

# ANNOTATED BIBLIOGRAPHY

## STEREOTYPE THREAT

Stereotype threat is a social identity threat that causes individuals to fear they will be judged or treated negatively based on social group stereotypes—such as those related to race, gender and ethnicity. Research has explored how stereotype threat can increase anxiety and psychological stress and decrease cognitive capacity. This annotated bibliography was compiled to supplement training materials on police trauma and implicit racial bias in the juvenile and criminal legal systems.

**These articles are cited in reverse chronological order. Please find the most recent articles at the beginning of each section.**

### I. Stereotype Threat and Police Interactions

Cynthia Najdowski, *How the “Black Criminal” Stereotype Shapes Black People’s Psychological Experience of Policing: Evidence of Stereotype Threat and Remaining Questions*, *Am. Psych.*, (2023).

Amanda M. Clevinger, Heather M. Kleider-Offutt and Erin B. Tone, *In the Eyes of the Law: Associations Among Fear of Negative Evaluation, Race, and Feelings of Safety in the Presence of Police Officers*, 135 *Personality & Individual Differences* 201-206 (2018).

Kimberly Barsamian Kahn, Jean M. McMahon and Greg Stewart, *Misinterpreting Danger? Stereotype Threat, Pre-attack Indicators, and Police-Citizen Interactions*, 33 *J. Police & Crim. Psych.* 45–54 (2018).

Kimberly Barsamian Kahn et al., *The Effects of Perceived Phenotypic Racial Stereotypicality and Social Identity Threat on Racial Minorities’ Attitudes About Police*, 157 *J. of Soc. Psych.* 4, 416-428 (2017).

Cynthia Najdowski, Bette Bottoms and Phillip Atiba Goff, *Stereotype Threat and Racial Differences in Citizens’ Experiences of Police Encounters*, 39:5 *J. Law & Hum. Beha.* 463-477 (2015).

### II. Stereotype Threat and Interrogations and False Confessions

Sydney Baker, Kamar Y. Tazi and Emily Haney-Caron, *A Critical Discussion of Youth Miranda Waivers, Racial Inequity, and Proposed Policy Reforms*, *Psych., Pub Pol’y & L.*, May 11, 2023.

Iris Blandón-Gitlin, Hayley Cleary and Anisa Blair, *Race and Ethnicity as a Compound Risk Factor in Police Interrogation of Youth*, in *THE LEGACY OF RACISM FOR CHILDREN* 169-187 (2020).

Deborah Davis and J. Guillermo Villalobos, *Interrogation and the Minority Suspect: Pathways to True and False Confession*, *Advances in Psychology and Law* VOL. 1, New York: Springer, (2016).

Deborah Davis and Richard Leo, *Interrogation-Related Regulatory Decline: Ego Depletion, Failures of Self-Regulation, and the Decision to Confess*, 18 *J. Psycho., Pub. Policy, and Law*, 673–704 (2012).

Cynthia Najdowski, *Stereotype Threat in Criminal Interrogations: Why Innocent Black Suspects are at Risk for Confessing Falsely*, 17 *J. Psycho., Pub. Policy, and Law*, 562–591(2011).

### **III. Stereotype Threat and Other Criminal Justice Contexts**

Margaret B. Kovera and Andrew J. Evelo, *Eyewitness Identification in Its Social Context*, 10 *J. Applied Rsch. Memory & Cognition* 313-327 (2021).

Christina L. Riggs Romaine and Antionette Kavanaugh, *Risks, Benefits, and Complexities: Reporting Race & Ethnicity in Forensic Mental Health Reports*, 18 *Int'l J. Forensic Mental Health* 138-152 (2019).

### **IV. Police Officers' Experience of Their Own Stereotype Threat**

Kelly C. Burke, *Why Interracial Police-Civilian Interpersonal Interactions Can Go Poorly: Police Officer Stereotype Threat*, *Psych. Crim. & L.* (2022).

Rick Trinkner, Erin M. Kerrison and Phillip A. Goff, *The Force of Fear: Police Stereotype Threat, Self-Legitimacy, and Support for Excessive Force*, 43 *L. & Hum. Behav.* 421-435 (2019).

Devon W. Carbado and L. Song Richardson, *The Black Police: Policing Our Own*, 131 *Harv. L. Rev.* 1979 (2018) (reviewing James Forman, *Locking Up Our Own: Crime and Punishment in Black America* (2017)).

### **V. Stereotype Threat and General Effects on Behavior**

Toni, Schmader, Michael Johns and Chad Forbes, *An Integrated Process Model of Stereotype Threat Effects on Performance*, 115 *Psychol. Rev.* 336–356 (2008).

Brenda Major and Laurie T. O'Brien, *The Social Psychology of Stigma*, 56 Annual Rev. of Psychol. 393–421 (2005).

