


The Numbers Don't Speak for Themselves: Racial Disparities and the Persistence of Inequality in the Criminal Justice System

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Abstract

Many scholars and activists assume the public would be motivated to fight inequality if only they knew the full extent of existing disparities. Ironically, exposure to extreme disparities can cause people to become more, not less, supportive of the very policies that create those disparities (Hetey & Eberhardt, 2014). Here, we focus on the criminal justice system—policing and incarceration in particular. We argue that bringing to mind racial disparities in this domain can trigger fear and stereotypic associations linking Blacks with crime. Therefore, rather than extending an invitation to reexamine the criminal justice system, the statistics about disparities may instead provide an opportunity to justify and rationalize the disparities found within that system. With the goals of spurring future research and mitigating this paradoxical and unintended effect, we propose three potential strategies for more effectively presenting information about racial disparities: (a) offer context, (b) challenge associations, and (c) highlight institutions.

Keywords

race, crime, disparities, mass incarceration, policing

Compared with Whites, African Americans are 2 times more likely to die as infants, 3.6 times more likely to experience childhood poverty, and 2 times more likely to have not completed high school (Centers for Disease Control and Prevention, 2017; National Center for Education Statistics, 2017; Patten & Krogstad, 2015). Disturbing as these disparities are, they are not as extreme as disparities in the criminal justice system, in which African Americans are 5.1 times more likely than Whites to be incarcerated (Nellis, 2016). Many scholars and activists alike assume the general public would be motivated to fight racial inequality if only they knew the full extent of existing disparities. In response, activists bombard people with shocking statistics. Focusing specifically on policing and incarceration, we explore why simply presenting evidence of extreme racial disparities in the criminal justice system can backfire. We propose three potential strategies that may mitigate this paradoxical effect and provide important avenues for future research on how to reduce racial inequities.

Evidence of Racial Disparities in the Criminal Justice System

In cities across the United States, racial disparities have been documented throughout the criminal justice system,

from routine police stops to long-term imprisonment. Analyzing traffic and pedestrian stops made in Oakland, California, for example, our team uncovered a consistent pattern of racial disparities. We found that 60% of police stops were of African Americans, though they make up only 28% of the population of Oakland. Once stopped, African Americans were significantly more likely to be handcuffed, searched, and arrested (Hetey, Monin, Maitreyi, & Eberhardt, 2016). These disparities remained statistically significant even after we controlled for more than two dozen factors relevant to officer decision making, including crime rates and the underlying racial and socioeconomic demographics where the stop was made. A similar pattern has emerged in other places, including Boston; Greensboro, North Carolina; Los Angeles; and New York City (American Civil Liberties Union Foundation of Massachusetts, 2014; Ayres & Borowsky, 2008;

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Dunn, 2013; Goel, Rao, & Shroff, 2016; LaFraniere & Lehren, 2015).

Blacks feel they are treated with less respect than Whites during these routine stops (Epp, Maynard-Moody, & Haider-Markel, 2014). Using footage from officers' body-worn cameras, our team developed computational linguistic methods to analyze the respectfulness of the language that police officers used with White and Black community members during traffic stops in Oakland. We found that officers' language was less respectful when directed at Blacks than when directed at Whites, even after controlling for factors such as the race of the officer, the severity of the infraction, the location of the stop, and the outcome of the stop (Voigt et al., 2017).

In incarceration as well there are striking racial disparities. Though only 13% of the U.S. population, African Americans make up nearly 40% of the nation's inmates (Guerino, Harrison, & Sabol, 2012; U.S. Census Bureau, 2011). Black men are incarcerated in state or federal prison at a rate 6 times that of White men (Carson, 2014). During their lifetime, 1 in 3 African American males can expect to be imprisoned compared with 1 in 17 White males (Bonczar, 2003).

Do the Numbers Speak for Themselves?

People trying to motivate social change frequently expose the public to grim statistics revealing gross racial disparities. Ironically, researchers have found that being presented with evidence of extreme racial disparities in the criminal justice system can cause the public to become more, not less, supportive of the punitive criminal justice policies that produce those disparities. When White participants were informed about racial disparities in executions, 52% strongly favored the death penalty compared with 36% in a baseline condition (Peffley & Hurwitz, 2007). In another study, we exposed White California voters to more or less extreme racial disparities in the prison population by having them view a set of photographs of incarcerated people that showed either a higher (45%) or lower (25%) percentage of Black inmates (Hetey & Eberhardt, 2014). When the prison population was "more Black," voters became significantly less likely to sign a real petition aimed at lessening the severity of California's harsh three-strikes law. At the time we conducted the study, California had the harshest three-strikes law in the nation—a person with two prior felony convictions could receive a life sentence for stealing a dollar in loose change from a parked car. When we described California's three-strikes law and presented participants with a prison population that was less Black, 52% of them signed the petition compared with only 27% in the more-Black condition.

