness in controlling crime.

We also look at antecedents of people's judgments about the prevalence of profiling, including procedural justice (quality of treatment, quality of decision making, trust), instrumental judgments about the police (fear of crime), as well as several demographic variables. We predict that judgments about the fairness of police procedures will shape profiling judgments.

METHOD

Questionnaires were mailed to a random sample of registered voters, who completed and returned them by mail. A $1 lottery ticket was enclosed with each initial questionnaire as an incentive to complete the questionnaire.

PARTICIPANTS

A random sample of the registered voters of the city of New York received questionnaires asking their views about the New York City Police Department. A subset of 586 (22 percent) completed and returned the questionnaires. This resulted in a diverse sample of respondents (57 percent white, 15 percent Hispanic, 22 percent black, 75 percent female, mean age 48). Because of the low response rate, however, the sample is more heavily white and more highly educated than the general population of New York. It was possible to weight a subset of 483 of those 586 respondents for whom we had complete demographic information to create a sample reflecting the demographic characteristics of the city. Analyses conducted on the smaller, weighted sample yielded results remarkably similar to those of the larger. This increases our confidence that the results using the sample of 586 participants are not due to anomalies in the sample, and we therefore report the analyses of the larger sample.
DEPENDENT VARIABLES

- Legitimacy. A seventeen-item scale (alpha = 0.94). The items were: “You should accept the decisions made by the police, even if you think they are wrong”; “Communities work best when people follow the directives of the police”; “Disobeying the police is seldom justified”; “It would be difficult for you to break the law and keep your self-respect”; “The police can be trusted to make decisions that are right for the people in your neighborhood”; “People’s basic rights are well protected by the police”; “The police in your neighborhood are generally honest”; “NYC has one of the best police forces in the United States”; “I am proud of the work of the NYPD”; “I am happy to defend the work of the NYPD to my friends”; “I agree with many of the values that define what the NYPD stands for”; “I cannot think of another police force that I respect more than the NYPD”; “The work of the NYPD encourages me to feel good about our city”; “Overall, the police are doing a good job in your neighborhood”; “You have confidence in the police officers who patrol your neighborhood”; “Overall, the police are doing a good job in NYC”; and “You have confidence in the police officers of the NYPD”.

- Performance in fighting crime. An eight-item scale (alpha = 0.90). The items are: “How effective have the police been at controlling [violent crime], [gang violence], [drugs], [gun violence] and [burglary] in your neighborhood?”; “How quickly do the police respond when called for help?”; “When people in your neighborhood need help, how effective are the police at providing it?” and “Do the police try to be of assistance?”

INDEPENDENT VARIABLES

- Prevalence of profiling: A six-item scale (alpha = 0.91). The items were, how much do you think that the police consider a person’s race or ethnicity when deciding: “which cars to stop for possible traffic violations”; “which people to stop and question on the street”; “which people to arrest and take to jail”; “which people in the neighborhood to help with their problems”; “which areas of the neighborhood to patrol the most frequently”; and “which calls for help to answer first”.

- Race based harassment: A three-item scale (alpha = 0.91). The items were, how often do the police: “use ethnic slurs against people in your neighborhood”; “treat people disrespectfully because of their race”; “treat people more toughly or abuse them physically because of their race”.
• Trust in the motives of the authorities. A five-item scale (alpha = 0.93). The items were how often do the police “give honest explanations for their actions”; “take account of people’s needs and concerns”; “sincerely try to help people with their problems”; “try to find the best solutions for people’s problems”; and “consider people’s opinions when deciding what to do”.

• Quality of police decision making. An eight-item scale (alpha = 0.95). The items were, how often do the police “clearly explain the reasons for their actions”, “accurately understand and apply the law” and “make their decisions based on facts, not their personal biases”; and how fairly do the police in your neighborhood make decisions about “who to stop and question on the street”, “who to stop for traffic violations”, “who to arrest and take to jail” and “how much they will help people with problems”.