## **I. STEREOTYPE THREAT AND POLICE INTERACTIONS**

**Cynthia Najdowski, *How the “Black Criminal” Stereotype Shapes Black People’s Psychological Experience of Policing: Evidence of Stereotype Threat and Remaining Questions*, Am. Psych., (Apr. 20, 2023).**

- This article analyzes how the “Black Criminal” stereotype elicits different psychological and physiological experiences in Black people as compared to White people during encounters with police.
- Awareness of the risk of being stereotyped during police encounters leads Black people to experience both conscious negative emotions as well as subconscious, automatic physiological indications of stress.
  - Black people often experience stress, worry, anxiety, and despair due to their awareness of stereotypes.
  - Black people often experience feelings of defensiveness, hostility, and anger due to their expectation of being stereotyped by police.
  - Black people often perceive police encounters as settings in which they are at a heightened risk of danger and unfair judgment.
  - Black people often experience stress and worry during contact with police even when police are not acting in an investigatory role (e.g., police officer asking for directions).
  - Black people often fidget more, breath rapidly, engage in less eye-contact, and experience higher blood pressure and heart rate during police encounters as compared to White people.
- These experiences make police encounters more psychologically challenging, increase cognitive overload, and weaken working memory capacity for Black people more than White people.
  - Black people may constantly try to decipher a police officer’s intent, asking internal questions like “are they not nice, or is it because I am Black?”
- Black people often monitor their behavior to try to counteract the “Black Criminal” stereotype. In doing so however, police wrongfully interpret this behavior as guilty, deceptive, noncompliant, or dangerous.
  - Black people may also appear to be more social, lean towards someone, and smile more in an effort to counteract the risk of being stereotyped.
- Behavior brought on by stereotype threat is wrongfully interpreted by police as guilty, deceptive, noncompliant, or dangerous.
  - When police use broad criteria like “furtive movements” to rationalize an encounter, Black people as compared to White people are at a heightened risk of being stopped or suspected for innocent reactions tied to stereotype threat.
  - The risk of being stereotyped leads Black people to appear nervous, avoid eye contact, or have tense posture. Police wrongfully interpret these behaviors as deceptive.

- Black people may have a “bad attitude” during a police encounter for innocent reasons, but police often interpret this as suspicious or dangerous.
- The article examined the broader implications of stereotype threat.
  - Black people feel more fearful rather than safe in the presence of police.
    - E.g., Black women stayed in abusive relationships for fear of calling the police.
  - Coping with stereotype threat is an ongoing problem that leads to decreased cognitive functioning, lesser satisfaction of life, long term distress, chronic drinking, mental health problems, increased risk of suicide, and a shorter than average life-span.
  - Stereotype threat triggers the immune system to release inflammatory cytokines (molecules) that lead to the development of chronic health problems and diseases (e.g., hypertension, diabetes, and cardiovascular disease).

**Amanda M. Clevinger, Heather M. Kleider-Offutt and Erin B. Tone, *In the Eyes of the Law: Associations Among Fear of Negative Evaluation, Race, and Feelings of Safety in the Presence of Police Officers*, 135 *Personality & Individual Differences* 201-206 (2018).**

*Editor's Note: While this study does not use the term "stereotype threat," its findings can be used in similar ways to the stereotype threat research included in this Annotated Bibliography. See "Relevance" below for more information.*

### **Purpose**

- This study analyzed whether the fear of being negatively evaluated by other people leads people to feel less safe in police encounters.
- The study hypothesized that, due to stereotypes depicting Black people as dangerous, Black people in general would feel less safe in police encounters than white people. Also, the study hypothesized that Black people who have strong fears of being negatively evaluated by others will feel even less safe in police encounters.

### **Methodology**

- Participants were 112 Black and 112 White undergraduate students from an urban public university in the southeastern United States. The average age was 21 years old. 76.8% of participants identified as female; 21% as male; and 2.2% as transgender or other.
- Participants completed a survey evaluating how strongly they fear being negatively evaluated by others. Questions included, “are you afraid others will not approve of you?”
- Participants completed a survey evaluating how safe they feel during police encounters. They were also asked how safe they feel in encounters with officers of the same and other races.

### **Results**

- Black people feel less safe in police encounters as compared to white people.
- For Black people, those who report stronger fears of being negatively evaluated by people in general were found to feel the least safe around police.

- The same is not true for White people; White people who had stronger fears of being negatively evaluated by people did not report feeling any less safe than other white people in police encounters.

### Relevance

- During police encounters, Black people with strong fears of being negatively evaluated are particularly prone to exhibit anxious behaviors (e.g., avoiding eye contact, fidgeting, tense muscles).
  - Rather than interpret these behaviors as markers of social anxiety, police may wrongfully assume that these behaviors indicate guilt or deception.
  - Furthermore, when police interpret that a suspect is lying, police are trained to conduct a more aggressive, accusatory interrogation which can lead to false confessions.
- Black people with strong fears of being negatively evaluated may be particularly impacted by media and stories about other Black people being mistreated and harmed by police. This is problematic, in that it may leave this subset of individuals particularly unwilling to engage with police officers.

**Kimberly Barsamian Kahn, Jean M. McMahon and Greg Stewart, *Misinterpreting Danger? Stereotype Threat, Pre-attack Indicators, and Police-Citizen Interactions*, 33 J. Police & Crim. Psych. 45–54 (2018).**

### Purpose

- This study compares stereotype threat responses with police trainings and materials on pre-attack indicators in police-citizen interactions.
- It hypothesizes that stereotype threat symptoms might be similar to the pre-attack indicators used in police trainings, which can cause police to misinterpret civilian actions. The authors argue that stereotype threat should be taught in police trainings.

### Methodology

- The study reviews a sample of pre-attack-indicator police trainings to find three indicators of stereotype threat: *anxiety*, *arousal*, and *reduced cognitive capacity*.

