Race and Racial Profiling

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Racial Profiling and the Political Philosophy of Race

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Philosophical reflection on racial profiling tends to take one of two forms. The first sees it as an example of 'statistical discrimination,' (SD), raising the question of when, if ever, probabilistic generalisations about group behaviour or characteristics can be used to judge particular individuals.(Applbaum 2014; Harcourt 2004; Hellman, 2014; Risse and Zeckhauser 2004; Risse 2007; Lippert-Rasmussen 2006; Lippert-Rasmussen 2007; Lippert-Rasmussen 2014) . This approach treats racial profiling as one example amongst many others of a general problem in egalitarian political philosophy, occasioned by the fact that treating people as equals does not always require, or permit, us to treat them the same. The second form is concerned with how racial profiling illuminates the nature, justification, and reproduction of hierarchies of power and privilege based on skin colour and morphology. This form of reflection on racial profiling is therefore less about the justification for judging people based on the characteristics of the group to which they (appear to) belong, and more concerned with the specific ways in which the association of racialized minorities – and, in particular, black people – with crime, contributes to, and reflects, racial inequality, and oppression.(Kennedy 1998; Zack, 2015; Lever, 2005; Lever 2007). Both approaches to

profiling have much to recommend them and, taken together, they form an essential component of the political philosophy of race. The statistical approach has the merits of linking racial profiling, as practice, to a body of *other* practices that generate and justify inequalities based on factors other than race, but it typically offers little by way of insight into the role of racial profiling itself in sustaining racial inequality and injustice. The racial construction approach, for obvious reasons, is rather better at the latter task, but its insights tend to come at the price of a broader understanding of the ways in which inequality is reproduced and justified, or of the ethical dilemmas raised by our competing claims to security. As we will see, insights from both approaches can be synthesized to clarify what, if anything, is wrong with racial profiling and what broader conclusions for equality and security follow from the study of profiling.

Preliminary Clarifications

Philosophical approaches to racial profiling tend to operate at some remove from actual police practice, and this is particularly true for the SD approach to racial profiling. The reason is fairly straightforward: you don't need philosophical analysis to protest police brutality and racism. Most philosophers suppose that racial profiling can only be justified if it is consistent with respect for the bodily integrity, the dignity, and the freedom and equality of racial majorities and minorities. They are therefore only interested philosophically in its justification (or lack thereof), on the assumption that it is a practice which is not intrinsically brutal, demeaning, humiliating and of no particular use in combatting crime. However, even those philosophers working at a fairly high degree of abstraction, such as Mathias Risse and Richard Zeckhauser, Arthur Applbaum and Kasper Lippert-Rasmussen, are clearly aware of, and concerned by, racial injustice in our societies. They explicitly assume that racial profiling as currently practiced is not consistent with justice. What they want to know, however – and what they hope philosophical analysis will reveal – is whether the fact that

existing practices of racial profiling are unjust means that *all* forms of racial profiling must be unjust. They are particularly interested in the question whether the mere fact that a society has a racist past, whose consequences are still manifest in racial inequalities and injustices in the present, is *sufficient* to render all forms of racial profiling unjust. Thus, even when the philosophical debate on profiling abstracts from police brutality and from the deliberate humiliation and mistreatment of minorities by the police, it assumes that we are interested in racial profiling within societies much like contemporary democracies, in which formal commitments to political equality coexist with very substantial constraints on the freedom and equality of people, as a result of laws which tolerated and, sometimes, mandated racial discrimination in the not-so-distant past.

"Racial profiling is a crime prevention and detection method, used by police officers, which takes racial identity into account to select and investigate suspects," (Zack,2015, p. 47) although police are generally not concerned with people's personal 'identity', but rather with their 'race' as conventionally defined. So, let's define racial profiling as 'any police-initiated action that relies on the race, ethnicity, or national origin and not just on the behaviour of an individual'. (Risse and Zeckhauser 2004, 136.) And let's concentrate on *preventive/preemptive profiling,* rather than *post-crime profiling*. The latter is concerned to narrow down the range of suspects necessary to identify the perpetrator of a known crime; the former is an effort to identify those who are about to commit a crime, such as drug or weapons-smuggling, whether or not they have already engaged in illegal acts, such as buying an illegal weapon, in order to do so.

