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Profiling and Racial Profiling: An Interactive exercise.

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Abstract

Racial Profiling has been recognized as a serious problem that affects many segments of our society and is especially notable in law enforcement. Governments and police services have pronounced that racial profiling is not acceptable and will not be tolerated. They have gone to great lengths in trying to eradicate racial profiling through prosecutions on the punitive side and training on the pro-active side. However, education in this area is problematic both in content and in the willingness of participants to take part in this type of training. Often people who are ordered to take these courses feel that they do not need to be told how to be sensitive to the issues. In an attempt to give a Police Foundations class an opportunity to understand the problems and issues surrounding the concept of racial profiling, I developed a series of interactive exercises. These exercises, the process of their implementation, and their results are described in this article.

Keywords: police training, racial profiling, articulable cause, biased policing, impact factors

> "If you talk to the animals they will talk with you and you will know each other. If you do not talk to them you will not know them, and what you do not know you will fear. What one fears one destroys."
>
> ~ Chief Dan George of the Tsleil-Waututh Nation

How do people who are working in positions of authority know that they are dealing with all clients in a fair and impartial manner? Many organizations expend large sums of money and resources to train such people in the hopes of ensuring their appropriate conduct. Unfortunately, this type of training is often met with resentment or anger as most people do not believe that they need training to become a more compassionate human being.

When people have, in their opinion, been wrongly or unjustly subjected to a punitive action by someone in a position of power, they tend to feel discriminated against. This is particularly true if they think that the sole basis for the punitive action was their colour or race, a factor over which they have no control. The Court of Appeal for Ontario has formally recognized the practice of racial profiling by police officers, and has explicitly connected such actions with unconscious racial stereotyping: "The attitude underlying racial profiling is one that may be consciously or unconsciously held. That

is, the police officer need not be an overt racist. His or her conduct may be based on subconscious racial stereotyping" (R v. Brown, 2003, p. 5). Metropolitan Toronto Auditor, Allan Andrews, echoed similar sentiments when he said:

> …Many police officers who are constantly in contact with the public develop strong feelings and beliefs as to attributes of individuals, based on factors such as appearance and racial background. These officers would no doubt be offended if their attitudes were described as potentially racist. Nevertheless, the same attitudes can and do produce a bias in behaviour which results in unequal treatment of individuals of different cultural or racial background. (as quoted in Brown, 2005, p. 1).

It would seem then, that the act of racially profiling, unlike many other similarly reprehensible acts, differs in one key element. The individual at fault may not be consciously aware of what they are doing, which is to say that the act may often lack intent. The exercises that are the subject of this article were developed with this issue in mind. Specifically, these techniques were designed to help people understand the concept and implications of racial profiling. Although these exercises were written for a Police Foundations Program they have broader applications and potential.

Racial Profiling Defined

The Report of the Commission on Systemic Racism in the Ontario Criminal Justice System (1995) defines "racialization as a process by which societies construct races as real, different and unequal with impact and meaning in stereotypes that can be expressed in ways that matter to economic, political and social life" (p. 40.). Race is then understood to be a social construct, not just simply a description of people based on simple characteristics like colour or ethnic appearance.

Many racial profiling definitions have originated in the United States where they tend to focus on law enforcement. In Canada, the Ontario Human Rights Commission has defined profiling as: "Any action undertaken for reasons of safety, security or public protection that relies on stereotypes…rather than on reasonable suspicion, to single out an individual for greater scrutiny or different treatment" (Ontario Human Rights Commission, 2003, p. 6). The report further states that racial profiling is not just about traffic stops by the police and that it is a phenomenon that is widespread in our society with many manifestations enacted by both people and institutions. Racial profiling can then be understood to occur when profiling happens and the sole reason for the profiling action is the race or colour of an individual.