### Results

- There is a significant overlap between danger indicators taught in police trainings and stereotype threat responses. All 15 trainings reviewed contained at least one of the three responses of stereotype threat, and 13 contained at least two responses. None of the police trainings discussed stereotype threat.
  - Stereotype threat responses associated with *arousal* include rapid, shallow breathing, clenched fists, rigid posture, trembling in extremities, scanning the scene, gaze aversion, rolling the shoulders, and sweating.
  - Stereotype threat responses associated with *anxiety* include fidgeting, pacing, a high vocal pitch, increased blinking, clenched jaw, rocking on feet, shifting weight, touching the face or neck, removing clothing, and scratching.

- Stereotype threat responses associated with *reduced cognitive capacity* include changes in the cadence of dialogue, hesitant/short/slow responses, averting the eyes, repetitive responses, gaze aversion, and staring.
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**Kimberly Barsamian Kahn et al., *The Effects of Perceived Phenotypic Racial Stereotypicality and Social Identity Threat on Racial Minorities' Attitudes About Police*, 157 J. of Soc. Psych. 4, 416-428 (2017).**

### **Purpose**

- To examine the role of perceived phenotypic racial stereotypicality (meaning a person's own perception of how closely the person resembles a typical member of their racial/ethnic group) and race-based social identity threat (i.e. stereotype threat) on people's trust and cooperation with police.

### **Methodology**

- Participants included 168 people of racial minority groups, including Black, Latino, Native American, and multiracial people.
- Participants responded to a survey using a 5-point scale ranging from 1 (strongly disagree) to 5 (strongly agree).
- They were asked to rate their own "phenotypic racial stereotypicality" by responding the sentence: "Other people think I physically look like a typical member of my racial/ethnic group." They were then asked to respond to statements about their level of concern that their racial/ethnic identity would impact treatment from the police (e.g. "I worry that Portland Police may stereotype me because of my race or ethnicity," and "Portland Police treat people like me disrespectfully."). They were also asked about their trust in police and their likelihood of cooperating with the police.

### **Results**

- Black, Latino, Native American, and multiracial participants all experienced social identity threat, fearing they would be stereotyped and targeted by police based on their race.
  - The more racial minorities believed they resembled a typical member of their racial/ethnic group, the more they indicated concern about being treated negatively by police based on their racial group membership.
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**Cynthia Najdowski, Bette Bottoms and Phillip Atiba Goff, *Stereotype Threat and Racial Differences in Citizens' Experiences of Police Encounters*, 39:5 J. Law & Hum. Beha. 463-477 (2015).**

### **Purpose**

- This series of studies investigates how cultural stereotypes that depict Black people as criminals affect the way Blacks experience police encounters and presumes that police encounters cause Black people to feel stereotype threat (i.e., concern about being judged

and treated unfairly by police because of the stereotype). By demonstrating that Black people are more likely to expect to be judged and treated unfairly by police because of the negative stereotype of Black criminality, this research extends stereotype threat theory to criminal justice encounters. It also has practical implications for understanding how stereotype threat responses could ironically contribute to bias-based policing and racial disparities in the justice system.

## **Study 1**

### **Methodology**

- Participants were 49 Black (37% men) and 184 White (52% men) undergraduate psychology students from the University of Illinois at Chicago. The average age was 19 years old.
- Black and White participants were asked to self-report how they feel when interacting with police officers in general.

### **Results**

- Black students were significantly more likely than White students to report concern that police officers stereotype them as criminals simply because of their race.
- In addition, this impression was found for Black men but not Black women.

## **Study 2**

### **Methodology**

- Participants were 79 Black and 100 White men from two samples: (a) undergraduate psychology students from the University of Illinois at Chicago and (b) from contexts where students were likely to be (e.g., on campus)
- Black and White men were asked to imagine a specific police encounter in which it is clear that the officer is in close proximity to and sees the participant, and then asked to visualize how they would feel if they were in that situation.

### **Results**

- Blacks, but not White men anticipated feeling stereotype threat in the hypothetical police encounter.
- The study demonstrated that the racial difference in stereotype threat appears even when all participants envision the same kind of police encounter in terms of how likely it would have been for the police officer to confront them or target them as suspects.
- Racial differences in anticipated threat translated into racial differences in anticipated anxiety, self-regulatory efforts, and behavior that is commonly perceived as suspicious by police officers.

## **II. STEREOTYPE THREAT AND INTERROGATIONS AND FALSE CONFESSIONS**

**Sydney Baker, Kamar Y. Tazi and Emily Haney-Caron, *A Critical Discussion of Youth Miranda Waivers, Racial Inequity, and Proposed Policy Reforms*, Psych., Pub Pol’y & L. (2023).**

- This article synthesizes research to argue that policies, police practices, developmental qualities of youth, and racial inequity increase the risk police will obtain an invalid *Miranda* waiver from Black youth. This annotation focuses on the heightened risk for invalid *Miranda* waivers related to stereotype threat.
- Research has documented that stereotype threat increases the risk that Black Americans will make a false confession. This article posits that, through the same processes, stereotype threat increases the likelihood that police will obtain an invalid *Miranda* waiver from Black youth.
  - Stereotype threat prompts Black Americans to self-regulate. Police may wrongfully interpret behavior regulation as indication of deception. Police who suspect deception may apply additional pressure to Black Americans when trying to elicit a *Miranda* waiver.
  - Stereotype threat also reduces cognitive capacity. This makes comprehending *Miranda* warnings more difficult.
  - Stereotype threat reduces one’s ability to control emotions, thoughts, and behaviors. The ability to withstand police interrogation tactics becomes compromised. Therefore, the validity of consent is undermined.