Pre-emptive racial profiling is controversial both because it is pre-emptive – no known illegal act has yet been committed – and because of the racial component in the decision to intervene. As no known crime has been committed, pre-emptive police tactics, such as 'stop and search' or 'stop and frisk' raise the natural concern that unless the acts to be

prevented are limited in number and carefully described, police efforts to prevent crime will undermined the principle that people should be able to get on with their lives without explaining themselves to political authorities, if they are not evidently a threat to the rights and liberties of others. The racial dimension of racial profiling makes those concerns more acute, and it is therefore the twin factors of pre-emption plus race that lie behind much of the political and philosophical controversy concerning racial profiling.

In order to get to the heart of the philosophical controversy about racial profiling, let's follow Risse and Zeckhauser in limiting our discussion to cases that (a) involve the use of *behaviour*, not just skin colour and morphology, in the determination of suspicion; and that (b) that include profiles of 'whiteness' as well as 'blackness', where whiteness is an appropriate element in the statistical profile of the person likely to commit a particular type of criminal act.   (c) Let us also abstract from issues of police brutality and what relationship, if any, police brutality might have to the practice of profiling people as likely criminals - although, as Randall Kennedy, Naomi Zack, and I explain, there are good reasons to think that police brutality is endogenous to preventive profiling, and not merely a matter of a few bad cops, or an institutionally racist police culture. (Kennedy 1998, 153; Zack, 2015, 61; Lever, 2005, 103-4.) The reasons to make these abstractions for philosophical purposes are fairly clear: if race, however defined, is sufficient to justify police stopping and searching people, independent of what they are doing, it would have little probative value in preventing crime, as most people, whatever their skin colour or morphology, do not commit crimes. More specifically, if racial profiling meant simply stopping black people, regardless of their behaviour, it would be a case of racial discrimination pure and simple, and would be seriously unjust. It would be seriously unjust even if police stops and searches involved no brutality, rudeness, or fear whatsoever, because being stopped and searched by the police is, in itself, an unpleasant experience that requires an instrumentally rational justification, and

because racial discrimination by the police, whose job is to protect us, is an exceptionally grave injustice. Indeed, the fact that discrimination by the police, and by officers of the state more generally, is so morally serious, makes it impossible to see how it could ever be justified for the police to stop people based on their visible racial characteristics alone.

The reasons why the term 'racial profiling,' at least for philosophical purposes, should be limited to cases where police use racial characteristics, *as well as* behaviour, to determine who to stop therefore explains why it can be helpful to abstract from issues of police brutality and the obviously discriminatory use of police powers. As we have seen, even if police were polite, and even if we abstract from issues of brutality and fear, it would be unacceptable for the police to treat skin colour alone as the basis for police stops and frisks. And this would be true, even if we didn't live in societies with a history of racial discrimination and subordination, because the justification for police powers, in a democratic society, requires the police to protect the liberty, as well as the equality and bodily integrity of all people, regardless of their skin colour or morphology.

Let us take 'race' to refer to social hierarchies of power and privilege, which group people according to their skin colour and physical morphology. (Haslanger, Sally 2012, 221–247) While some arguments for racial profiling appear to assume that we can distinguish people into biological races with heritable characteristics of character and intelligence, (Levin, Michael 2007) arguments in favour of racial profiling need not depend on the acceptance of biologically based ideas of race. Indeed, arguments for and against racial profiling, politically and/or philosophically, may reflect no agreed view about the implications of skin colour and morphology for individuals and group behaviour, and may not require any very clear concept of 'race'. (McPherson and Shelby, 2004, 191).

