

Recruiting and Hiring Minorities into Policing, with International Considerations

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Abstract

Traditionally, recruiting and hiring minorities into law enforcement has been a challenge throughout the world. Now, the U.S. citizenry is demanding a change in law enforcement because of the tragic shootings of police and citizens. Therefore, the lack of diversity in law enforcement is an issue that has come to the forefront. The Advancing Diversity in Law Enforcement Initiative recently provided some lofty ideals, general guidance, and three core themes. This review will briefly consider these themes and the benefits of minorities in policing as well as recruitment challenges and legal hiring considerations. In more depth, the selection process will be discussed with specific implications for the hiring of minorities in policing. There are actions that can be taken to improve the diversity in policing. But, it will take time, research, and a commitment to proactive efforts.

Keywords: Minority Recruiting, Minority Selection, Policing

Introduction

The citizens of the United States are demanding a change following the national events involving shootings by the police and to the police (Herndon, 2016). While dramatic and polarizing, this demand is not new in its intent and is not reserved for the United States alone. In 2008, White and Escobar emphasized, in part, the importance of proactively recruiting minorities for policing in the U.S. and abroad. They also included multicultural diversity training for law enforcement officers as a critical issue to be addressed. They highlighted the Patten Commission in Northern Ireland, the *Race Equality Schemes* of the London Metropolitan Police, and Article 25 of the *European Code of Police Ethics* from the European Union as emphasizing the necessity of the proactive recruitment of minorities. More recently, De Soete, Lievens, Oostrom, and Westerveld (2013) emphasized that preventing inappropriate discrimination in police selection is more than just an ethical mandate; it is critical for political, economic, and social reasons as well.

Toward the end of 2016, the Advancing Diversity in Law Enforcement Initiative was published (U.S. DOJ, 2016). Some barriers to diversity in law enforcement were identified including strained community relationships, police reputations, inadequate or inappropriate selection tests, and residency restrictions. Three common themes emerged as important areas to improve relationships and increase diversity within policing:

1. Organizational Culture: community policing, procedural justice, and cultural inclusivity
2. Engaging Stakeholders
3. Policy Re-evaluation: employment criteria, standards, and benchmarks

This initiative also emphasized a proactive and intentional approach to the recruitment and hiring of minorities in law enforcement.

Throughout this review, additional information from the 2016 Initiative (U.S. DOJ) will be provided. Also, some of the benefits of minorities in policing will be discussed. Select recruitment and employment laws from the U.S. will be briefly considered. And, finally, a more detailed discussion of employment criteria in the selection process and their implications in minority hiring will be presented. This final section on the selection process is most representative of the third theme of the 2016 Initiative.

For clarification, in the context of U.S. policing, minorities will include individuals who are non-white. Most typically, this includes African Americans, Hispanic Americans, and Asian Americans. Minorities will also include females and lesbian gay bisexual transgender (LGBT) individuals. Information is much more readily available on females and non-whites than on LGBT individuals in policing. For countries other than the U.S., the definition of *minority* will differ. Often the terminology will differentiate between the ethnic minority and the ethnic majority. Regardless of the location, the overall emphasis must be on the local community; so, by definition, the true minority group will be dependent on the local jurisdiction.

Benefits of Minorities in Policing

Hanser and Gomilla (2015) begin their discussion of recruiting and hiring minorities into policing with a discussion of the benefits of a diverse police force. They cite the Law Enforcement Recruitment Toolkit, which is a 2009 Office of Community Oriented Police Services (COPS) document, as a crucial resource. Some of the listed benefits include diverse solutions to problems, culturally-appropriate responses, enhanced community relations, reduced stereotyping, and increased community support.

A 2011 study by Lasley, Larson, Kelso, and Brown made some comparisons between ethnic minorities (i.e. African Americans and Hispanic Americans) and the ethnic majority (Caucasian Americans). The research participants were all employed during an affirmative action hiring initiative at the Los Angeles Police Department during the late 1980s to early 1990s. This longitudinal study was completed after a 15 year timespan. The authors concluded that, over time, all of the participants had improvements in attitudes regarding community engagement and interaction. They postulated that the improvement for the majority employees was due to a change in the police culture because more minorities were police officers. However, the authors did stipulate that some of the attitudinal improvements of ethnic majority officers may have been the result of attrition: Those officers with poorer attitudes self-selected out of the population because they quit the police force and were not available for follow-up study. The ones who remained adjusted to the acceptable attitudes through exposure and possibly through better initial attitudes.