• Quality of interpersonal treatment. A five-item scale (alpha = 0.96). The items were: how often do the police “give people a chance to express their views before making decisions”, “treat people with dignity and respect”, “respect people’s rights”; “The NYPD generally treats people with courtesy and respect”; and “The police treat everyone with dignity and respect”.

• Police distributive justice. A two-item scale (alpha = 0.72). The items were: “How often do people receive the outcomes they deserve under the law when they deal with the police” and “Are the outcomes that people receive from the police better than they deserve, worse than they deserve, or about what they deserve under the law?” In coding these items, both better and worse were treated as indicators of unfairness, while equal was an indication of fairness.

• Fear of crime. A five-item scale (alpha = 0.72). The items were: “How safe do you feel in your neighborhood”; “How safe do you think it is to walk around your neighborhood at night?”; Beyond your neighborhood, how safe do you feel in other areas of the city?”; “How much do you worry about [having your home burglarized], [being robbed or assaulted]”.

• Demographic variables. Respondents indicated their race, age and gender.

RESULTS

The mean prevalence of profiling is shown in Table 1. The first set of items addressing profiling asks people about profiling in stops. On a scale ranging from the police do not give race much consideration at all (1) to they give it a great deal of consideration (6), the average rating was 2.97 (s.d. = 1.27). Regarding the second set of items, frequency of race-based
harassment, on a scale ranging from “almost never (1)” to “frequently (6)” the average score was 4.16 (s.d. = 1.40). So, with both indices people indicated that the behavior occurred in an intermediate number of encounters between the police and residents.

Further, as would be expected, minorities are significantly more likely to believe that profiling occurs. With the first profiling index—profiling in stops—the average score for whites was 2.73 (s.d. = 1.28), for minorities 3.13 (s.d. = 1.23), a significant difference (t (568) = 3.82, p < .001). With the second profiling index—race based harassment—the average score for whites was 3.67 (s.d. = 1.44), and for minorities 4.52 (s.d. = 1.26), again a significant difference (t(568) = 7.45, p < .001).

<table>
<thead>
<tr>
<th>Table 1. NYPD Mail in survey</th>
<th>White respondents</th>
<th>Minority respondents</th>
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<tbody>
<tr>
<td>Some people say that the police treat people differently based on their ethnicity. How much do you think that the police consider a person’s race or ethnicity when deciding...</td>
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<tr>
<td>Which cars to stop for possible traffic violations.</td>
<td>2.51(1.50)</td>
<td>2.93(1.46)</td>
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<tr>
<td>Which people to stop and question on the street.</td>
<td>2.41(1.46)</td>
<td>2.82(1.39)</td>
</tr>
<tr>
<td>Which people to arrest and take to jail.</td>
<td>2.65(1.54)</td>
<td>3.12(1.48)</td>
</tr>
<tr>
<td>Which people in the neighborhood to help with their problems.</td>
<td>3.03(1.60)</td>
<td>3.42(1.51)</td>
</tr>
<tr>
<td>Which people in the neighborhood to patrol the most frequently.</td>
<td>2.67(1.58)</td>
<td>2.87(1.47)</td>
</tr>
<tr>
<td>Which calls for help to answer first.</td>
<td>3.09(1.65)</td>
<td>3.63(1.51)</td>
</tr>
<tr>
<td>How often do the police...</td>
<td></td>
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</tr>
<tr>
<td>Use ethnic slurs.</td>
<td>4.05(1.50)</td>
<td>4.78(1.26)</td>
</tr>
<tr>
<td>Treat people disrespectfully.</td>
<td>3.58(1.59)</td>
<td>4.36(1.41)</td>
</tr>
<tr>
<td>Abuse people.</td>
<td>3.39(1.65)</td>
<td>4.41(1.44)</td>
</tr>
</tbody>
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NOTE. High scores indicate more profiling (6 = “a great deal”, 1 = “not much at all”) and more frequency (6 = “frequently”, 1 = “almost never”).