Generalisations, Predictions, and Policing

We navigate the social world using generalisations to guide us – generalisations about what is useful, desirable, realistic, and possible. Thus, philosophical objections to racial profiling cannot rest on the thought that it is a form of statistical discrimination, because we constantly have to discriminate between courses of action, people, material objects, and values based on generalisations about the particular properties that they are likely to have, and such behaviour is generally morally unobjectionable. Objections to racial profiling, therefore, need to be developed against the background assumption that generalisations about other people are generally morally justified, in order to isolate what it is about *racial generalisations for police stops* which makes them unjustified.

As a first approach, we can note that police can hardly be required not to generalise from experience and from verified evidence when determining how to act. Otherwise the problem with racial profiling would be that it involves generalisations about behaviour that indicates a readiness to commit a crime quite as much, or even more than, objections to the use of racial generalisations in preventive policing. We must therefore assume that *some* generalisations are allowed in police work in order to prevent crime. It therefore looks as though, even abstracting from police brutality and from discriminatory policing, there is something about *racial generalisations* themselves that makes racial profiling an *unjustified* form of statistical discrimination.

Obvious as it might seem that it is the character of *racial generalisations* that makes racial profiling morally problematic, what is wrong with racial generalisations is not self-evident. As Risse and Zeckhauser suggest, we generally feel very differently about the racial profiling of white, as opposed to black, people and this implies that it is not racial generalisations per se that make racial profiling unjust, but the fact that black people are disadvantaged compared to white people. Hence, according to Risse and Zeckhauser, if we don't object to the assumption that the profile of serial killers should include the description

'white men,' as long as we have reason to suppose that most serial killers are white men, but would object to the idea of using 'black men' or 'black teenagers' as part of an accurate criminal profile, our problems with racial profiling are not with racial generalisations in police work, but with the background injustice of our societies. (Risse and Zeckhauser 2004, 148; Risse, 2007, 14). We should therefore seek to remedy the latter--which, in any case we are bound in justice to do--*and* allow racial profiling if it can be carried out in ways that are fair, based on appropriate evidence of its utility, and clearly distinguishable in practice from a license to harass, brutalise, and intimidate racial minorities.

But this conclusion goes too fast: from the fact that *some* racial generalisations in police work are acceptable, it does not follow that racial generalisations are *generally* acceptable, even if they are accurate. It is not simply a matter, as Applbaum suggests, that we need to know the relative importance of the crimes to be prevented compared to the burdens that racial profiling generates.(Applbaum, 2014, 228) More fundamentally, there is the question of what racial generalisations we are concerned with, how they are arrived at, and what their use in police profiles will likely imply for people's civil rights, liberty, and dignity. To see this point, it helps to realise that serial killers are mercifully rare, and that while white serial killers are more common than non-white serial killers, very few people will fit the profile 'white serial killer.'(Bonn 2014) A license to use race generalisations in the effort to prevent serial killing is, therefore, a very constrained license to frisk or search people who, because of their race and behaviour look as though they may be about to commit a very serious crime. Indeed, as a serial killer will, by definition, commit several murders of the same type, the use of profiles in the case of serial killers generally presuppose the existence of at least one prior murder, and so what is being looked for is an actual killer who may strike again, rather than someone who is about to kill for the first time.

If these points are correct, it would be a mistake to generalise from the fact that we allow race to figure in the profile for serial killers, to our views about the use of race in other cases. For example, if white people were much more likely than other people to drive when drunk, would we allow police to use race in the profile for drunk drivers? Indeed, would we agree to the use of profiles, rather than other forms of detection and prevention, in the case of drunk driving? These are not easy questions to answer, but as long as we concern ourselves with the case where the driver is not obviously inebriated or unable to control his or her vehicle, the answer to both questions is probably 'No', for reasons which are both moral and political.