**Iris Blandón-Gitlin, Hayley Cleary and Anisa Blair, *Race and Ethnicity as a Compound Risk Factor in Police Interrogation of Youth*, in THE LEGACY OF RACISM FOR CHILDREN 169-187 (2020).**

- This chapter synthesizes research to explain how minority youth are particularly vulnerable to coercive police interrogation tactics– tactics which have been shown to produce false confessions. This annotation focuses on the chapter’s commentary related to stereotype threat. Relevant citations from within the chapter are included in bullet points below.
- During interrogations, stereotype threat may impair comprehension of legal concepts and *Miranda* warnings among minority youth. Research indicates stereotype threat may impair Black and Latino/a college students’ memory of *Miranda* warnings, while not impairing White college students’ memory.
- The authors summarize the following studies showing that minority youth are aware of negative stereotypes targeting their racial identity:
  - **Clark McKown and Rhona S. Weinstein, *The development and consequences of stereotype consciousness in middle childhood*, 74 *Child Dev.* 498-515 (2003).**
    - This study found that Black and Latino/a 6- to 10-year-old children who were aware of stereotypes about cognitive ability performed more poorly on cognitive tasks than did White children.
  - **Kristal Hines Shelvin, Rocío Rivadeneyra and Corinne Zimmerman, *Stereotype threat in African American children: The role of Black identity and stereotype awareness*, 27 *Int’l Rev. Soc. Psych.* 175-204 (2014).**



- This study found that 10- to 12-year-old Black children spontaneously provided, on average, 5 stereotypes targeting Black people (e.g., Black people are “less intelligent,” “worthless,” “poor,” “unattractive,” “criminals,” “violent,” and “good athletes”).
  - Over a third of the participants provided the “criminal” and “violent” stereotypes.
  - Almost half of the participants provided the “less intelligent” stereotype.
    - Out of the children who provided the less intelligent stereotype, those who were personally stereotype threatened (i.e., told that the intelligence test scores of Black and White children would be compared) performed worse than those who were not personally stereotype threatened (i.e., told that individual questions were being tested out to determine if they should remain on future tests).
- During interrogations, stereotype threat likely increases stress and mental load. This depletes cognitive resources and impairs self-regulation strategies. In turn, minority youth are even less able to withstand interrogation tactics or convince police of their innocence.
  - At the same time, behaviors that may seem deceptive (e.g., inconsistencies) or evasive (e.g., not answering questions) may increase. This can likely prompt investigators to use even more coercive tactics.
  - The authors summarize the following study regarding stereotype threat and lie detection:
 

**Richard R. Johnson, *Confounding Influences on Police Detection of Suspiciousness* 34 J. of Crim. Just. 435–442 (2006).**

    - Researchers analyzed real-world police-citizen encounters with innocent civilians. Research found that there are race-based differences in nonverbal behaviors deemed “suspicious” (inappropriate smiles, less eye contact, and more hand gestures) by the police.
      - Compared to White citizens, African Americans generally displayed significantly more smiles, avoidance of eye contact, and hand gestures while interacting with the police. Police are trained to perceive these behaviors as suspicious.
- The authors offer the following recommendations to counteract the effects of stereotype threat on minority youth:
  - Require legal consultation before *Miranda* waivers.
    - An advocate is especially important for minority youth who experience stereotype threat and thus are at heightened risk of depleted cognitive functioning and being perceived as deceptive.
  - Video record interrogations and utilize expert testimony.
    - Expert analysis on a recorded interrogation can provide the fact finder a more objective way of thinking about the psychology of stereotype threat.
  - Adopt an information gathering (rather than accusatory) approach to youth interrogations.
    - The non-accusatory, less coercive orientation may be helpful to mitigate the behavioral effects due to stereotype threat, heightened suggestibility, and other biases.

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**Deborah Davis and J. Guillermo Villalobos, *Interrogation and the Minority Suspect: Pathways to True and False Confession*, Advances in Psychology and Law VOL. 1, New York: Springer, (2016).**

- This book chapter considers six sources of vulnerability to interrogation-induced confession among racial minorities, stereotype threat being one of them, and considers the mechanisms through which these sources affect the interrogator's presumption of guilt, interrogation effort, and selection of tactics.
- Stereotype threat suggests that when negative stereotypes about one's social group are made salient, the person may become concerned about being judged according to the stereotypes and/or about confirming the negative stereotype.
  - **Stereotype threat and the appearance of deception.** The experience of stereotype threat may lead the suspect to appear more deceptive, both in interrogation and later before judges and juries. Central to the experience of stereotype threat are increased anxiety, attempts to conceal that nervousness or anxiety, and efforts to disprove the stereotype.
  - **Stereotype threat and self-regulatory decline.** "Interrogation-related regulatory decline" (IRRD) refers to the self-regulatory decline during interrogation which reduces one's ability to control their emotions, thoughts, and behaviors. In interrogation, it is important to control emotions, both to minimize distress and to control cognition and behavior. Suspects often confess because they have become sufficiently distressed to do anything to escape the distressing context.
  - **Stereotype threat and hopelessness.** A central determinant of the decision to confess is the suspect's perceptions of the strength of evidence against him. Awareness of stereotypes associating race with criminality can instill hopelessness in minority suspects, undermining confidence that their claims of innocence will be believed.
- The authors conclude that minorities suffer enhanced vulnerability to true and false confessions and that minorities' vulnerabilities are unlikely to be recognized. Instead, stereotypes associating race with criminality tend to lead minority confessions to be viewed as more voluntary and true.

