

UCLA

UCLA Previously Published Works

Title

Hunting for bias: Notes on the evolution of strategies for documenting invidious discrimination

Permalink

<https://escholarship.org/uc/item/9t0241q7>

Author

Katz, J

Publication Date

1999

Copyright Information

This work is made available under the terms of a Creative Commons Attribution-NonCommercial-NoDerivatives License, available at <https://creativecommons.org/licenses/by-nc-nd/4.0/>

Peer reviewed

Chapter 6 in P. Ewick, R. Kagan, A. Sarat
Social Science, Social Policy and the Law
 Russell Sage, 1999.

Hunting for Bias: Notes on the Evolution of Strategies for Documenting Invidious Discrimination

Jack Katz

Since the 1950s, academic research has increasingly sought to document the reach of invidious discrimination in U.S. society. As a quick indicator of the scale of change, we can take an electronic look at the annual increases since the mid-1970s of the research literature on bias. A search, conducted in mid-1998, of the title word "bias" in *Sociological Abstracts* produced five articles for 1972, ten for 1976, sixteen for 1985, twenty-five for 1990, and thirty-six for 1995.¹ The increase in numbers is less revealing about the dynamics of social thought than is the expansion of targets. What has expanded are the background variables of interest (not only gender but also sexual orientation, not only race but ever new varieties of ethnic identity, newly defined disabilities of many sorts, and so forth) as well as the terrain on which they may be influential. Now bias is hunted, not only in employment decisions, criminal justice decisionmaking, news broadcasts, apartment renting, and real estate mortgage lending but also in the interaction that takes place in college classrooms; in the selection of research subjects for health studies; in the casual comments made by judges, employers, and virtually anyone with power; in the location of hazardous waste facilities; and in the use of nursing homes, social security, or any publicly funded service.

Outside the field of sampling methodology, the hunt for bias began in earnest only after the opening created by the civil rights

and related social movements of the 1960s. When, in the early 1970s, the "Watergate" scandals stimulated accusations of social class bias in the administration of criminal justice, an additional group of researchers joined the more general hunt for biases of political and ascribed status.²

Research seeking to document bias is a movement that has come to distinguish social thought in the last quarter of this century, but it is a movement that has not generated a collective self-awareness among those who study different institutional domains. It should now be useful to appreciate research on bias as a general wave in the history of ideas and to explore several issues about it. I first differentiate three major ways of hunting for bias that have been pursued in a range of social fields and institutions. Next, in the three sections that comprise the bulk of this essay, I describe the characteristic methodological problems that have pestered and provoked the evolution of each research strategy.

Finally, I address the natural history of bias hunting. As increasingly sophisticated methods for documenting bias have brought responsive transformations in social organizations and popular culture, there has been a patterned progression from the first to the second to the third hunting strategy, in one institutional setting after another. In this evolution, the version of evil constructed by bias researchers has been radically transformed in a direction that threatens to undermine the moral fervor of the hunt.

Three Conceptions of Bias

Wherever it is sought, both academic research and popular culture understand bias in one or another of three ways: as personal psychological prejudice, as disproportionate organizational outcomes, and as systematic imbalances in pressures on decisionmakers. These constitute three contrasting ontologies of bias, three understandings of where and how bias exists. The first two are well known in legal, popular, and research cultures; the third is a familiar form of popular cynicism but has developed with less fanfare in social research.

The three strategies of hunting for bias sometimes converge, but they often produce very different results. In the employment area, for example, an interview study may successfully hunt out hidden prejudices by asking employers to comment on their attitudes toward

employment applications that vary by race. But an outcome study may show that a disfavored group is, in any case, disproportionately *overrepresented* in the ranks of those employed by the prejudiced employer. And a study of the interaction processes through which the employer in fact makes hiring decisions may explain why (see Waldinger 1997). The employer may be prejudiced to hire Asians rather than Latinos, but he may never get to make a decision on Asian applicants because Latinos fill job openings before he knows that vacancies exist. This occurs because Raul only informs the employer that he is leaving his job after he has lined up his cousin, Luis, as a replacement. Presented with a problem that was solved before he confronted it, the employer is tempted to disregard his prejudices because, if he goes to the trouble of advertising and recruiting Asians and they do not turn out to be better employees than Latinos, he will have been a fool three times over, first for losing the opportunity to allow Raul to solve his immediate problem without cost, second for hiring an undesirable employee that he now will find costly to dismiss, and third for taking the risk of alienating Raul and his circle or at least for sacrificing an opportunity to underwrite his relationship with them.

Consider also the varying pictures of bias that the three strategies may provide when applied to news media coverage of environmental issues. A content analysis of news shows may reveal that the comparative ratios of positive and critical items in the editorial language used by broadcasters favor environmental groups over their industry targets, suggesting a "liberal" bias among news workers. But an outcome analysis may show that, somehow, corporate spokespeople get more airtime than do environmental advocates (Danielian 1994). And a study of the practical construction of news programs is likely to show that editors and producers more regularly and more diffusely anticipate how corporate sponsors, as compared to environmental activists, may react to news broadcasts.

The three strategies may also lead in different directions when they are used to hunt for bias in the administration of criminal justice. Observers may code police personnel as expressing racist attitudes toward African American juveniles. An outcome study may show that the race ratios in juvenile arrest statistics reflect the race ratios in victim complaints. And studies of how court personnel arrange punitive and rehabilitative treatments with residential place-

ment officials are likely to find that courts find it substantially easier to negotiate understandings that place white, as compared with black, delinquents in minimally restrictive supervisory facilities.