Study Three uses general judgments about the police, rather than assessments linked to a personal experience. However, the theoretical model involved is the same as that used in Studies One and Two. Structural equation modeling was used to test our hypotheses. The dependent variable was a latent variable created using two indicators: legitimacy and performance. The background factors were the neutrality of police decision making, the interpersonal quality of police treatment, trust, the distributive justice of the police, fear of crime, race, age and gender.

As in the prior model, people also evaluated the prevalence of profiling. Two scales were used, prevalence of profiling in stops and race-based harassment, as two indicators of a latent variable reflecting
profiling. Separate analyses using each index of profiling alone, profiling in stops and race-based harassment, showed that the pattern for each is the same, so only the overall model including both is presented.

Separate analyses for white and nonwhite respondents indicated different patterns of results. As a consequence, separate equations were created for the two groups. The results of the analysis are shown in Figures 3a and 3b. They indicate that approximately 92 percent of the variance in institutional evaluations (legitimacy and performance) were explained in the equation for whites; 85 percent for nonwhites. Indices of fit indicate that the model fit the data well (CFI = 0.83 for whites; CFI = 0.83 for nonwhites).

Figure 3a. Profiling and evaluations of the police. Study Three—NYPD mail—white respondents. High scores indicate being neutral, being polite, being trustworthy, fair outcomes, high fear of crime, and high institutional support.

The first hypothesis is that support for the police is undermined if the police are viewed as engaging in profiling. The results indicate that profiling was directly linked to legitimacy and performance among minority respondents (beta = -0.23), but not among white respondents. Hence, profiling had a negative impact on policing, but only among minority respondents.

Among whites the two procedural elements: quality of decision making (beta = -0.61) and quality of treatment (beta = -0.28) directly shaped assessments of profiling. The same two elements were important for nonwhites (beta = -0.46 for quality of decision making; beta = -0.51 for
quality of treatment). In neither case was trust important. Hence, both groups decided whether profiling occurred by reference to similar judgments.

Figure 3b. Profiling and evaluations of the police. Study Three—NYPD mail—nonwhite respondents. High scores indicate being neutral, being polite, being trustworthy, fair outcomes, high sanction risk, high fear of crime and high institutional support.

DISCUSSION

Study Three looks not at personal experiences, but at general judgments about the police. If people judge that police profiling is widespread, they make more negative evaluations of the police. Profiling judgments are related to judgments of whether the police act in a fair manner. Hence, both on the personal and on the general levels, procedural justice is related to profiling judgments and profiling judgments are harmful to the police.

The findings outlined suggest that at the time this study was conducted profiling was related to support for the police for minority, but not white, respondents. This finding is consistent with the argument that profiling has not always been a highly salient concern among those who are not its targets.

It is also interesting to note that inferences of trust were less important than other procedural justice indicators. Among nonwhites trust had no independent influence on institutional support, while among whites it had a minor influence. It was quality of decision making and quality of treatment that were central to support in this study.
STUDY FOUR:  
NYPD TELEPHONE SURVEY

Study Four replicates Study Three by again looking at the influence of people's general judgments about the prevalence of profiling on support for the police—specifically, police legitimacy and police performance in fighting crime. We also look again at possible antecedents of people's judgments about the prevalence of profiling, including procedural justice (quality of treatment, quality of decision making, trust), instrumental judgments (neighborhood conditions, fear of crime, distributive justice), as well as several demographic variables. Finally, we predict that judgments about the fairness of police procedures will shape profiling judgments.

METHOD

Respondents were asked a series of structured questions over the telephone. Interviews were conducted during the summer of 2002 in both English and Spanish. The questions asked about participants' general views about law and legal authority and their recent personal experience with police.

PARTICIPANTS

The fourth study used a stratified sample of 1,653 of the residents of the city of New York. The response rate for the survey was 64 percent, a response rate typical of telephone questionnaires in urban areas. The sample was designed to oversample nonwhite respondents. While it is possible to weight the sample to simulate the population, this weighting process has the effect of increasing the weight given to white respondents. Weighting was therefore not used in this analysis. The sample includes 550 whites (34 percent); 455 blacks (28 percent); 410 Hispanics (25 percent); and 210 other nonwhite (13 percent).