The COPS Office (2009) and many in law enforcement leadership consider it critical to have a diverse police force. They espouse that, without diversity, law enforcement cannot understand the community it serves. And, the community will not cooperate with the police without some form of trust and identification. Interestingly, according to a survey of U.S. police administrators, the larger the agency the greater the belief that diversity is crucial. In agencies with 101 to over 1000 sworn officers, 55% to 75% believed diversity is extremely important. On the other end of the spectrum, in agencies with 25 or fewer sworn officers, only 23% believed diversity was extremely important. This is especially troubling because these small departments are the

agencies where the community can be quickly inundated with migrant workers or laborers and these police agencies will not be prepared to navigate the new cultural challenges.

Communities can change rapidly. Common examples include migrant workers in agriculture and laborers following construction jobs. And on the world stage, terrorism and civil wars have created an influx of immigrants in many locales. These changing demographics can make it difficult for a law enforcement agency to stay prepared. With seasonal work, it might be slightly easier because an agency can plan, somewhat, for the spring planting season and/or the fall harvest season. It can be almost impossible to plan for changes in construction laborers. Some jobs may entail one week of a large influx of laborers while others may involve many years. Some of the individuals may bring families with them. And, some may decide they like the community so much that they want to stay. The only way to prepare for any of these situations is to try to have a diverse police force from the beginning.

Recruitment of Minorities in Policing

According to the Advancing Diversity in Law Enforcement Initiative (U.S. DOJ, 2016), law enforcement is not the only industry in which minority recruitment is challenging. But, diversity is especially important in law enforcement in order to build trust within communities and enhance democratic integrity. Prior to this initiative, there have been many suggestions for improving the field of law enforcement (Walker & Archbold, 2014). But, before officers can be chosen, they must apply for the job. Therefore, recruitment is critical if an agency wants a diverse candidate pool and a correspondingly diverse workforce.

According to the COPS (2009) report, different minority groups have differing recruitment challenges in the U.S. Their survey documented that approximately 50% of the reporting agencies had a major challenge in recruiting African Americans, Asian Americans, American Indians or Alaskan Natives, and Native Hawaiians or Pacific Islanders. Approximately 40% found that recruiting Hispanics or Latinos was a major challenge and approximately 40% found this group to be a moderate challenge. For female recruitment, 22% of the agencies rated this group as a major challenge and almost 50% rated this group as a moderate challenge. In stark contrast, 74% of the reporting agencies found no challenge in recruiting “whites”. (Of note, this statistic leaves approximately 26% of agencies admitting challenges in recruiting “whites” which underscores the difficulties in obtaining a large applicant pool of any ethnicity from which to choose the best candidates.)

In modern times, a newspaper announcement of available law enforcement positions is not sufficient. Few people read newspapers. Now, many forms of media must be used including social media and electronic job boards. Recruiters must go to community colleges and universities. University internship programs are also recommended (U.S. DOJ, 2016). For some demographics, it is even recommended that recruiters go to churches and community organizations (Hanser & Gomilla, 2015; U.S. DOJ, 2016).

Legal Hiring Considerations in the U.S.

The U.S. Department of Labor (2017) maintains responsibility for more than 180 federal laws related to employment. Usually the statutes related to discrimination are enforced by the Equal Employment Opportunity Commission (EEOC). Their website provides quick and easy access to simplified explanations of the laws and statutes (EEOC, 2009). Two laws are prominent in the U. S. law enforcement selection environment: The Americans with Disabilities Act (ADA) of 1990

and its Amendments Act of 2008 and Title VII of the Civil Rights Act (CRA) of 1964 and 1990. The ADA is critical to selection in law enforcement but not particularly applicable to the hiring of minorities. (For further information on the ADA, please visit <https://www.ada.gov/>). Title VII of the CRA most directly applies to the hiring of minorities. Similar legislation to Title VII is the Sex Discrimination Act in England (White & Escobar, 2008).

In part, Title VII of the CRA prohibits discrimination in hiring based on race, religion, and gender (EEOC, 2009). Worthy of note is the fact that Title VII does not specifically prohibit discrimination based on sexual orientation or sexual presentation (i.e. cross dressing). Despite this failing, the EEOC does lean toward including sexual orientation/presentation as a protected class in their interpretations and rulings. And, many in employment law expect a change to occur soon to include this as an identified protected group.