The shooting in the United States of Trayvon Martin appears to be, on its surface, a typical case of racial profiling by the accused killer George Zimmerman. While engaging this issue, President Barrack Obama had the following to say:

> I think it's important to recognize that the African-American community is looking at this issue through a set of experiences and a history that doesn't go away…The African-American community is … knowledgeable that there is a history of racial disparities in the application of our criminal laws, everything from the death penalty to enforcement of our drug laws. And that ends up having an impact in terms of how people interpret the case. (Goodman, 2013, para. 20)

However, President Obama was careful in that same speech to say, "The African-American community is also not naive in understanding that, statistically, somebody like Trayvon Martin was probably, statistically, more likely to be shot by a peer than he was by somebody else" (Goodman, 2013, para. 4). What angers the indigenous black community is that those who point to black on black violence in these neighbourhoods fail to take into account the other pertinent factors like oppression, poverty, gangs, lifestyle frustration, self-esteem and many other contributors. These detractors only look at the factors of race or colour. Of course, racial profiling is not limited to interactions involving the black community alone. It applies to any group that is being stereotyped largely on the basis of race or colour.

The effects of racial profiling not only victimize the targets of this crime, but place further burdens on other elements of our society. Take the case of former black teacher, Clem Marshall, who arrived at a settlement for an undisclosed sum of money with the Toronto Police Services Board for an alleged case of racial profiling against him (Winsa, 2013). Toronto Chief of Police Bill Blair had made it very clear that racial profiling is not acceptable and will not be tolerated in the Toronto Police Service. In this case, money from the public purse was spent directly in an attempt to make reparations towards the victim. Still further resources were also expended to investigate the matter, to review police training, and to implement the subsequent recommendations.

In informal discussions with people teaching Police Studies within Policing Services, other Ontario Colleges and the Ontario Police College, it consistently appears that the issue of profiling and racial profiling tends not to be discussed independently, but as part of a larger discussion involving social justice issues. A cursory review of these institutions' websites and course outlines has failed to uncover any specific extensive training opportunities in this area. This is not to say that these organizations do not recognize the concept and problems associated with profiling and racial profiling. It is simply a testament as to how difficult it is to productively engage people in the conversation.

It is evident that racial profiling does exist and that its existence is problematic. In the interest of morality, fairness and economics the issue needs to be recognized and addressed. These exercises are designed to help people recognize the issue, and then address it on their own terms.

Some Research on Racial Profiling

There is a wealth of material available online that describes research into the concept, impact and implications of racial profiling. Higgins, Gabbidon and Jordan (2008) looked at citizens views on racial profiling in diverse situational contexts. Karen S. Glover (2007) looks at the attitudes of police officers in Texas. Schafer, Carter, Katz-Bannister and Wells (2006) looked at officer decision-making in traffic stops. These, as with most of the rest of the articles in this genre, have several things in common. They tend to talk about the American experience. They tend to show the problems in separating solely the race factor from the decision-making paradigm. They indicate how problematic it is to conduct the research and how difficult it is to arrive at useful conclusions. Most good people, and presumably the vast majority of police officers, do not go out to consciously harass or subjugate members of any racial group with malicious intent. How then can we engage in a meaningful and productive discussion on this topic without alienating any of the participants? That was the driving force behind the creation of this exercise.

What are the Exercises?

The exercises are a series of interactive, experientially based discussions that takes place in the context of a structured role-play scenario. They begin when participants are asked to make decisions based on parameters set out in simulation. Subsequently, discussion arises over the nature and consequences of those decisions. Parallels are then drawn between what has occurred during the discussions and what occurs in real life. Essentially, these exercises are used as a metaphor for real world experiences that investigate social and fiscal interactions of people in contemporary society.

How the Exercises were Conceived and Developed

In 1998, I was teaching a Police Foundations course in Advanced Criminal Justice at Centennial College in Toronto. I developed the exercise out of a desire to have the students understand the nature and consequences of racial profiling. It was especially important that the class consider why the actions of some well-meaning police officers could be construed as being examples of racial profiling.

Initially, I considered the impactful work of Jane Elliott (2006). Jane Elliott was a third-grade teacher in 1968 when she saw the reported assassination of Dr. Martin Luther King on her television. She subsequently modified an exercise that she had been planning on using with her eight-year-old students. The modified exercise involved dividing her students into two groups using eye colour as the basis for group membership. Very

basically, the Blue-eyed group, who would be predominantly white and from the dominant culture, were given subservient roles and discriminated against by the Brown-eyed group, many of whom may have already been exposed to such behaviours in real life. Elliott's experiment created an awareness and empathy in both sets of students that was very powerful with long-lasting and sometimes controversial effects.