The sample is 54 percent female. Among those interviewed 14 percent were 18 to 24; 26 percent 25 to 34; 38 percent 35 to 54; 10 percent 55 to 64; and 12 percent 65 or over. In terms of education 10 percent had less than a high school degree; 25 percent were high school graduates; 21 percent had some college; 31 percent had a college degree; and 13 percent had some post college education. In terms of income, 18 percent had an annual family income of $0 to $20,000; 16 percent $20,000 to $29,999; 13 percent $30,000 to $39,000; 12 percent $40,000 to $49,000; 18 percent $50,000 to $74,999; 10 percent $75,000 to $99,999; and 14 percent over $100,000.
DEPENDENT VARIABLES

- Legitimacy. Seventeen items were used to create an overall scale of legitimacy by combining obligation to obey and trust (alpha = 0.80). Legitimacy is defined as the perceived obligation to obey the directives of a legal authority and trust/confidence in the institution of policing. Respondents were asked to indicate the extent of their agreement to 17 items on Likert scales.

- Obligation to obey. Nine items. Respondents were asked to agree or disagree on: "You should accept the decisions made by police, even if you think they are wrong"; "You should do what the police tell you to do even when you do not understand the reasons for their decisions"; "You should do what the police tell you to do, even when you disagree with their decisions"; "You should do what the police tell you to do even when you do not like the way they treat you"; "There are times when it is ok for you to ignore what the police tell you (reversed)"; "Sometimes you have to bend the law for things to come out right (reversed)"; "The law represents the values of the people in power, rather than the values of people like you (reversed)"; "People in power use the law to try to control people like you (reversed)"; and "The law does not protect your interests (reversed)".

- Trust/Confidence. Eight items. Respondents were asked to agree or disagree that: "Overall, the NYPD is a legitimate authority and people should obey the decisions that NYPD officers make"; "I have confidence that the NYPD can do its job well"; "I trust the leaders of the NYPD to make decisions that are good for everyone in the city"; "People’s basic rights are well protected by the police"; "The police care about the well-being of everyone they deal with"; "The police are often dishonest (reversed)"; "Some of the things the police do embarrass our city (reversed)"; and "There are many things about the NYPD and its policies that need to be changed (reversed)".

- Performance in fighting crime. Three questions were used to create an overall performance scale (alpha = 0.61). Respondents were asked: "How effective are the police in fighting crime in your neighborhood"; "When people call the police for help, how quickly do they respond"; and "How effective are the police at helping people who ask for help".

INDEPENDENT VARIABLES.

- Neighborhood conditions. Eight items were combined to create an overall score reflecting judgements about neighborhood conditions (alpha = 0.82). The questions were: How often do you see: “garbage
in the streets”; “empty beer bottles on the streets”; “graffiti on the walls”; “gangs hanging out on the streets”; “people buying beer, wine or liquor on the street”; “people buying or selling drugs on the street”; “How high is the crime rate in your neighborhood”; and “In the past year, has the crime rate been increasing”. Low scores indicated poor neighborhood conditions.

- Fear. A four-item scale (alpha = 0.76). The questions were: “How much do you worry about your home being burglarized”; “How much do you worry about being robbed, assaulted, or mugged on the street”; “How safe is your neighborhood “during the day”; and “in the evening”.

- Distributive fairness to groups. Ten items were combined into a single scale (alpha = 0.68). High scores indicated equal treatment. Respondents were first asked whether seven groups received the quality of service they deserved from the police. Those groups were: people in their neighborhood, minorities in their neighborhood, whites, African Americans, Hispanics, poor people, and wealthy people. Respondents could indicate that each group received what they deserved, too much, or too little. Responses for each group were coded as either what the group deserved or as unfair (too much or too little). They were also asked whether “the police provide better services to the wealthy” and whether “they sometimes give minorities less help due to their race”.

