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GOOD GUY / BAD GUY / BLACK GUY (PART I)

Do cops use race to decide who poses a threat?

By Julius (Jay) Wachtel. On July 5 a caller alerted Baton Rouge police that a man selling CD's on the street brandished a gun. That man turned out to be Alton Sterling, 37, a registered sex offender with an extensive criminal history that included a stretch in prison for selling marijuana while armed with a gun (for more on his record click here.) Officers wound up tussling with Sterling, and after deploying a Taser to little apparent effect took him to the ground. Sterling continued to resist. During the struggle an officer noticed that Sterling was armed and yelled "he's got a gun!" His partner drew his sidearm and, after a brief interval, repeatedly shot Sterling point-blank, fatally wounding him. (For bystander videos click here and here.)

According to census figures, Baton Rouge is 55% black. Sterling was black. But was he a "bad guy"? Even if he was, did the cops have to shoot him? To be sure, Sterling was a very big man. He had also landed on his back, hindering efforts to restrain him. Officers struggled mightily (observe one cop's exhaustion at the end) and only spotted the gun belatedly. It's unclear just how much control they had of the man. So without more information, your blogger, while skeptical that lethal force was necessary, is reluctant to criticize. (He has vivid memories of rolling around the ground with a domestic abuser in Oregon, an encounter that could have turned out far more poorly had the man been armed.)

Still, as Louisiana governor John Bel Edwards said, appearances were disturbing. Citing "very serious concerns," he referred Sterling's killing to the Feds.

Both officers were white. One had been on the job four years, the other, three. Each had two use-of-force complaints, in each instance involving a black person. None were sustained.

One day later two officers were on patrol in Falcon Heights, a suburb of St. Paul, Minnesota, when they observed a vehicle driven by Philando Castile, 32. One thought that Castile resembled an armed robbery suspect depicted on a flyer and initiated a traffic stop. (Media originally indicated the stop was for a broken taillight. That reason, reportedly supplied by Castile's girlfriend, now seems incorrect or incomplete.) Neither cop was wearing a body camera, so exactly what took place cannot be confirmed.

According to the woman, who was seated next to Castile, an officer came to the driver's side and asked for ID. Castile supposedly had a handgun within view and told the officer that it was licensed. But when Castile went for his wallet the cop opened fire, fatally wounding him.

That's when the stunned woman began live-streaming on Facebook. As Castile slumps on the seat, bleeding to death, the stunned officer says "I told him not to reach for it...I told him to get his hand out..." Unfortunately, that interaction happened before the passenger began recording. A lawyer representing the officer insists that his client was simply reacting to whatever it was that the driver actually did (those details have yet to be released.) "This had nothing to do with race. This had everything to do with the presence of a gun."

That's not what Minnesota Governor Mark Dayton thought. In comments that stirred great controversy, he asked "would this have happened if those passengers, the driver were white? I don't think it would have...No one should be shot in Minnesota for a taillight being out of function. No one should be killed in Minnesota while seated in their car."

But Castile *was* killed in his car. And he was clearly not a "bad guy." A well-liked food service supervisor for the public schools, Castile had a long history of traffic citations but no criminal record. According to the Minneapolis Star-Tribune, he was licensed to carry a gun.

Castile was black. The officer who shot him was Hispanic and had been on the job four years. He and his partner were praised by their one-time college instructor, who called them "very intelligent" and endowed "with a ton of common sense." Both had earned "batons of honor" for their class performance.

Of course, this wasn't school anymore.

On the very next day a deeply troubled 25-year old man armed with a handgun and a high-powered rifle was ensconced in a Dallas office building, laying in wait. Outside, police monitored a Black Lives Matter protest spurred by the shootings of Sterling and Castile. Micah Xavier Johnson, a military reservist, suddenly opened fire. Soon five officers were dead and seven officers and a private citizen lay wounded. During unsuccessful negotiations, Johnson reportedly said he was targeting white officers to retaliate for police shootings of black men like himself. In an unprecedented tactical response, police eventually killed Johnson with an explosive charge delivered by a robot.

Reliable data about police use of force is scarce. The FBI's UCR program only publishes simple tallies of fatal shootings by police. Its scope is limited to homicides that reporting agencies deem justifiable, and there is no breakdown by race. Media outlets have tried to fill the gap. A running tally by the Washington Post indicates that as of this writing 524 persons fell to police bullets in 2016. Of the 475 whose race and ethnicity are known, about 51 percent (243) were white, 27 percent (129) were black and 17 percent (80) were Hispanic. While it's oddly reassuring that a majority of those killed by police are white, that provides little comfort to blacks, as they constitute only 13.3 percent of the American population (whites comprise 77.1 percent and Hispanics 17.6 percent.)

In some localities, the disparity is greater, even startling. In "Does Race Matter (Part II)" we reviewed a DOJ-commissioned report that analyzed 394 shootings by Philadelphia police during an eight-year period. In a city that's about 43 percent black and 37 percent white, 80 percent of those shot by police were black. A just-released report by the San Francisco D.A. noted that while blacks only constitute 5.8 percent of the city's population they figured in 39 percent (20) of the 51 officer involved-shootings during 2010-2015 where race was known.