Economic Contributors to Conflict

Inspired by Elliott's work, I designed the exercises under discussion. The demographics of the students involved did not allow for the groups to be divided in the same way that Elliott's class was. Instead, they were divided randomly into three groups called Hazel, Brown and Blue. One quarter of the class was assigned to the Hazel group, one half of the class was assigned to the Brown group and the remaining quarter of the class was assigned to the Blue group.

Each group represented a segment of the society in a fictitious city. The Hazel group had been in the city the longest and therefore had the greatest opportunity to accumulate wealth. They were given 100 credits to purchase land in the city. The Brown group, who represented the majority of the population, had been in the city for only a few generations. They had accumulated wealth but not to the extent of the Hazel group. They made up the middle class and were assigned 50 credits for land purchasing. The Blue group represented the new immigrant population. They were new arrivals who had no significant wealth and were assigned 15 credits to purchase land.

The groups were shown a map of the mock city divided into six neighbourhoods. Each of the neighbourhoods was assigned a fiscal value and the groups were then tasked with determining which neighbourhoods they would buy using their credits. The values of the neighbourhoods were: two at 40 credits, two at 20 credits and two at 10 credits. The groups were instructed that they would not need to use their credits for buying food or any other purchases. The credits were just to be used to determine which neighbourhoods they would acquire.

They were given 10 minutes to select which properties each would buy and the decision had to be ratified by the majority of each group's members. Typically when this exercise has been conducted, the Blue group has had little to discuss as initially they can only afford one 10 credit property. Brown usually becomes engaged in a protracted discussion while Hazel usually arrives quickly at a conclusion.

Resulting Discussion

When the groups were brought back together they were told that because Hazel had been in the city the longest they had the opportunity to make purchasing decisions first. For 5 years with 5 classes per year, the results were always the same. Hazel acquires 5 of the 6 neighbourhoods leaving one 40creditblock for the remaining groups. Brown takes the

remaining40 credit property and is happy because it is a high end neighbourhood. The Blue group is ultimately left without any property available for them to purchase.

At this point the interactions between the three groups become heated. Classmates, and presumably friends, have shouted comments across the room. During this period, I have taken to writing down as many of the spontaneous comments as possible, while working to facilitate the discussion. These discussions have often started with comments from either the Brown or Hazel groups implying that Hazel would, or should, rent Blue some property. To continue the discussion, I have often asked Hazel how much they would charge Blue for rent. As a group, Hazel usually has said that they either wanted all 15 of Blue's credits or sometimes they would offer to take the original market value of 10 credits.

When Blue has been asked how they felt about what was happening to them, they typically have not been pleased and have responded with remarks like, "We came to this country for a better life" or "It's not fair!" When asked what they would then do, members of the Blue group have tended to say that they would work to make more money and improve their lot in life. When further asked what Blue would do for work they often said things like work for Hazel in menial but "respectable" occupations. Interestingly, Hazel and Brown members often responded by offering menial but "degrading" work. Under such circumstances, members of the Blue group have usually become angry and their shouted sentiments have included such alternative actions as robbing Hazel, selling drugs to their children, engaging in criminal activity or even starting a violent civil revolt.

Inevitably, these discussions have centered around very antisocial, criminal or negative behaviours to either get ahead economically or to exact revenge on Hazel. Playing the mediator, Brown has often put forward suggestions for social programs, government interventions and/or housing with the caveat that they should be financed by Hazel. Hazel has generally been very unimpressed with these suggestions as they state that they have worked for their money (or inherited it) and were not willing to give it away.

After allowing this to go on for about 15 minutes, I have taken steps to regain control of the class. In the past, this has been achieved by asking Blue what they now think and how they feel. In response, Blue has often expressed feelings of oppression and hopelessness. When the Hazel and Brown groups have been asked if they cared about how the Blue group feels, responses have varied. However, when asked if Hazel and Brown should care, their responses have usually been yes, out of fear of rebellion or violence being exacted upon them by Blue. Upon further discussion, the clear need for social programming and government assistance has been a common theme with no consensus being arrived at as to who should pay for it or how. Interestingly, Brown groups have typically indicated that Hazel should pay the majority share of any initiatives because they were the richest.