- Distributive fairness—personal. Using the same scale outlined with distributive fairness to groups, respondents were asked their views about their own outcomes. In this case people rated the outcomes of “people like yourself,” indicating whether the respondent felt that people like them received what they deserved, or received more or less than they deserved.

- Trust. Two-item scale (alpha = 0.71). The items were: “Consider the views of the people involved when deciding what to do”; “Take account of the needs and concerns of the people they deal with”.

- Quality of decision making. Five-item scale (alpha = 0.85). The questions were, do the police: “usually accurately understand and apply the law”; “make their decisions based on facts, not personal biases or opinions”; “try to get the facts in a situation before deciding how to act”; “give honest explanations for their actions to the people they deal with”; “apply the rules consistently to different people”.

- Quality of treatment. Two-item scale (alpha = 0.83). The questions were whether the police: “Treat people with dignity and respect” and “respect people’s rights”.

- Prevalence of profiling. Respondents were asked how often police make five decisions based on race/ethnic background (alpha = 0.88).
The decisions were: which cars to stop for possible traffic violations; which people to stop and question on the street; which people to arrest and take to jail; which people in the neighborhood to help with their problems; and which areas in the neighborhood to patrol most frequently.

- Race based harassment. Respondents were asked four questions about race-based harassment (alpha = 0.88). The questions were how often the police: use ethnic slurs; treat people disrespectfully due to their race; abuse people physically due to their race; bully or intimidate people due to their race.

- Motivations for profiling. The item is: “Let me read you a reason that people give for why the police might be more likely to stop minorities than they are to stop whites. Tell me whether you think that when the police stop minorities more often than whites, [it] is usually, sometimes, rarely or almost never their reason; because the police are prejudiced against the members of minority groups due to their race”.

RESULTS

People’s judgments about the prevalence of profiling are shown in Table 2. The results indicate that people generally feel that profiling occurs. The first set of items asks people about profiling in stops. On a scale ranging from (4) “usually” to (1) “almost never”, with ratings reflecting how much race shapes police actions, the average rating was 2.53 (s.d. = 1.11). With the frequency of race-based harassment, measured on a scale ranging from “usually (4)” to “almost never (1)”, the average score was 1.82 (s.d. = 0.84). So, with both indices people indicated that the behavior occurred in an intermediate number of encounters between the police and residents.

Further, as would be expected, minority group members were significantly more likely to say that they felt that profiling occurs. With the first profiling index—prevalence of profiling in stops—the average score for whites was 2.43, for minorities 2.63, a significant difference (t (1,651) = 11.81, p < .001). With the second profiling index—race based harassment—the average score for whites was 1.60, and for minorities 2.04, again a significant difference (t(1,650) = 10.78, p < .001). In both cases, minority group members indicated that profiling is more prevalent.

Structural equation modeling was used to test hypotheses. The dependent variable was a latent variable created using two indicators: the legitimacy of the police and performance assessments. Background factors were the neutrality of police decision making, the interpersonal quality of police treatment, trust in the police, the distributive justice of the police (to
various social groups and to the respondent), fear of crime, neighborhood social conditions, race (white and nonwhite), age and gender. As in the prior model, people also assessed the prevalence of profiling. Two scales were used (prevalence of profiling in stops and race based harassment) as two indicators of a latent variable reflecting profiling.

<table>
<thead>
<tr>
<th>Table 2. NYPD telephone survey</th>
<th>White respondents</th>
<th>Minority respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deciding which cars to stop for possible traffic violations.</td>
<td>2.44(1.53)</td>
<td>2.90(1.39)</td>
</tr>
<tr>
<td>Which people to stop and question on the street.</td>
<td>2.44(1.51)</td>
<td>2.77(1.37)</td>
</tr>
<tr>
<td>Which people to arrest and take to jail.</td>
<td>2.33(1.60)</td>
<td>2.73(1.45)</td>
</tr>
<tr>
<td>Which people in the neighborhood to help with their problems.</td>
<td>2.32(1.54)</td>
<td>2.67(1.43)</td>
</tr>
<tr>
<td>Which areas in the neighborhood to patrol the most frequently.</td>
<td>2.61(1.60)</td>
<td>2.10(1.13)</td>
</tr>
<tr>
<td>How often do the police...</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Use ethnic slurs.</td>
<td>1.58(1.22)</td>
<td>1.93(1.34)</td>
</tr>
<tr>
<td>Treat people disrespectfully due to their race.</td>
<td>1.71(1.24)</td>
<td>2.18(1.31)</td>
</tr>
<tr>
<td>Abuse people physically due to their race.</td>
<td>1.50(1.12)</td>
<td>1.96(1.31)</td>
</tr>
<tr>
<td>Bully or intimidate people due to their race.</td>
<td>1.62(1.18)</td>
<td>2.10(1.30)</td>
</tr>
</tbody>
</table>