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**Deborah Davis and Richard Leo, *Interrogation-Related Regulatory Decline: Ego Depletion, Failures of Self-Regulation, and the Decision to Confess*, 18 J. Psycho., Pub. Policy, and Law, 673–704 (2012).**

- This article reviews the concept of "interrogation-related regulatory decline" (IRRD)—i.e., the decline in the self-regulation abilities necessary to resist the forces of influence inherent to interrogation.
- The research hopes to (1) encourage more evidence-based objectivity, realism, clarity and specificity in the criteria for assessing voluntariness of an interrogation and its admissibility in trial, (2) promote reforms aimed at preventing interrogation practices that create

substantial risk of severe interrogation-related regulatory decline, and (3) encourage more scholarly research on acute sources of interrogative suggestibility.

- It explains that stereotype threat plays a role in the interrogation room by impairing performance, due to the depletion of cognitive resources resulting from (a) physiological stress responses, (b) trying to control stereotype-threat related behavior, and (c) attempting to regulate the negative emotions raised by stereotype-threat.
- Hyper-vigilance and self-regulatory efforts deplete cognitive capacities in ways that compromise the threatened individual's ability to resist pressure to confess in interrogations.

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**Cynthia Najdowski, *Stereotype Threat in Criminal Interrogations: Why Innocent Black Suspects are at Risk for Confessing Falsely*, 17 J. Psycho., Pub. Policy, and Law, 562–591 (2011).**

- This article notes the little theoretical effort to understand why a suspect's race might influence their decision to confess to a crime not committed and posits why Black people are overrepresented in samples of false confessions compared to White people.
- The author argues that innocent Black suspects experience stereotype threat in interrogations and that this threat causes Black suspects to experience more arousal, self-regulatory efforts, and cognitive load compared to White suspects.
- These psychological mechanisms could lead innocent Black suspects to display more nonverbal behaviors perceived as deception and, ironically, increase the likelihood that police investigators perceive them as guilty.
- In response, investigators might engage in more coercive tactics and exert more pressure to confess on Black suspects than White suspects. This could increase the suspect's desire to escape interrogation and the likelihood of doing so by confessing falsely. This effect would be more common among Blacks than Whites.

### **III. STEREOTYPE THREAT AND OTHER CRIMINAL JUSTICE CONTEXTS**

**Margaret B. Kovera and Andrew J. Evelo, *Eyewitness Identification in Its Social Context*, 10 J. Applied Rsch. Memory & Cognition 313-327 (2021).**

- This article reviewed 859 studies on the connection between accurate identifications and a witness' confidence in making an accurate identification. This annotation focuses on the authors' findings related to stereotype threat.
- Stereotype threat might place Black people at higher risk than White people of being erroneously identified in a show-up or lineup.
  - Stereotype threat may lead Black people, as compared to White people, to exhibit more nervous behavior (e.g., gaze aversion, movement) during showups and lineups.

- Despite these behaviors having innocent explanations, both police officers and laypeople believe these behavioral cues are indicative of deception.
- Furthermore, nervous behavior brought on by stereotype threat might be more easily detected since surrounding fillers may not be nervous (since they know they are not suspected by police of a crime).
- This article found that over time researchers increasingly conduct these studies under pristine conditions (e.g., double blind lineups, instructions that the culprit may not be present, collecting a confidence statement from the witness). However, in reality, identifications are often not conducted under pristine conditions.

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**Christina L. Riggs Romaine and Antionette Kavanaugh, *Risks, Benefits, and Complexities: Reporting Race & Ethnicity in Forensic Mental Health Reports*, 18 Int’l J. Forensic Mental Health 138-152 (2019).**

### **Purpose**

- This article reviews research to suggest that including an evaluatee’s race/ethnicity (ERE) in a forensic mental health report (FMHR) could potentially introduce or reinforce bias in the reader (i.e. the judge). This bias could influence how subsequent information in the report is interpreted and considered by the reader.
- This article also suggests that an evaluator’s own identity and biases could influence the decision to include (or not include) ERE in a FMHR.
- This article explains that evaluators may invoke stereotype threat in evaluatees when evaluators question evaluatees about their race or ethnicity. Stereotype threat may lead evaluatees to regulate their behavior. The regulation may be interpreted by evaluators as deceptive which could influence how evaluators write their reports.

### **Common FMHR Practices/Standards**

- Identifying information (e.g., name, date of birth, sex, and other “relevant” information) is usually one of the first components of a FMHR.
  - ERE is sometimes included in this identifying information. Other times, ERE may appear in a later section (e.g., personal history or mental status). Other times, ERE is not included at all.
  - “Relevant” information (e.g., hospital ID number, grade level, or custody status) varies case by case.
    - The following sources do not give clear guidance on when, if ever, ERE is relevant and should be included.
      - American Psychological Association, American Academy of Psychiatry and Law, American Judge’s Association, European Federation of Professional Psychology Associations, and International Association for Correctional and Forensic Psychology

### **Identified Reasons to Include ERE**

- ERE is another physical descriptor included to provide evidence that the right person was evaluated.
- ERE is relevant to the evaluatee’s personal or family history, the legal question at hand, or experience with the police.
- ERE is included for every evaluatee for consistency.