Once the debate has lost momentum the class has been invited to look back at the comments that were being discussed throughout the exercise, and then asked to comment on their relevance for today's society. Broad parallels are often observed between the nature of the discussion that has taken place, and the reality of life faced by those living in government housing projects, or other forms of subsidized housing. This exercise's attempt to create social awareness may benefit these future potential authority figures.

Elaborating on the Consequences of Property Ownership

Once the class has been sensitized to some of the economic contributors to social conflict, they have been asked to role play again. This time they are to assume the role of Police Chief and are tasked with determining the distribution of police resources throughout the city. The consensus has generally been that police should spend their time chasing criminals in the Blue neighbourhood. When asked what they think the Blue neighbourhood would look like physically, responses have included "ghetto like," "rundown," or other similar comments.

An ensuing discussion about why this type of physical degradation might occur is then started. The Blue group has reported that they do not have expectations of property ownership or hope for the future. Blue has often further stated that land owners only care about profits, not maintaining properties. Many of the students who have actually lived in government-subsidized housing have reported specific examples of property degradation, among them being people urinating in apartment stairwells. An exercise called "Draw where you live" attempts to explore why people in such circumstances may allow this type of behaviour to occur. The exercise "Draw where you live" is used to investigate why people with no prospect of ownership or feeling of responsibility for property may appear as if they do not to care for the area in or around where they live.

To this end, the students were asked to take out pen and paper and engage in a new and totally separate exercise. They were instructed to take 30 seconds and draw on their paper where they personally lived. The purpose of the very limited directions, and the short amount of time to complete the drawing, was to force students to focus subconsciously on what to them were the most significant characteristics of their actual home environments. Students were not allowed much time to think about what they had been asked to do or to try and create an artistic masterpiece. After they had completed the task, they were asked how they would feel if they saw someone degrade the area shown in their drawing as compared to degradation occurring outside that area. Degradation could take the form of littering, graffiti or similar types of negative behaviour. The students commonly had much stronger feelings of anger or resentment when the action occurred within the area shown in their drawing. It was then noted that the students who simply drew the front door of an apartment (see Figure 1 (#figure1)), did not feel anger or motivation to act if degradation occurred at the end of their own hallways or in the stairwells. The stairwells fell outside of the area shown in their diagrams and were treated

accordingly. Interestingly, it was also clear that when individuals drew larger areas in their diagrams, they had feelings of responsibility for the proportionally larger areas (see Figures 2-4 (#figure2)).This might help to explain why some individuals, particularly those living in subsidized housing projects, may have less concern for property degradation throughout their general neighbourhoods as their feelings of ownership were limited to their front doors.

Profiling

Finally, students are asked to take on one more role. This time they are to be a police officer in the mock city. In this scenario, the people who are in the Blue group are singled out as always being easily identifiable in some way. In the new role of police officer, the students are asked what they would think if they saw a blue group person in the Hazel neighbourhood. Past responses have been staggering, and have included assumptions like blue group people are there to steal, sell drugs, or do other and equally negative stereotypic behaviours.

At this point the concept of ‘articulable cause’ has been presented. Justice Doherty defined “articulable cause” as “a constellation of objectively discernible facts…” (R. v. Simpson, 1993, p. 17). Articulable cause means that “profiling” is an acceptable decision making heuristic process based on experience and/or other factors, while “racial profiling,” which reduces the complexity of the decision rule to a single factor, race, is totally inappropriate and completely unacceptable.

To counter inappropriate allegations of racial profiling, future police officers also need to understand the concept of impact factors and how to use them. Impact factors may be thought of as the elements described in articulable cause. A person witnessing an event interprets the situation from their frame of reference only. If upon reflection, the only observable factor upon which an action was based appears to be that of colour or race then the act is perceived as racial profiling. To avoid perceptions of racial profiling, all relevant impact factors need to be articulated to members of the public who are involved in the situation. If the subject or the public are advised what the various impact factors are, they will know the reasons for specific actions being taken. In most cases, this should help to reduce the erroneous conclusion that a subject was being racially profiled.