NOTE.: High scores indicate more profiling (4 = “usually”, 1 = “almost never”).

The results of separate analyses conducted on whites and nonwhites are shown in Figures 4a and 4b. They indicate that approximately 85 to 89 percent of the variance in institutional evaluations (legitimacy, performance) was explained in the equation. Indices of fit indicate that the model fit the data reasonably well (CFI = 0.84 for whites; CFI = 0.82 for nonwhites). All significant paths (p < .001) are shown in figures 4a and 4b.

The first hypothesis is that support for the police is undermined if the police are believed to engage in profiling. The results indicate that profiling was directly linked to the combined dependent variable reflecting legitimacy and performance (beta = -.46, p < .001, for whites; beta = -0.27, p < .001 for nonwhites). Hence, as in prior studies, profiling had a negative impact on support for the police.

What can the police do to minimize public judgments that they are profiling? The procedural justice hypothesis is that the police can maintain their legitimacy by exercising their authority fairly. Once again three aspects of procedural fairness were examined: decision making, quality of treatment, and trustworthiness.

Unlike those of prior studies, our results suggest ethnic group differences in the antecedents of profiling attributions. Nonwhite respondents acted as predicted; they were less likely to feel that profiling
occurred if they judged that the police exercised their authority using fair procedures—through neutral decision making (beta = -0.37, p < .001) and respectful interpersonal treatment (beta = -0.39, p < .001). Trust did not have a significant impact on profiling judgments.

Figure 4a. Profiling and evaluations of the police. Study Four—NYPD phone—white respondents

Figure 4b. Profiling and evaluations of the police. Study four—NYPD phone—nonwhite respondents
In this sample, however, white respondents showed a different pattern. If they thought that the police were impolite, they thought they were more likely to profile (beta = -0.16, p < .001), as we expected and was true with minorities. However, among whites those who believed the police were neutral also thought they were more likely to profile (beta = 0.30, p < .001). Whites, in other words, thought that police officers who were acting in a neutral and objective manner would be more likely to stop minorities than whites. Once again trust did not have a significant impact.

Respondents were also asked about why the police profile minorities. People were asked whether, when the police do stop minorities more frequently than whites, they are acting out of prejudice. Among whites 12 percent said that this is usually the motive, and among nonwhites 33 percent. These findings suggest that to whites the police are not usually acting out of prejudice, so that to whites “legitimate policing” behavior may be linked to profiling—the police stop minorities, but not due to prejudice. When they are neutrally fighting crime, the police end up stopping minorities more often than whites. Nonwhites more frequently felt that the police are acting out of prejudice when they profile, suggesting that profiling indicates a lack of neutrality because it develops out of the exercise of prejudiced feelings.

Interestingly, the consequences of profiling judgments did not differ between ethnic groups. If a police officer profiles, he/she is viewed as less legitimate by both whites (beta = -0.46, p < .001) and minorities (beta = -0.27, p < .001). However, as we have noted above, neutral policing activities are associated with engaging in profiling among whites (beta = 0.30, p < .001), but not among minorities (beta = -0.37, p < .001). In other words, both groups view engaging in profiling as reflecting negatively on the police, and as undermining legitimacy, but whites generally regard it as a byproduct of neutral crime fighting activities and not of prejudice. Minorities more widely regard it as an expression of prejudice.