A Hypothetical Case: Race and Drunk Driving

Drunken driving is dangerous, and implicated in much serious injury and death. But setting aside the question of what should count as the *legal evidence* of drunkenness (i.e., what quantity of alcohol in the blood should be deemed sufficient for the legal offense of drunk driving), there is the question of what would count as the *behavioural evidence* which might justify a policy stop, once we set aside those people who are driving dangerously and, therefore, are appropriate objects of police attention whether or not they are drunk. Should it be leaving a pub or bar in a car? That would seem a reasonable supposition, even if some people in pubs and bars don't drink alcohol, and some of those who do drink alcohol are careful to stay within the legal limit. Such a hypothetical stop strategy, even if instrumentally rational and better than the alternatives, would bias police searches away from those who drink in restaurants, private houses, hotels, and such. It would therefore leave much – perhaps most – drunk driving relatively un-policed and undeterred. There might even be a type of class bias involved, in so far as pubs and bars are less socially exclusive and expensive than restaurants and hotels that serve alcohol. But imagine that, despite its limitations, police use of 'race +leaving a pub or bar,' as behavioural indicators of drunken

driving, helped to improve the identification and arrest of those driving while drunk over the most likely alternatives, such as random or universal searches (i. e. barriers which lead everyone in the area to be searched for a defined amount of time). Would that be sufficient for us to agree with Risse and Zeckhauser that the use of racial generalisations is morally unproblematic in preventive policing?

Again, I think the answer must be 'No.' First, it is hard to believe that there would not be a great deal of protest about this hypothetical police tactic, because most white people are not used to being treated as incipient criminals, and people who drive over the alcohol limit, like people who drive over the speed limit, tend not to consider themselves as criminal, or as menaces to the lives and limbs of others. (Lever, 2005, 102.) We should expect, then, that there would be passionate and repeated demands for evidence of the rationality of this police tactic, and of the justification of using race as a component of a profile for drunk driving, given that alternative ways to prevent (if not to police) drunk driving exist, and that the policy is likely to criminalise people who, in all other respects have led blameless lives. The dreadful consequences for the families of those unfortunates caught driving with a bit too much alcohol in their blood will be cited as evidence that the hypothetical policy is not as rational as it first seems, that it has hidden costs which are not adequately accounted for by focusing simply on 'hit rates' for the identification and arrest of those driving over the legal alcohol limit. (For the application of these points to the profiling of black men, see Kennedy 1998, 151-5) In short, it seems reasonable to suppose that there would be a great deal of political protest about such a policy, even by people who are normally quite sympathetic to the strenuous legal enforcement and prosecution of the law. Some of that protest might be hypocritical, and reflect racist ideas that what is ok in the policing of disproportionately-- black offenses is unacceptable in the policing of majority-white ones. Still, there *is* clearly something morally important about such objections, which might apply beyond concerns with

racial generalisations, to profiling for behaviour that is *widespread*, even if it is, and,
perhaps, ought to be illegal.

People's failure to comply with the law need not reflect evil intent, or selfish
indifference to the needs and claims of others. Instead, it may reflect behaviour which is hard
for people to control, such as precisely calibrating how much to drink, or agreeing to take part
in popular and generally pleasant social rituals with everyone else. Law-breaking may also
reflect behaviour which is the outcome of momentary but overwhelming emotions – relief,
anger, sadness, joy – or more long-term difficulties with depression, rage, loneliness, and the
need to please or to fit in. These problems need not be especially personal – they may, in
fact, reflect real social problems, and may persist even when people are informed about the
law, the reasons for it, and the way that it will be enforced. Our example, then, suggests that
objections to racial profiling, in at least some real or hypothetical cases, likely reflect doubts
about the wisdom, desirability and/or morality of engaging in the use of pre-emptive stops for
acts which are very widespread, (such as drunk driving, or the use of marijuana) and which
may not best be approached through the *criminal* law, even if they are deserving of legal
condemnation. In short, objections to policing based on racial generalisations may be
motivated less by concerns with *race* specifically, than with the use of pre-emptive police
scrutiny of particular individuals as a way to get large, amorphous groups of people to desist
from drugs or risky behaviour or otherwise to behave as they ought.(Reiman, 2011)