Conclusion

This series of exercises has proved itself to be useful in getting students to think about what life must be like for people in certain depressed segments of our society. These exercises allow students to’ walk a mile in the shoes’ of all three socioeconomic groups through the use of a series of simulation exercises. Consequently, empathy and awareness are the perceived gains. By being sensitive to the feelings and understandings of people from the different strata in society, students begin to understand what may truly be motivating behaviours of others and then adjust their own actions accordingly. Of equal importance is that students come to recognize

their own stereotyped impressions and in that understanding, take steps to counter the negative side effects of broad generalizations based on only one factor.

My investigation of current teaching practices with regard to this subject material at the Ontario Police College, Centennial College, Humber College and the Toronto Police Service tended to show common approaches across the board. Racial Profiling tends to be a part of a broader subject area such as social justice issues. It is a subject that is not dwelled upon specifically in any great depth, possible because it is so contentious and poorly defined. One of the greatest barriers to effective training in this field is that the audience tends to enter the process with a negative attitude. No reasonable person feels that they require training to be more sensitive in this area. Most people believe that they are sensible, reasonable, compassionate individuals who already treat other people the way that they would wish to be treated. However," you cannot know what you do not know. "Rather than treating students as if they are already biased or lecturing to them as if they have attitudes that need fixing, this approach allows the students' own true thoughts and feelings to guide them through the process. The non-judgemental nature of these exercises allows the participants to empathise with all three socio-economic roles in a non-threatening setting. The power of these exercises may lie in their interactive nature which allows for spontaneous responses. The participants are not being criticized or feel that they are being treated in a condescending manner. Using reflection, the participants consider their own behaviour and the actions of their peers. The students easily understand the dynamics involved in this complex set of interactions. To paraphrase Dan George, Chief: If we talk to each other we will know each other, we will not then fear each other and we will not want to destroy or mistreat each other.

Figure 1

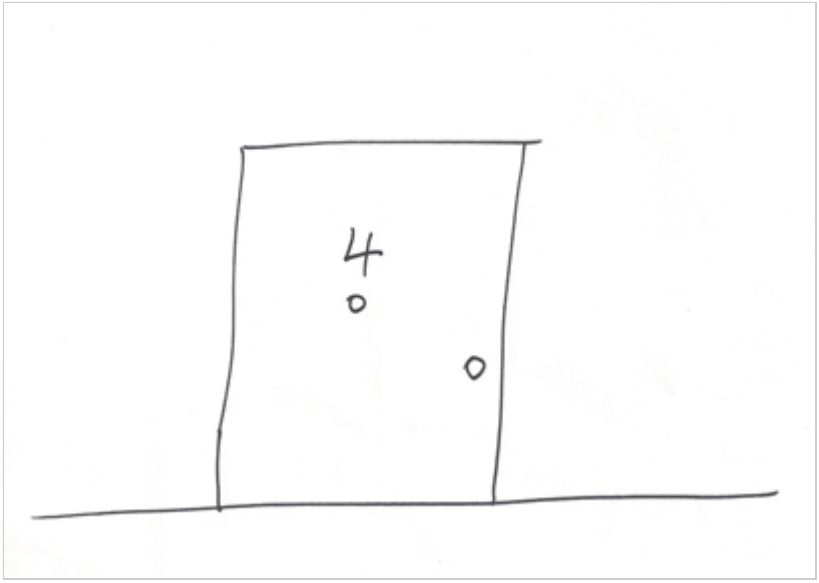

Figure 1. This figure illustrates the first of four common themes that emerged during the 'draw where you live' portion of the role-play exercise. It shows the front door of an apartment. Participants who generate this type of

drawing tend to have feelings of ownership or responsibility that end at the front door of the apartment. The response here is similar to those identified in Figure 2, differing only in scale.

Figure 2

Figure 2. This figure illustrates the second of four common themes that emerged during the ‘draw where you live’ portion of the role-play exercise. It shows the home and the land where the home sits. Participants that made this type of drawing tended to have feelings of ownership and or responsibility that are still limited to their property specifically.