Are police more likely to shoot blacks because of their skin color? Until recently, most empirical research has rejected the racial bias hypothesis. For example, the Philadelphia study found that mistaken shootings of unarmed persons were most often due to errors in threat perception, and these were *less* likely to occur when cops were white and suspects were black. Another study, in St. Louis, concluded that police lethal force was primarily driven by fluctuations in the rate of firearms violence.

On the other hand, a pair of recently-released studies conclude that cops apparently *do* use race to help decide who's a bad guy. After aggregating a year's worth of use of force data for twelve agencies, The Center for Policing Equity calculated a mean use of force rate per 100,000 pop. of 273 for blacks and 76 for whites. Limiting analysis to arrests narrowed the gap to 46 per 1,000 arrests for blacks and 36 for whites. Interestingly, restricting it further, to arrests for violent crimes, reversed the effect: 1003 for whites and 731 for blacks.

Researchers then coded force on a six-point scale: (1) Hand and Body (2) OC spray (3) Weapon (4) Canine (5) Less-lethal and Taser, and (6) Lethal. Doing so greatly increased the race gap, yielding use of force rates of 653 per 100,000 for blacks and 174 for whites. When only arrests were considered the difference narrowed to 82 per 1,000

arrests for blacks and 62 for whites. In arrests for violent crime the effect again flip-flopped, to 1738 for whites and 1368 for blacks.

Despite the unexpected reversal for violent crimes, the authors concluded that "Black residents were more likely than Whites to be targeted for force." Still, they acknowledged the possibility that other variables could account for a seeming relationship between race and force. So they recommended that "significant attention should be paid to additional situational factors in attempting to quantify and explain racial disparities in use of force." For example, by exploring possible between-race differences in attitudes towards resisting, fleeing, respecting officers, and so on.

Their wish was promptly answered. In "An Empirical Analysis of Racial Differences in Police Use of Force," Harvard economist Ronald G. Fryer, Jr. examined the influence of race on police use of force, alone and in combination with factors including citizen and officer demographics, citizen behavior, encounter characteristics and area crime rates. He and his team of graduate students used four data sources: New York City stop-and-frisks between 2000-2013, triennial BJS national citizen surveys between 1996-2011, Houston officer involved shootings from 2000-2015, and police shootings between 2000-2015 in ten jurisdictions: Houston, Dallas, Austin, six counties in Florida, and Los Angeles.

Here are some of their findings:

NYC stop-and frisks (excludes lethal force): A simple analysis – effects of race on force – yielded a 53.4 percent greater likelihood that force will be used against black citizens. (One-hundred percent is "twice as likely," so this is "half again as likely," not an earth-shattering amount.)

Of course, "race" is a proxy for many things. When we measure its influence we unavoidably include the effects of factors that go along with race, such as area crime rates. To strip away these contributions and determine the impact of race alone we must include these factors in the analysis. Once this was done, the penalty for being black was reduced three-fold, yielding an increased risk of 17.3 percent, or 1.17 times the risk posed to whites, an exceedingly modest difference. (In our view it only proved statistically significant because such analysis is sensitive to dataset size, and there were nearly five million stop-and-frisks.)

Public contact surveys (excludes lethal force): Here is where the effect of race seemed the most robust. Including all variables, blacks self-reported that 170 percent more force used against them, a rate nearly three times greater than for whites.

Officer-involved shootings in Houston (includes a sample of arrests where OIS is likely): Unexpectedly, risk changed direction. If only race is taken into account, blacks are 23.8 percent less likely to be shot than whites. Adding in other factors increases the risk to blacks, but it still remains 8 percent less than for whites. Here is the author's reaction:

> Given the stream of video "evidence", which many take to be indicative of structural racism in police departments across America, the ensuing and understandable outrage in black communities across America, and the results from our previous analysis of non-lethal uses of force, the results…are startling.

Officer-involved shootings in ten jurisdictions: More unexpected findings. When only measuring race, blacks and whites seem about equally likely to be shot. As threat factors to police increase (e.g., nighttime, physical attack, armed civilian) being black becomes increasingly *less* risky, ultimately affording a 47.4 percent benefit over whites. (Of course, all this depends on the accuracy of police reports.)

Clearly, both these studies intended to be applicable to the real world. Yet each had interpretive issues. Consider, for example, the Center for Police Equity's six-point use-of-force scale. Lethal force can bring on death, which is a very big deal. But on the scale it's only *six times* more consequential than placing hands on a citizen. That seems vastly understated (one-hundred times might be more like it.) Since lethal force was nearly twice as likely to be used against whites as blacks during arrests for violent crimes (.64/.37 per 1,000 arrests), applying the scale inflates the threat posed to blacks.

Methodological problems also detract from the Harvard study. It's likely that many of the factors it considers are correlated, which could exaggerate or otherwise bias estimates of their effect. Houston data seems particularly vulnerable to interpretive issues, as in addition to officer-involved shootings, it included a large sample of arrests for crimes that might provoke gunplay, such as resisting arrest. (This was apparently done because OIS incidents are infrequent.)

Compelling empirical proof that police are biased against blacks remains elusive. In Part II we'll examine police practices that, regardless of their intended purpose, might lead to undesirable outcomes for black citizens.