Despite Title VII, many minorities, including both race and gender minorities, are discouraged from applying for law enforcement jobs due to the organizational culture that is prominent in many agencies (U.S. DOJ, 2016). Some ethnicities and females may not be made to feel welcome when they attempt to apply for a law enforcement job. It is not unusual for females to be questioned about whether they want to apply for a dispatcher or clerk job rather than for a police officer job. This chilling effect is a deterrent and interferes with improving diversity in law enforcement.

One additional statute worthy of a brief mention is the Age Discrimination in Employment Act of 1967 (ADEA) which in part prohibits discrimination in hiring of individuals aged 40 and over (EEOC, 2009). Despite the ADEA, law enforcement agencies have been successful in defending maximum hiring ages by delineating the physical job requirements in a life-threatening job as bona fide occupational qualifications (BFOQ). Considering the nature of the legal environment, the maximum age restriction may become obsolete. Agencies may be forced to develop appropriate and relevant physical agility tests that are evidence-based and research-informed rather than stipulating a blanket restriction on age because of physical job requirements. In some jurisdictions, law enforcement agencies will hire older workers but will place them in less physically strenuous positions such as court support or working with the elderly. This can prove to be politically expedient which is particularly important for elected law enforcement positions.

Selection Processes in Policing

Many issues must be considered regarding the selection process itself. Overall, it is worthwhile to implement a multiple hurdle selection process. It is recommended that candidates for a law enforcement position should successfully pass the following five hurdles prior to employment: a) Job relevant physical ability assessments, b) Extensive and thorough background checks, c) Internal review board interview, d) Psychological assessments, and e) Medical screenings (Walker & Archbold, 2014). At each step in this multiple hurdle process, minorities may be disqualified based on something other than the true qualifications for the job.

Not all states and not all agencies use this multiple hurdle process. For example, psychological assessments are not required prior to hiring a law enforcement officer in the state of Louisiana. Considering the applicant perspective, Carless (2006) found that the physical agility tests and the interview were more accepted than the psychological assessments. Despite this lack of applicant acceptance and lack of statutory requirements, some agencies choose to utilize a psychological evaluation for a variety of reasons including the desire to hire the best and most stable candidates and mandates from their liability insurance companies.

Medical Screenings: Of the five hurdles, the medical screenings may be the least likely to be inappropriately discriminatory as they are currently implemented. Today, medical screenings range from a basic drug screen to a more thorough examination including X-rays of the spine. In the past in the U.S., medical screenings included mandatory height and weight requirements which usually disqualified females because they were too small (U.S. DOJ, 2016). Similarly, Spain found that too many females were being disqualified because they were too short. In 2005, a Royal Decree was issued allowing for a reduction of two inches in the height requirement for females to be hired (White & Escobar, 2008).

Physical Ability Assessments: The physical ability assessments (also referred to as agility or fitness assessments) are often considered to be discriminatory against females (and older applicants). In part because of this, these assessments have been considered rather controversial for some time. There are two basic approaches to a physical ability assessment: overall general physical fitness and job-specific physical tasks. Most typically, the general fitness assessment includes a run, sit-ups, and pushups. The determination of pass/fail is stratified based on age and gender. This approach helps to mitigate any discriminatory effect due to the smaller stature and weaker force of many females and age-related declines of some males (Bonner & Johnson, 2016).

The argument against the use of stratified cutoffs emphasizes that the job task that must be done in the field does not discriminate between male vs. female, or age for that matter (Bonner & Johnson, 2016). The job is the job and must be done regardless of the person's gender, race, or age. From this vantage point, a physical ability assessment that is specific to a department and their environs (i.e. climbing the stairs to the top of Malone Stadium at the University of Louisiana at Monroe) may be most appropriate. This type of assessment will meet the U.S. federal non-discriminatory requirement of a bona fide occupational qualification (BFOQ). But, to provide BFOQ documentation, a formal job analysis must be conducted for the agency. A job analysis is expensive and requires a specific number of individual participants to be statistically sufficient. Most agencies, especially in rural northern Louisiana do not have adequate numbers of individuals to be able to utilize this analysis. As a result, utilizing the general cutoffs with the physical fitness approach is the cheapest and easiest system to use and it does provide adjustments to reduce minority discrimination.