### **Identified Reasons Not to Include ERE**

- ERE might invoke implicit bias in the reader that influences how they read the entire report.
- Evaluators argue that race is not relevant to many of the legal questions addressed in a FMHR.
- *Editor’s Note: Omitting ERE information from a report does not mean that the information is unknown to the evaluator or judge, but it may not be at the forefront of their minds while reading the report.*

### **Authors’ Concern About Including ERE in FMHRs**

- Research demonstrates that varying the race of the individual described, when information is otherwise consistent, influences the reader.
  - E.g., when researchers varied the race (Black or White) of the suspect described in vignettes from actual crimes, police officers were more likely to arrest, give more charges, and give more serious charges to Black suspects as compared to White suspects in cases involving theft, weapons, and drugs.
- Race is typically considered more “salient” in a case if the alleged perpetrator and victim are different races. Studies have shown that the increased salience of race in cross-race crimes leads to harsher sentences (e.g., increased support for sex offender registry and increased likelihood of death penalty).
- Research indicates that judges exhibit similar racial biases as the general population and are overly confident in their ability to not let race impact their decisions (the vast majority of judges rate themselves in the top 25–50% in their ability to do so, a mathematical impossibility).

### **Complexity and Challenges**

- There is a lack of agreement on what terms/ categories should be used to describe race and ethnicity (e.g., there lacks consensus whether Hispanic or Latino relates to race or ethnicity).
- Oftentimes, ERE in a FMHR is not attributed to a source (e.g., self-report, medical records, police reports, or the evaluator’s physical observations.) Without a source, the reader cannot evaluate the accuracy and value of the information reported.
- An evaluator asking for ERE might invoke stereotype threat. Behaviors related to stereotype threat (e.g., anxiety and self-regulation) may be interpreted as deception and subsequently influence how an evaluator forms hypotheses and proceeds with assessments.
- Evaluators have identities and biases which can influence how the information is gathered and reported.
  - E.g., a White evaluator may miss the importance of ERE and racism to the legal issue at hand, or a White evaluator may feel uncomfortable asking questions related to ERE and decide to report ERE based on their own observations.

### **Author Recommendations for Evaluators**

- Always ask questions regarding ERE, but carefully decide whether or not to include ERE in FMHR.
  - Questions regarding ERE may highlight important issues that would not otherwise have been raised (e.g., if an evaluatee's self-identification does not fit with his or her appearance).
  - Consider whether including ERE is likely to contribute to bias or distract the reader.
- Include a rationale for inclusion or exclusion of ERE.
- Determine the source of the ERE and attribute clearly in FMHR.
- Consider when and how to ask questions regarding ERE (e.g., do not ask before an intelligence test because of stereotype threat).
- Consider the intersection and interaction between the evaluator and evaluatee's identities (e.g., power dynamics and racial identities may influence what the evaluatee shares).
- Know the impact of implicit bias and attempt to limit the impact of one's own biases.
- Strive to be culturally competent and not colorblind (e.g., do not always include ERE solely for consistency).

## **IV. POLICE OFFICERS' EXPERIENCE OF THEIR OWN STEREOTYPE THREAT**

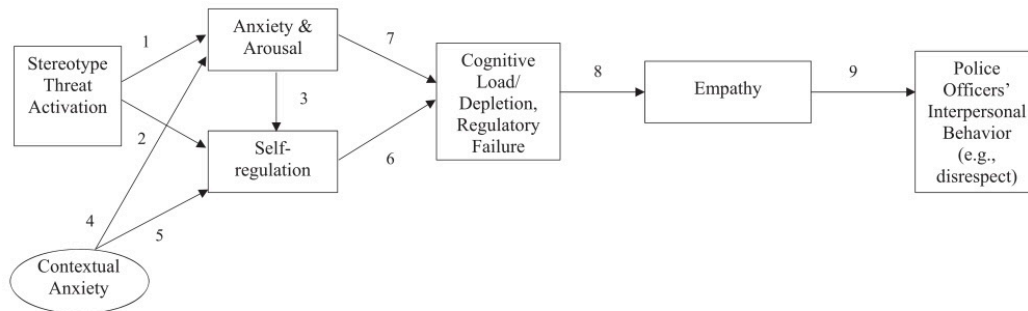
**Kelly C. Burke, *Why Interracial Police-Civilian Interpersonal Interactions Can Go Poorly: Police Officer Stereotype Threat*, Psych. Crim. & L. Jan. 22, 2022.**

### **Purpose**

- This article reviews theory and research to offer a possible explanation for how officers' experience of stereotype threat (i.e. their fear of being stereotyped as racist) leads officers to display poorer interpersonal behaviors (e.g., less respect, more dismissiveness) toward Black (versus White) civilians during routine encounters.
- The author begins by identifying 3 conditions necessary for stereotype threat: stereotype awareness, domain identification, and task difficulty (defined below)—all of which are present in routine police encounters with Black civilians.
  - **Stereotype Awareness**— Racial violence by police, the media, widespread activism and protests lead police officers to be aware of the stereotype that police are racist. Moreover, awareness of this stereotype leads police officers to be concerned that they will be perceived as racist.
  - **Domain Identification**— Stereotype threat is greater for people who identify more highly with the domain being considered (here, identifying as non-racist). While all officers may experience stereotype threat during routine encounters with Black civilians due to their awareness of the stereotype and desire to appear legitimate (and thus non-racist), officers who self-identify as non-racist may experience a heightened stereotype threat because they personally and strongly value being (or appearing) non-racist.
  - **Task Difficulty**— Even routine police encounters place numerous demands on officers' attention, require complex thinking, and can be laden with anxiety since officers worry about the encounter developing quickly into a dangerous situation.