What can account for the differences between the findings of studies three and four? One highly salient event occurring between the two surveys is the terrorist attacks of September 11th. In the aftermath of these attacks issues of racial profiling have been viewed in a new and different light. Prior to September 11th profiling was widely associated with police prejudice toward minorities. After the attacks profiling has also been associated with the need to identify terrorists in a situation in which ethnic and cultural factors are diagnostic of possible terrorist activity. Hence, the pattern found among white respondents in study four may reflect the judgment that the police can be acting in neutral and effective ways in their efforts to fight crime, but can through these behaviors end up disproportionately targeting the members of particular ethnic and racial groups.
DISCUSSION

The results of the studies presented suggest that people react negatively to attributions of profiling, regardless of whether they have experienced it or believe that it generally occurs in their neighborhood and city. These findings support our first hypothesis by replicating the finding of prior studies (see Weitzer and Tuch, 2002) that people’s inferences about the motives underlying police behavior shape their support for the police. This is true both in personal experiences with and in general evaluations of the police.

These findings suggest the value of psychology as a framework within which to approach issues of policing and regulation. Our approach focuses on the subjective experience of profiling, not the objective experience of being profiled. While it may be highly likely that feeling profiled is related to being profiled, this is not always necessarily the case. We argue that the public certainly believes that profiling exists and that that belief is linked to a clear decrease in support for the police.

It is therefore critical to examine the factors that affect the attributions people make about the reasons for police behavior. This is important not only for better understanding of citizens’ relationship with the police, but also for creating and implementing ways to deal with the issue of racial profiling. Efforts to eliminate profiling must obviously deal with preventing its occurrence, but attention must also be focused on the psychological factors affecting people’s interpretations of their interactions with the police.

Our results support the argument that the procedural justice framework, in particular, is valuable in understanding how to manage issues of profiling. Our conclusion is that when people indicate that they have experienced fairness from the police and/or when they indicate that the police are generally fair in dealing with their community, they are less likely to infer that profiling occurs. Hence, the police can manage their relationships with the communities they serve in how they treat those they encounter. These findings, therefore, support the general argument about policing made by Tyler and Huo (2002)—that process-based regulation has important advantages for the police and for policing.

The findings are especially striking given the unique nature of being stopped by police. The situation is one in which the criterion used to decide to stop someone may be unclear and in which the person being stopped has very little control. Additionally, it is an interaction that has been publicized as one tinged with bias, so people presumably enter into the interaction with their identity concerns highly salient. There has been much media attention in the past number of years about incidents of racial profiling in particular (Harris, 1999; Knowles, Persico and Meeks, 2000),
and tension riddled police-minority relations in general (Fridell, Lunney, Diamond, Kubi, 2001). Given the current dynamic between the police and minorities, we would imagine a profiling attribution is particularly easy for people in the minority community to make.

Nonetheless, three aspects of procedural fairness—quality of decision making, quality of treatment, and inferences about trustworthiness—were found to significantly affect the inferences people make about their interactions with the police. Quality of decision making refers to the degree to which the police make their decisions neutrally, objectively and consistently. The findings highlight the value of transparency, that is, of making decisions in ways that make clear that authorities are neutral.

The finding that people are less likely to infer that they have been profiled when they are treated with politeness and respect by the police is especially interesting. The quality of interpersonal treatment is not necessarily an indicator of the manner in which police make decisions. We can imagine an officer who is not a neutral decision maker, but still treats people with dignity and respect. At the same time we can imagine an officer who is a neutral decision maker, but treats people without dignity and respect. Yet people do not treat these two issues as distinct, and are more likely to say that they have been profiled when they are treated without respect.

The importance of this distinction becomes clear in study four. In the post September 11 world, at least in our sample of New York City residents, white respondents seemed to view profiling as associated with neutral policing behavior, while minority respondents continued to view it as nonneutral police behavior. Thus the decision making aspect of procedural justice has a more complex relationship to profiling than in studies one through three. On the other hand, both groups continue to view negative interpersonal treatment as an index of profiling. Even in the post-September 11 world of policing, treating someone disrespectfully sends a negative message.