But even people who are habitually concerned to ensure that civil rights are protected
might object to the use of white skin as an indicator of drunken driving in my hypothetical
example, even if accompanied by behaviour suggestive of alcohol consumption, such as
leaving a bar or pub. After all, who *is* actually stopped by police is likely to be pretty
arbitrary, unless the police stop everyone coming out of a pub/bar – which would turn the
type of stop involved into something much closer to a universal stop (albeit of those leaving

bars, rather than entering cinemas or airports). Indeed, the larger the disparity between the potential population stopped and the number of actual stops, the more acute the concern that arbitrary, perhaps unconscious, factors are affecting police decisions about who to test for drunken driving - for example, people whose cars look old or damaged, or which appear to have lots of passengers, or a foreign license plate, or even a foreign-looking driver. *Ex hypothesi*, none of these factors are part of the profile for drunk-driving, and so there is no justification for using them as a criterion for police investigation into drunken driving. Moreover, in so far as these often unconscious factors reflect prejudice, such as class prejudice, prejudice against aliens or immigrants, or particular ethnic or religious groups, there would be compelling *moral* objections to allowing such stops and searches to go ahead and to allow convictions based on such searches. In short, in so far as these race-based searches involve only a small fraction of those who might be stopped (as is usually the case), worries about the arbitrary character of those stops call into question the justification of what might, in other respects, be a useful form of policing.

These two seemingly contradictory worries – that too many are affected by profiling, and that too few are affected – are actually consistent and mutually reinforcing. The problem highlighted by the first worry is not that very many people *will be* stopped, but that a great many people are *threatened* with being stopped with no warning, as they go about doing the sorts of things that law-abiding people, as well as criminals, normally do. By contrast, the second worry is that unless the police *actually stop* a very large number of people from this large target population – which would, in effect, approach the use of a deliberate policy of universal searches of anyone coming out of a pub/bar - the best explanation of who in fact *is* stopped will almost certainly have nothing to do with the task of preventing drunk driving, or the profile of a drunk driver itself and may, unfortunately, reflect unexamined and unjustified prejudices peculiar to the particular officer, or common amongst the police more generally.

Either way, it would seem the reasons to find racial profiling attractive, (because it may be a rational and reasonably effective strategy for handling behaviour that is widespread, but not easy to detect, deter and punish), are themselves reasons for doubting that profiling is morally appropriate, or that it is the best way for the state to protect people's lives and limbs.

Finally, we could imagine that some civil-rights defenders might worry that the use of 'white,' in efforts to prevent drunk driving, trades on unjustified stereotypes, albeit unacknowledged, and that there is therefore a much closer connection than one might expect between the use of racial profiles and the tendency for prejudice against some, or all, white people.

Given how prevalent drunk driving probably is and, *ex hypothesi*, how serious are its harms, the fact that white people, in our hypothetical example, are significantly more likely to engage in it than other groups might make it reasonable for the police to infer that there is something about being white which makes one particularly prone to drunken driving. Precisely because statistical profiles are agnostic about causation, they leave the path open to the hypothesis that being white is causally related to drunken driving, rather than being merely a statistical indicator that may have no causal role at all. (Applbaum, 2014, 227-8.) Unfortunately, the larger the group to be profiled, the more tempting causal claims about race and crime are likely to be; and the more tempting a specifically *essentialist* assumption about the intrinsic characteristics of, in this case, white people, related to criminal behaviour. After all, if lots of white people are associated with drunken driving – and sufficiently more proportionately than other groups for race to be part of a predictive profile – it becomes much more difficult to imagine the factors that might make race an important correlate of drunken driving, without it being a causal factor. The larger the group delineated by the police profile, the more varied their social situation and personal characteristics are likely to be. It may therefore seem reasonable – if not self-evident – that whatever it is that explains

why white people are predisposed to drunk driving, it must be something that all white people share. And that - or so it might seem – is simply their whiteness. Unfortunately, then, the practice of profiling may lead people to adopt essentialist ideas of race, even if they did not hold them before, as well as to attribute to these essential racial features a causative role in serious crime, which they might previously have assumed to be false.