An additional approach to improve minority pass rates on the physical ability assessment is physical training (Bonner & Johnson, 2016). Many agencies openly provide their physical ability assessment qualifications and requirements to all potential candidates. They want the candidates to know in advance what is expected so they can prepare. Some agencies provide practice trials when potential candidates can come to a location and go through the actual assessment for practice. Utilizing this practice, the candidate can identify weaknesses they need to improve upon before the official assessment. Also, some agencies provide a trainer and specified training sessions for one-to-two months before an official assessment. They allow anyone to attend the training sessions who is interested in the job. This system can help anyone improve so they can pass the physical assessment regardless of minority status.

Background Check: The background check hurdle may not appear discriminatory on its face but the potential does exist. An appropriate background check should include a criminal history check (Kitaeff, 2011). According to the American Civil Liberties Union (ACLU), a criminal history check will pose a barrier for minorities seeking any employment which will include jobs in law enforcement (Judicial Watch, 2011). In response to the ACLU and the Obama Administration, the Equal Employment Opportunity Commission (EEOC) considered making

criminal background checks illegal for job applicants. They justified this consideration based on the disproportionate rate of criminal convictions of African Americans and Hispanic Americans as compared to Caucasian Americans. However, no legal mandates were issued at that time.

In 2016, the Obama Administration requested that law enforcement agencies “forgive drug use, disregard the criminal records of candidates from ‘underrepresented communities’ and lower standards on written and physical exams” (Judicial Watch, 2016, webpage) in an effort to increase diversity in law enforcement. This request was based on the Advancing Diversity in Law Enforcement Initiative which was developed by the U.S. Department of Justice’s Civil Rights Division and the EEOC (U.S. DOJ, 2016). This request was also touted as one step toward achieving the recommendations in President Obama’s Task Force on 21st Century Policing (COPS, 2015).

The Advancing Diversity in Law Enforcement Initiative (U.S. DOJ, 2016) does promote individual considerations regarding criminal histories. The authors specifically mentioned considerations for the nature of the crime and the time since occurrence. They also listed the nature of the job as a consideration. While this is laudable in many professions, it may be laughable in law enforcement. It stands to reason that the essence of law enforcement should be to obey the law. If someone has already demonstrated a lack of adherence to the law, it appears counterintuitive that they should be considered for a job with a core task of enforcing the law. So far, the legal challenges to the use of criminal histories in selection procedures for law enforcement personnel have generally not been successful.

From a personal perspective from over 18 years conducting public safety pre-employment evaluations, the first author has found an increase in candidates being allowed to continue in the selection process even if they have certain legal violations. She has not performed any statistical analyses. But, when she began conducting these evaluations in 1999, no candidate was ever sent to her for an assessment if they had tried any drug. Today, more than 50% of the candidates have tried marijuana. And, it is not unusual, although much less than 50%, for a candidate to have a conviction of Driving While Intoxicated/ Driving Under the Influence (DWI/DUI). This change may have nothing to do with the goal of intentionally increasing minority hiring. Locally, it may be because of a lack of acceptable candidates. Anecdotally, the local minority applicants are more likely to have violations of shoplifting than marijuana. But, the overall effect of accepting some candidates with criminal histories may help increase the number of minorities in law enforcement. Time and research are needed to identify whether this acceptance will have a deleterious effect on the implementation of law enforcement and public safety.

Internal Review Board: The internal review board (IRB) panel may have the potential to be unconsciously discriminatory because of the demographic composition of the panel members. While many people today are not intentionally discriminatory, historical victimization and structural racism may produce unintentional discrimination to minorities (Hanser & Gomilla, 2015). Therefore, the composition of the IRB panel is crucial. Including differing races, religions, genders, and sexual orientations on the panel may help mitigate unintentional bias. The panel should also consist of employees who are currently or have previously performed the duties and tasks of the available position (Kiteaff, 2011). And, finally, the members of this panel should be exemplary employees, knowledgeable about the job, conversant in human resource rules and laws, and trained in selection interviewing.

Psychological Screening Assessments: The final hurdle to be considered is the psychological screening assessments. These assessments should include an evaluation of personality-both normal and abnormal. Considering normal personality, Barrick and Mount (1991) documented in

their seminal article that conscientiousness was the best predictor of job performance across occupations. Beyond this dimension, there is not a definitive pattern. Past experts have stated that there is not a specific police personality (Rostow & Davis, 2004; Kiteaff, 2011). However, a recent article has asserted that a police personality profile for hostage or crisis negotiators was identified within the Big 5 personality theory (Young, 2016). Negotiators must perform a specialized group of tasks as compared to patrol officers; but, these results do suggest the possibility of a general police personality profile as yet undocumented by research.