Figure 3

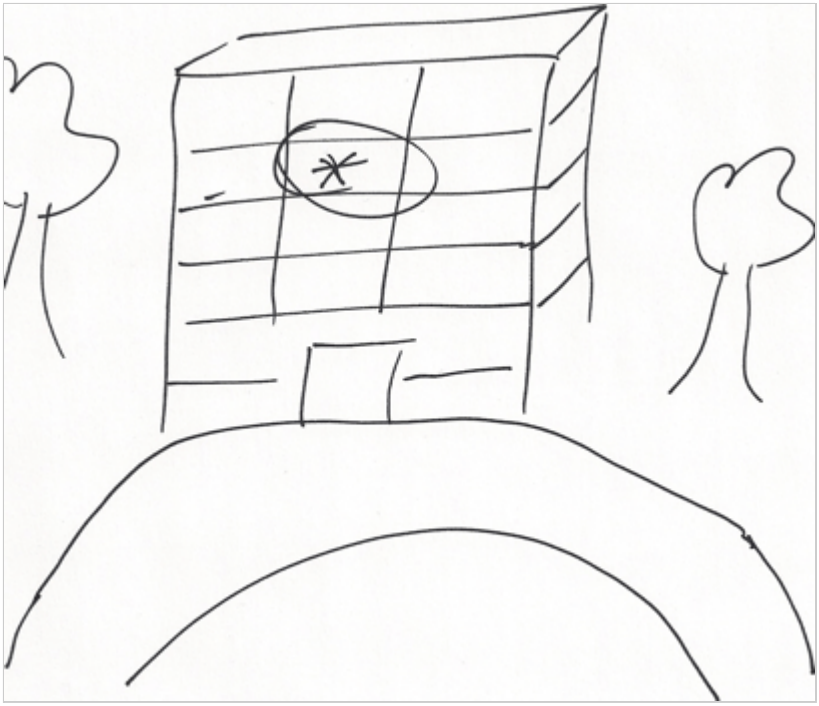

Figure 3. This figure illustrates the third of four common themes that emerged during the ‘draw where you live’ portion of the role-play exercise. It shows an apartment building and the surrounding property. When participants created such drawings, their feelings of ownership or responsibility tended to include all areas within the apartment and the grounds associated with the apartment. As in Figure 4 proprietorship appears to extend over the neighbourhood.

Figure 4

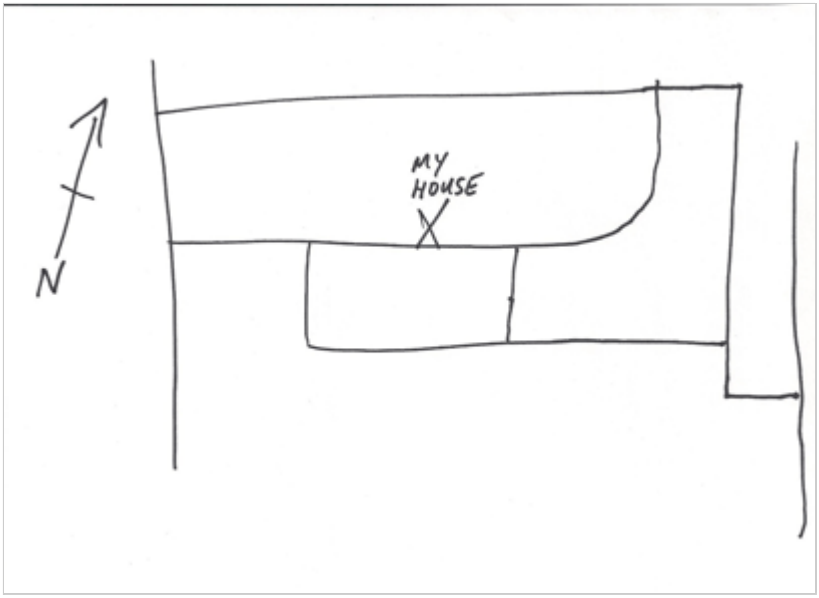

Figure 4. This figure illustrates the fourth of four common themes that emerged during the ‘Draw where you live’ portion of the role-play exercise. It shows the home, streets and an area around the home over which the

person tended to have feelings of ownership and or responsibility. People who created this type of drawing tend to have feelings of proprietorship that include the surrounding neighbourhood.

End Note:

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