The problem with racial profiles, then, is not simply that they have the quality of a self-fulfilling prophecy, because if the police stop sufficiently more black people than white people, they are likely to find more black people who are breaking the law than white people *even if* police stops of black people actually are less good at identifying crime than police stops of white people. (Harris 2003, 223-5; Harcourt, 2003, 121-5, (Zack, 2015, 48-51)) Nor is the problem simply that disconfirming evidence for the special utility or desirability of the profile will be hard to establish, absent evidence of the total number of those driving while drunk – evidence that, by its nature, is impossible to establish. (Applbaum, 2014, 228). In addition, pre-emptive racial profiling seems particularly likely to reinforce racist beliefs about groups, by fostering misplaced claims about the causal importance of race in criminal behaviour and by fostering a misplaced essentialism about race, be it biological or cultural. The antidote to such thinking, of course, is to remember that while most police profiles concern groups whose members are disproportionately likely to behave in ways that are criminal, *the vast majority of the members of that group are statistically unlikely to behave that way*. (Zack, 2015, 55; Holbert and Rose 2004, 126; Sampson and Wilson 1995,229; Sampson, Morenoff, and Raudenbush 2005, 227-8) However, if the disproportion is sufficiently marked, and the behaviour in question is sufficiently serious, racial profiles may look like a rational solution to the problem of fair and effective policing. And a focus on *the reasons* for profiling- a focus that is natural both for the police, who have to carry out the profiles, and for those who have to justify the policy publicly- may obscure the fact that most

of those who fit a predictive police profile will not do anything wrong and, *a forteriori*, most people, whatever the racial group to which they belong, will not do so either.

We can conclude, then, that statistical profiles for policing purposes and, especially, profiles which use racial generalisations, are *intrinsically* problematic, even if we abstract from contemporary concerns with police brutality. The problems with profiling are moral and practical, and both types of problems will be especially acute where the factors that go into the profile are widely shared, such that very large numbers of innocent people are threatened by preventive police stops because they meet the criteria of the profile. These problems are moral, in so far as morally arbitrary factors, such as prejudice, are likely to explain which, of the many people that fit the statistical profile, policy actually stop. It may cement prejudice about the frequency, severity and distribution of criminal behavior in society because profiling draws public attention *to* differential rates in the propensity to break the law, and *away from* evidence that most people do not engage in crime, whatever the ascriptive or voluntary groups to which they belong. Finally, statistical profiles may create prejudice, as we saw from the hypothetical case of the racial profiling of drunk drivers, by encouraging essentialist causal explanations of what is, at best, an accurate, though perhaps temporary or misleading, statistical correlation.

Each of these *moral* problems reflects *practical* problems intrinsic to the use of statistical generalizations in preventive policing. Because crime is rare, the overwhelming majority of the people who fit a police profile will never commit the particular crime for which the profile has been drawn up, and will be unlikely to engage in criminal activities at all. Predictive police stops on the basis of statistical profiles alone are therefore most unlikely to catch criminals, so their instrumental justification depends on their *relative virtues* compared to other ways of detecting and preventing crime, not on their *absolute* advantages.

However, it is difficult to estimate those comparative advantages when the size of the criminal population is a matter of speculation, when prejudice and unequal legal resources may affect arrest rates, and when rates of legal convictions may also reflect legal and extra-legal incentives to plead guilty even if one is innocent. (Rakoff, Jed S. 2014; Gertner, Nancy et al. 2015) Thus, it is difficult to show that preventive profiling is an effective police tool, or more effective than the alternatives, and these problems are particularly acute, because the best way to prevent crime may not be a matter of *policing* at all. (Sampson, Morenoff, and Raudenbush 2005; Wolff, Jonathan 2011, especially p. 123.)