Importantly, De Soete, et al. (2013) considered more than just personality in their psychological research. They included many predictors such as cognitive abilities (which are a different psychological construct than personality), language proficiencies, and a constructed response video-based test. De Soete, et al. found the European sample in their study demonstrated fewer differences in cognitive abilities between ethnic minorities and the ethnic majority than those found in U.S. studies. Although, they admitted that this finding may be an artifact of the small sample size. They also found differences in integrity measures and the corresponding dimensions, which are typically considered as a separate psychological construct from personality or cognitive abilities. Further research on cognitive abilities and integrity measures will be important and valuable information to guide the overall psychological screening.

In one Dutch study (De Meijer, Born, Terlouw, & van der Molen, 2008), a difference was found on the cognitive ability variable on police selection testing and training performance. These authors found that the training performance of ethnic minority groups was somewhat predicted by cognitive ability scores. This finding was not significant for the ethnic majority group. In contrast, the non-cognitive ability measures were more predictive for the majority group. This finding underscores the importance of a variety of selection measures for law enforcement positions.

Understanding diversity within psychological assessment is a core consideration in the ethical implementation of a psychological practice (Groth-Marnat & Wright, 2016). They stated that the first task must be to identify and choose appropriate tests. These tests must be administered following all of the standardization rules. The tests must be interpreted with consideration of the context and the individual taking the assessment. However, the tests are standardized and cannot provide clear interpretations based on minority classifications. The psychological evaluator must be culturally competent to consider possible minority fluctuations or the results of the evaluation will not be valid. And, because of Title IV of the CRA, job applicants' test responses cannot be scored based on gender (EEOC, 2009). Therefore, it is incumbent upon the psychologist to determine if a red flag that is identified through a test score is a true item of concern or if it is a gender or culture difference that is unrelated to the performance of the job. In some cases, the red flag may actually be a positive attribute when considered in light of gender, culture, or race.

Another Dutch study analyzed the combined judgments made by 16 psychologists of over 5000 applicants for police officers (De Meijer, Born, van Zielst, & van der Molen, 2007). All of the psychologists were in the ethnic majority group. Their judgments were based on data from a personality test, an assessment center, and a structured employment interview conducted by the psychologist. Interestingly, there was no mention of review boards with experienced law enforcement officers as being part of the process. The emphasis was on the assessor psychologists, the data used to make the judgments, and any possible relationship to ethnicity. The authors documented that assessors used more irrelevant information when evaluating ethnic minority candidates than with ethnic majority candidates. The authors did analyze additional factors; but a core conclusion was that there was a difference in the cognitive processing of

ethnic minority candidates by ethnic majority evaluators. Common sense suggests that to help ameliorate this, agencies should train their evaluators and insist on ethnically diverse and culturally competent evaluators and review boards.

Future research may delineate more than one successful police personality pattern and this should be expected as law enforcement diversity increases. Some research suggests that additional psychological components for police selection should include integrity measures and cognitive ability assessments. Further research will be key for identifying and understanding successful police personality characteristics, integrity dimensions, and cognitive abilities across races, cultures, gender, orientation, and age. As the evidence-based knowledge on these characteristics grows, the better the psychological screening assessments will be and the better the overall law enforcement workforce will be.

Conclusions

The recruiting and hiring of minorities into policing is not an easy task. National events have made it even more difficult in the U.S. World events including terrorism and mass numbers of immigrants seeking asylum have complicated the job of law enforcement even more. The only way to be truly successful is to develop a thorough plan which is research informed and then to empower competent departmental individuals to implement the plan.

There is no question that it is critical for police departments to recruit and hire candidates who are well-qualified, well-vetted, and have strong characteristics that are documented as beneficial in law enforcement officers. Minorities in all forms must be part of the recruitment and selection process to then become included as part of the law enforcement agency. Once some diversity in hiring has been achieved, agencies must then focus on retention and promotion. This should be an ongoing process and will take time and proactive efforts to implement continuous quality improvement for increased diversity in the law enforcement environment. Unquestionably, the public and the police will reap the benefits of increased diversity within law enforcement.

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