## Model

- The author uses the below image as a model explanation for how stereotype threat impacts police officers in their interactions with Black civilians. Each path of the model is described below.



**Figure 1.** Model of stereotype threat among White police officers during an interaction with a Black civilian. Note. The rectangular boxes represent psychological processes explaining the relation between the activation of stereotype threat and police officers' behavior. The oval reflects the contextual anxiety associated with routine police encounters.

- Anxiety and Physiological Arousal (Path 1)
  - Stereotype threat will induce greater anxiety when White officers interact with Black civilians, as compared to White civilians.
  - This model predicts that White officers who are more concerned with appearing non-racist will exhibit even greater stress and anxiety.
- Self-regulation (Path 2 and 3)
  - Stereotype threats leads officers to self-regulate; they become hypervigilant to threat related cues (e.g., signs that a civilian is perceiving them as racist), increase efforts to regulate negative emotions and thoughts, and monitor their behavior. They may intentionally fidget less, say they are “colorblind,” or become hyper aware of their word-choice to avoid discussing race.
  - Officers may be concerned that their anxiety (produced by stereotype threat) will be visible to a civilian increasing their drive to self-regulate.
- Contextual anxiety (Path 4 and 5)
  - The context of an encounter (e.g., interracial encounters) will have greater impact on the anxiety/arousal and effort to self-regulate.
- Cognitive Depletion and Regulatory Failure (Path 6 and 7)
  - Self-regulation from stereotype threat and the resulting anxiety taxes executive resources and divides attention. This results in cognitive overload/ depletion. Cognitive overload/ depletion impairs performance on social tasks (e.g., interracial interactions where officers are focused on consciously controlling their behavior).
  - Anxiety and the effort to self-regulate may begin before an interaction begins if officers know that the civilian is Black (e.g., if an officer works in a predominantly Black area or has just pulled out behind a Black motorist). Therefore, cognitive overload has ample time to set in.
- Empathy (Path 8)

- This model predicts that stereotype threat and the resulting cognitive depletion will reduce officers' ability to empathize with Black civilians (i.e., take their perspective and experience concern for their welfare). In turn, officers will exhibit behaviors that confirm the stereotype of police officers as racist.
- Officers report that cognitive depletion and fatigue causes them to experience uncontrolled anger toward civilians, increased irritability, and decreased patience.
- Police Officers' Interpersonal Behavior (Path 9)
  - Less empathy is associated with less prosocial behavior. Therefore, the model predicts that stereotype threat will ultimately lead officers to exhibit worse interpersonal behavior (e.g., disrespect, abrasiveness, rudeness) with Black civilians.
  - This behavior affirms the "police are racist" stereotype and exacerbates negative relations between Black communities and police.

### Relevance

- This article explains how stereotype threat leads to racially disparate displays of interpersonal behaviors.
  - Stereotype threat likely impacts every police encounter with a Black civilian. All police encounters involve interpersonal behaviors, as compared to force which is present in only some encounters.

**Rick Trinkner, Erin M. Kerrison and Phillip A. Goff, *The Force of Fear: Police Stereotype Threat, Self-Legitimacy, and Support for Excessive Force*, 43 L. & Hum. Behav. 421-435 (2019).**

### Purpose

- This study seeks to understand what psychological mechanism links stereotype threat (i.e., the fear of confirming the stereotype that police are racist) to racially disparate violence by police.
- The study hypothesized that stereotype threat undermines officers' "self-legitimacy" (i.e., confidence in their own moral and legal authority).
  - This leads officers to over-rely on coercive policing (i.e., warnings of or actual use of physical force).
  - Officers are more likely to over-rely on coercive policing during encounters with Black people because this is when stereotype threat is most active.

### Methodology

- Participants were 784 patrol officers from a large urban police force. The average age was 43 years old.
- Participants were given a survey assessing the following:
  - stereotype threat,
  - self-legitimacy,
  - whether they supported their department's current use of force policy (prohibiting force except where reasonable to prevent injury or death or necessary to create



- compliance with a legal command, and the force must be proportional to the threat),
- approval of unreasonable force (e.g., striking a resident for saying vulgar things to an officer),
- and fair policing (e.g., how important is it to be impartial with residents?).

## Results

- Elevated stereotype threat was associated with lower self-legitimacy, less approval of policies which restrict use of force, greater approval of unreasonable force, and lower endorsement of fair policing.
- No difference was found in stereotype threat and self-legitimacy between Black and White officers.