We have seen, then, that statistical profiling is intrinsically problematic, *whether or not it concerns the profiling of disadvantaged racial minorities.* Indeed, part of the reason why racial profiling is inherently problematic is because the use of predictive profiles is already hard to justify even if we are not concerned with a particularly stigmatized and disadvantaged ascriptive minority. Once we consider the disadvantages inherent to the profiling of a disadvantaged racial minority, it is hard to see how predictive racial profiles could be justified on deontological grounds. Respect for our fellow citizens is inconsistent with the use of police tactics that will predictably exacerbate the disadvantages and injustices from which they already suffer, absent compelling evidence that those tactics are necessary to avert grave injustice to others. (Lever, 2007, Reiman, 2011). However, once we consider the effects of background injustice on the way we can describe and evaluate morally significant consequences, it becomes plain that racial profiling cannot be justified on consequentialist grounds either.

Background Injustice (BI) can affect consequentialist moral judgements about a police policy in several ways. It might, for example, make us sceptical about why a particular policy has been chosen, curious about the quality and quantity of the evidence used

to support it, the adequacy of the alternatives that were considered and the likelihood of it being implemented fairly. (Sampson and Wilson 1995, 41-43;) However, BI also means that it matters how the costs and benefits of a police policy are distributed, in order to avoid exacerbating unjust patterns of advantages inherited from the past. In the case of racial profiling, for example, there are good reasons to be sceptical of the assumption, found in Risse and Zeckhauser, Applbaum and Lippert-Rasmussen that, were it not for racist policing and brutality, black people would generally be net gainers from accurate racial profiles, because black people form the overwhelming majority of the victims of black crime. Part of the reason to make such an assumption is to see what difference, if any, it would make to the justification of racial profiling. But these authors clearly suppose that the assumption is plausible.   (For example, Lippert-Rasmussen 2014, 286–7)

However, even if black people are the main victims of black criminals, it is hard to see how the r*acial profiling* of black people would advantage black people. Given residential and occupational segregation, 'black on black' crime likely occurs in neighbourhoods and employments where most people are black, just as 'white on white' crime likely occurs in neighbourhoods and employments where most people are white. In short, while any racial or ethnic group will benefit from police success in catching or preventing attacks against them, it is doubtful that racial or ethnic profiles will be particularly useful in the process. Just as you are unlikely to distinguish one academic from another by looking for a middle-aged white man amongst the professors on most European or American campuses, so looking for a 'young black male', in an area where young black males are common is unlikely to help you deter crime. Rather, it seems that the main beneficiaries of the racial profiling of black people will be white people, because white people make up the majority of the population who will be safeguarded, and will be able to benefit from any advantages that racial profiling brings without suffering the main burdens of racial profiling. On the other hand, young black men,

and those who love and depend upon them, will bear the overwhelming share of the costs of racial profiling, whether or not they share in the benefits. This division of the costs and benefits of security cannot be justified as an ordinary part of policing, once we take background injustice into account, for that would be to compound the burdens on some of the most vulnerable groups in our societies, and to exacerbate injustices which we have a duty to repair. The legacy of racism is not, in itself, sufficient to show that racial profiling is unjust, because, as we have seen, racial profiling is not intrinsically racist. However, the legacy of racism affects the *weight* we can ascribe to the benefits and burdens of a police policy, depending on how these are distributed across social groups. (Lever, 2007) So while racial profiling might be justified in very exceptional circumstances, as long as special forms of approval, supervision, accountability and compensation are in place, philosophical reflection shows that racial profiling is nearly always unjustified given its intrinsic properties and its likely consequences, even if we abstract from the shame and horror of police violence, brutality and prejudice.

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