Similarly, when White New York City residents read that New York's prison population was 60% Black, compared with 40% Black, they became less likely to report that they would sign a petition to end New York City's stop-and-frisk policy. The study was run at a time when the number of Blacks detained by the New York Police Department was dropping from a recent all-time high. When exposed to a more-Black prison population, only 12% of participants said they would sign the petition, compared with 33% of participants exposed to a less-Black prison population. Taken together, these studies suggest that informing White Americans of racially disproportionate incarceration may paradoxically bolster support for the very policies that perpetuate those disparities.

These experiments were conducted with White participants. While an open question, it is unlikely that exposure to evidence of disparities has the same potential to backfire with people from other racial backgrounds. People of color, and African Americans in particular, are more likely than Whites to have direct experience with, perceive, and engage in discussions about racial inequality and discrimination. According to a national Pew Research Center (2016) survey, 71% of Blacks reported having personally experienced discrimination or having been treated unfairly because of their race or ethnicity, compared with 30% of Whites. By wide margins, Black respondents were more likely than White respondents to say Blacks are treated less fairly across a wide variety of settings, including the criminal justice system. Eighty-four percent of Blacks, compared with 50% of Whites, say Blacks are treated less fairly in dealing with the police. Indeed, 18% of Black Americans say they have been unfairly stopped by the police over the past year, compared with 3% of Whites.

In the absence of direct experience and engagement with racial inequality, one reason disparities do not speak for themselves is because there is more than one interpretation of what those differences reveal. To some people, the disparities in police stops and incarceration are so extreme they can be interpreted only as signs of systemic racial bias (e.g., Alexander, 2010). An alternative interpretation is that members of particular racial groups must be doing something—namely committing crime—to capture the attention of police and be imprisoned at higher rates (e.g., B. Adams, 2016). By focusing on group traits, the possibility that structural bias is at play in creating disparities falls out of view. Furthermore, research shows that White Americans are susceptible to denying claims of bias (G. Adams, Tormala, & O'Brien, 2006), in part to preserve views of the world as fair and meritocratic—views that can blind Whites to racial inequality and the role of institutional practices that harm minorities (O'Brien et al., 2009).

Fear and stereotypic associations also contribute. Indeed, we found that when Whites were exposed to a “Blacker” prison population, they became significantly more fearful of crime, which, in turn, increased their support of punitive crime policies (Hetey & Eberhardt, 2014). Evidence of racial disparities in the criminal justice system, then, may activate implicit stereotypical associations linking Blackness with crime, violence, threat, and aggression (Correll, Park, Judd, & Wittenbrink, 2002; Eberhardt, Goff, Purdie, & Davies, 2004; Payne, 2001; Richeson & Trawalter, 2008). If learning that Black men are 6 times more likely than White men to be imprisoned triggers the stereotype that Blacks are criminals and criminals are Black, then such information is no longer concerning on its face. Rather, it becomes expected or even justifiable. Motivated to maintain the status quo, people take evidence of what is (such as the overrepresentation of Blacks in prison) and justify it as how things should be (Kay et al., 2009).

What Should We Do?

Given these ironic effects and what we know more generally about people’s use of information to support what they already believe or expect (Darley & Gross, 1983; Nickerson, 1998), what should people working for social change do? We propose three potential strategies that may mitigate the unintended consequences of exposing Whites to evidence of racial inequalities: (a) offer context, (b) challenge associations, and (c) highlight institutions.

Offer context

Future research should test whether a more effective way to frame inequality might be to present information about disparities alongside a description of how those disparities came to be. To contextualize is to convey that racial disparities are not natural or due to fixed stereotypical traits. Civil rights activists are aware of the history of racial disparities and the larger forces and processes by which these disparities are maintained, yet that history is not always highlighted in the messages aimed at the broader public. Stripped of context, stand-alone statistics may simply be used as “evidence” of the stereotype that Blacks are prone to criminality. Rather than leading the public to examine the systemic forces involved, decontextualized information about racial inequality can lead people to engage in defensive processes that instead blame the victim (Kaiser & Miller, 2003) while protecting the self and the status quo (G. Adams et al., 2006; Lowery, Knowles & Unzueta, 2007).