## Relevance

- Stereotype threat is more likely to be activated in officers during interactions with Black community members, as compared to White community members. Therefore, due to the association between stereotype threat and diminished self-legitimacy, Black community members are disproportionately exposed to coercive policing (i.e., threat of or actual use of physical force). Furthermore, Black community members are more likely to have encounters with officers who disapprove of restrictive use-of-force policies, approve of unreasonable force, and do not strongly endorse fair policing.
  - The relationship between stereotype threat and disparate use of force is problematic because it further erodes Black communities' trust in law enforcement.
  - The continuous erosion of trust in law enforcement further strengthens stereotype threat and thereby creates a vicious cycle.
- Black and White officers were found to be equally susceptible to stereotype threat. Therefore, both Black and White officers can engage in racially disparate uses of force.

**Devon W. Carbado and L. Song Richardson, *The Black Police: Policing Our Own*, 131 Harv. L. Rev. 1979 (2018) (reviewing JAMES FORMAN, LOCKING UP OUR OWN: CRIME AND PUNISHMENT IN BLACK AMERICA (2017)).**

- This article argues that increasing the racial diversity of police forces without structural reform will not meaningfully address racial inequality in the criminal-legal system.
- Proponents of diversifying police forces assume that the racial solidarity between Black civilians and Black police will minimize the racial disparities in policing. However, “self-threats” (e.g., social dominance threat, stereotype threat, masculinity threat, and racial solidarity threat) can create conditions which lead officers, including Black officers, to overpolice Black people.
- **Racial Solidarity Threat** is the notion that Black officers fear being perceived as “sellouts” (i.e., people who disidentify with or disassociate from other Black people) by Black civilians. The article advances two reasons why racial solidarity threat could lead to racially disparate policing:
  - First, Black officers may expect that Black civilians will understand the difficulty of being both Black and a police officer. Black officers may thus expect “surplus compliance” from Black civilians. In the absence of such

compliance, the Black officer may feel a reduced sense of racial-affinity and moral authority. This may lead to the officer defaulting to a more authoritarian form of policing either consciously or subconsciously.

- Second, Black officers may believe that a Black civilian perceives the officer as a “sellout.” This could cause the officer to become angry or frustrated (particularly if the officer worries that they “sold out”). This could lead to more aggressive police conduct when interacting with Black civilians.

## V. STEREOTYPE THREAT AND GENERAL EFFECTS ON BEHAVIOR

*Editor’s Note: These studies are not about policing, but are included as a foundational explanation of stereotype threat and how it operates. These are not essential reading, as the foundational concept is included in above articles that explore and apply stereotype threat in the criminal legal system.*

**Toni, Schmader, Michael Johns and Chad Forbes, *An Integrated Process Model of Stereotype Threat Effects on Performance*, 115 Psychol. Rev. 336–356 (2008).**

- The authors examine stereotype threat in the context of research on stress arousal, vigilance, working memory, and self-regulation to develop a process model of how negative stereotypes impair cognitive and social performance.
- The authors argue that stereotype threat disrupts performance via 3 distinct, yet interrelated, mechanisms: (a) a physiological stress response that directly impairs prefrontal processing, (b) a tendency to actively monitor performance, and (c) efforts to suppress negative thoughts and emotions in the service of self-regulation. These mechanisms combine to consume executive resources needed to perform well on cognitive and social tasks.

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**Brenda Major and Laurie T. O’Brien, *The Social Psychology of Stigma*, 56 Annual Rev. of Psychol. 393–421 (2005).**

- This article addresses the psychological effects of social stigma and reviews and organizes recent theory and empirical research within an identity threat model of stigma.
- There are four ways stigma affects the stigmatized: (a) negative treatment and direct discrimination, (b) expectancy confirmation processes, (c) automatic stereotype activation, and (d) identity threat processes.
  - Negative treatment and direct discrimination: By limiting access to important life domains, discrimination directly affects the social status, psychological well-being, and physical health of the stigmatized. Members of stigmatized groups are discriminated against in the housing market, workplace, educational settings, health care, and the criminal justice system.

- Expectancy confirmation processes: Stigma also affects the stigmatized via expectancy confirmation processes, or self-fulfilling prophecies. Perceivers' negative stereotypes and expectations can lead them to behave toward others in ways that directly affect that targets' thoughts, feelings, and behaviors. The targets' behavior may then confirm the initial, erroneous expectation and even lead to expectancy-consistent changes in the targets' self-perceptions.
  - Automatic stereotype activation: Because of associations made by the mind between stereotypes and the behaviors they imply, thinking about a stereotype can automatically lead to behavior that assimilates to the stereotype. Activating cultural stereotypes of stigmatized groups can produce stereotype-consistent behavior even among people who are not members of the group, as long as they are aware of the stereotype. Activating stereotypes of the stigmatized, however, is more likely to result in stereotype-consistent behavior among the stigmatized than the non-stigmatized.
  - Identity threat processes: Contemporary perspectives on stigma emphasize the extent to which stigma's effects are reduced through targets' understanding of how others view them, their interpretations of social contexts, and their motives and goals.
    - This perspective assumes that stigma puts a person at risk of experiencing threats to his or her social identity.
  - Identity threat occurs when stigma-relevant stressors are assessed as potentially harmful to one's social identity and as exceeding one's coping resources. Identity threat creates involuntary stress responses and attempts threat reduction through coping strategies.
  - Stress responses and coping efforts affect important outcomes such as self-esteem, academic achievement, and health.
  - Identity threat perspectives help to explain the tremendous variability across people, groups, and situations in responses to stigma.
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