The final procedural justice factor that we examined is trust. Interestingly, trust seems to be the least central of the three dimensions of procedural justice considered in these studies in terms of influence on profiling attributions. In some studies trust acts like the other factors, while in other studies it has no connection to profiling. However, as we would expect, trust does have a direct effect on institutional support. This is in line with previous studies suggesting that trust is important, for example, by generally influencing deference to authorities (Tyler and Huo, 2002).

The process-based model of regulation (Tyler, 2003; Tyler and Huo, 2002) advocates an environment of fairness that incorporates all these
elements of procedural justice. Along this line of thinking, Stuntz (2002) argues that to effectively deal with racial distrust of the police in the minority community it is important to regulate not only the selection of the people whom the police stop, but also the manner in which they conduct stops as well. According to his argument, this perspective may also offer one way of dealing with the complex issue of profiling in a post 9-11 world. Many maintain that suddenly the normative question of profiling is a lot less clear (Gross and Livingston, 2002). Should all profiling, including that of potential terrorists, be disallowed?

Stuntz (2002) argues that in the type of situation faced post September 11, in which it is unclear whether prohibiting profiling is an appropriate thing to do, we should focus on the manner in which people are stopped, which is a large cause of the harm associated with profiling. Regulating the manner of stops made by the police is a way to limit the harm associated with profiling independent of whether one believes actual profiling should be prohibited under all circumstances. Of course, we are not advocating that the police simply treat people fairly, and not take any actions to reduce profiling itself. Instead, our point is that there are some situations, like combating terrorism, in which profiling may ultimately be found to be allowable under the law, and in which approaching the situation from a psychological perspective may be especially advantageous in reducing public dissatisfaction about profiling.

Throughout this paper our main focus has been the benefits to the police of treating the people they deal with fairly. However, we wish to emphasize that a policing model focused on fairness is first and foremost beneficial to the community the police serve. The public gains from an increasingly neutral and respectful police force. In addition, process-based regulation creates an environment of fairness that fosters cooperation and a sense that the police are acting on behalf of the community. Increasing support for the police allows the police to function more effectively, better focusing their efforts on serving the community, a result that benefits both the police and the public (Sampson and Bartusch, 1998; Sampson, Raudenbush and Earls, 1998; Sunshine and Tyler, 2003).

Because, as we have noted, there is a major ethnic group gap in trust and confidence in the law and the police, these findings have particular relevance to the task of managing the relationship between the police and the minority community. The procedural justice findings point to a clear strategy within which the police can work to create and sustain the trust and confidence of minority group members. While the findings outlined are not confined to minority group members, it is the members of that group that have been of greatest concern to legal authorities, since they have been consistently found to be the most disaffected and defiant members of our society. It is especially striking, therefore, that most of the
core findings outlined, as was true of the findings of Tyler and Huo (2002), are applicable to both the majority and minority population.

It is also important to acknowledge the limits of the research reported. First, all of the studies are based on cross-sectional survey research. Conclusions drawn from such data regarding causality are always tentative, and should be viewed as such in this case. In this case these conclusions are consistent with the large experimental literature on procedural justice (see Tyler, Boeckmann, Smith and Huo, 1997), but the data reported here extends that literature to the arena of racial profiling. Further, it needs to be recognized that, when behavior is considered, it is measured using self-report. Such measures of behavior are widely argued to be reasonable reflections of actual behavior (see Tyler, 1990), but they must nonetheless be viewed with caution.

In addition, one area that calls for further work is an attempt to identify particular behaviors that would allow the police to tap into the general ideas outlined. It is good to speak of "respect," "neutrality" and "fairness," but what seems to us to be a necessary next step is work that identifies exactly what those terms mean in the context of police-citizen interactions. This would allow us to develop specific training programs that could teach the police the most effective methods of interacting with the public, putting the theoretical ideas of process-based regulation into practice.

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