Challenge associations

Exposure to information about racial disparities in the criminal justice system may activate and strengthen implicit associations linking Blacks with crime, violence, threat, and aggression. Black Americans surely feel the effects of these stereotypical associations: Nearly half of Blacks (47%) say someone in the past year has acted as if they were suspicious of them (Pew Research Center, 2016). More research should investigate the consequences of educating the public about implicit bias and illustrating how implicit associations linking Blacks with crime can profoundly affect our perceptions, decision making, and actions without conscious awareness or malicious intention. Our team has created an intervention to educate people on implicit bias and where it comes from, how it operates, and how it can be challenged. We are currently rolling out this training to law enforcement agencies across California. Preliminary results suggest the training is effective in increasing knowledge of implicit bias, and most encouragingly, it leads law enforcement personnel to desire better relations with the community, to have more sympathy for community members, and to be more likely to believe they personally can make a difference (Stanford SPARQ & California Department of Justice, 2016).

Highlight institutions

Another contributing factor to the perpetuation of inequality is the tendency to prioritize the role of individuals over institutions. We, as a field, are guilty of this. Adams and colleagues describe how “as *psychologists*, social psychologists tend to understand their task to be the study of individual experience . . . [suggesting] a *standard approach* to racism as a problem of biased individuals rather than a systemic force embedded in American society” (G. Adams, Edkins, Lacka, Pickett, & Cheryan, 2008, p. 350, emphasis in original). This conception or portrayal of inequality as an individual—rather than systemic—phenomenon can blind White Americans to racism and can guide policy attitudes and preferences in ways that perpetuate racial disparities. The individualistic portrayal is problematic because institutions and systems greatly contribute to reinforcing and reproducing inequality. In the criminal justice system, numerous distinct actors must be endowed by the system with the power to investigate, arrest, charge, prosecute, judge, sentence, and deprive people of their freedom, if not their lives.

In the abstract, it can be difficult to conceptualize of vast systems and institutions. Lived experience grounds

an understanding and recognition of structural racism. African Americans who say they have personally experienced discrimination are equally divided over whether institutional racism or individual prejudice is the bigger problem for Black people today (44% each; Pew Research Center, 2016). African Americans who say they have never experienced discrimination, however, are nearly twice as likely to see individual racism as the bigger problem (59% vs. 32%). This lack of personal experience might explain why 70% of Whites in the same survey point to individual prejudice as the bigger problem, compared with only 19% of Whites who believe racism built into laws and institutions is the bigger problem. Awareness of the power of institutions can be taught. Tutorials about structural or sociocultural racism have been shown to decrease the extent to which White Americans define racism in terms of individual biases, increase perceptions and acknowledgment of systemic racism, and increase endorsement of policies designed to promote equality (G. Adams et al., 2008).

One specific way to highlight the role of institutions in perpetuating inequality may be to demonstrate how disparities can be attenuated by changing policy. Racial disparities in the use of consent searches (LaFraniere & Lehren, 2015; Palomino, 2016), for instance, have led to policy changes that mandate officers to obtain written consent or explicitly tell community members they have the right to deny an officer's request to search them (LaFraniere, 2016). In Oakland, this policy change led to a massive reduction in consent searches without increasing crime. As another example, consensus to end mass incarceration has been building. Over 100 of the nation's police chiefs and law enforcement officials joined together to call for a reduction in incarceration rates and the end of certain "tough-on-crime" policies (Williams, 2015). States including Texas, New York, Georgia, and California have eased minimum sentencing and repeat offender laws. The result has been a reduction in both incarceration and crime (Chettiar, 2015), thus illustrating the role of laws and policies to actively shape, rather than passively respond to, crime and punishment.

Conclusion

To make the most meaningful change, we as social psychologists need to become more willing to intervene, not only with individuals but also by working to understand and change institutions, policies, and practices. Such a broader view could only enrich our science.

Recommended Reading

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an individual prejudice but that, as the authors show, an awareness of structural or sociocultural racism can be taught.

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Declaration of Conflicting Interests

The author(s) declared that there were no conflicts of interest with respect to the authorship or the publication of this article.

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