Of course, the findings of the three strategies for documenting bias may converge, but it is characteristic of the hunt for bias that a given study will pursue one or the other, but not all three, and hence will never confront the possibility of divergent outcomes. Hunters of bias as personal prejudice tend to be researchers who devise survey research questions. Bias is often documented in organizational outcomes by researchers who analyze statistics produced by others. And bias as differential pressures on decisionmakers is typically the province of ethnographers. In a way, the isolated pursuit of each hunting strategy speaks to the segregation of groups of social researchers, a division that is in the first instance methodological rather than self-consciously moral or political. As these examples show, it is not clear that each strategy has a consistent ideological undertone, at least not in terms of left and right, liberal and conservative, critical and quiescent. Indeed, the literature is replete with findings that appear to surprise and even disappoint the researchers themselves.

Spoiled Psyches

A generation before the civil rights successes of the 1960s, what came to be targeted as bias was studied primarily as a matter of personally held prejudice. When the existence of bias was *de jure*, a matter of group pride, and explicit in the social practices often referenced as "Jim Crow," social researchers still hunted bias, because not everyone embraced, or equally embraced, cultures of prejudice. But with prejudice so openly trumpeted, researchers, in order to warrant their efforts, had to probe the subtleties of personal attitudes and the features of individually held stereotypes in order to find something that, having been hidden, could be revealed.³

In this period, psychologists and survey researchers led the way. Posing questions to respondents, university researchers might vary the settings in which fictional blacks were placed in order to elicit evidence of bias. If more positive opinions were expressed about blacks who were described in a nonstereotypical black setting or in a more elevated social status, the researcher could take for granted that prejudice accounted for the more negative opinions of blacks described

in a lower status (Westie 1953) and in a more stereotypical setting (Riddleberger and Motz 1957). In surveys, predefined indicators of biased attitudes were administered to large populations, usually with disturbing results (Selznick and Steinberg 1969).

Sociologists with a flair for investigative innovation marked out the field. Playing off of informal "stooge" experiments (or "auditing" studies), they might match black and white restaurant customers to see if they received differentially respectful treatment (Selltitz 1955). Or they might craft variations in applicants' biographies and mail them according to quasi-experimental design procedures in order to see how employers would respond to varying indications of applicants' criminal records (Schwartz and Skolnick 1964).

On the ethnographic side of research before the 1970s, investigators rarely adopted participant observer roles as members of dominant groups in order to document the workings of prejudice. Instead they either came as outsiders or passed as members of groups victimized by prejudice in order to write narratives in which they documented the socially pervasive and personally intimate reach of biased customs (Griffin 1961). In the innocent (unsuspecting) times before the civil rights era, student ethnographers could readily document expressions of racial prejudice among officials. Police in northern cities seemed to assume that anyone, or at least any white researcher who hung around them for a while, would sympathetically understand their symbolic and physical violence against blacks (Westley 1953).

A long history of "whites only" signs, law school entrance criteria that rejected female applicants out of hand, and formal newspaper affiliations with political parties created warrants for a generation of researchers who could expect to bag abundant evidence of abiding prejudice just under the surface of recently adopted masks of equal treatment. Although other methods for hunting bias have become more prominent in the past twenty-five years, the hunt for signs of personally held, invidious stereotypes remains vigorous. Despite the fact that overt discrimination is now taboo, researchers still can make major trappings of explicit prejudice. Thus in their recent research on racial discrimination in employment, Kirschenman and Neckerman (1991) interviewed Chicago-area employers and found them egregiously using invidious racial stereotyping. Similarly, in recent studies of juvenile criminal justice processes, researchers found police,

prosecutors, judges, and social workers using stereotypes about the black family in order to justify less favorable treatments for African American juvenile defendants, even without evidence that the specific youths in question were in fact members of families that fit the stereotypes (Frazier and Bishop 1995).

If the outlawing of explicit prejudice has not pushed the use of invidious stereotypes into private reserves that social research cannot penetrate, still there is reason to believe that bias, as a psychological disposition, has become a more closely held matter. Accordingly, after the 1960s academic researchers and lay interpreters of popular culture began searching for new ways of revealing hidden psychological bias. Survey researchers began looking for race prejudice that hides behind respondents' overt affirmation of principles of equal justice but that may be elicited by asking about their support for the government's implementation of abstract values (Sears, Hensler, and Speer 1979).

As sanctions for discrimination were developed, researchers could expect that the evil they hunted would change form. If prejudice must be exercised under greater cover, then the prejudiced decision-maker is likely to search for new, more indirect indicators of whether people fit into favored or disfavored categories. If, for example, employment applications must not ask directly for racial identifiers, then race-prejudiced employers need to develop a folk understanding of the relationship between race and biographical matters that legitimately can be requested of applicants, such as residential address. Similarly, with the news media under pressure to justify the identification of race when reporting crime, bias hunters have reason to suspect that news readers and news writers have begun a silent collaboration to settle on new conventions to convey and recognize racial identity. As a result, one direction in the hunt for psychological bias that has emerged since the 1960s is the detection and documentation of its folk-recognized handles or "code language." (On perhaps the most famous instance in recent political history—the "Willie Horton" phenomenon—see Feagin and Vera 1995, 114–24.)

An evolving part of this symbolism of evil is the development of *res ipsa loquitur* indicators of personal prejudice. Certain pejorative terms for indicating people's ascriptive characteristics—"nigger" being the most prominent, "queer" and "PMSing" being perhaps the most recently condemned—have, since the 1960s, come to be un-

derstood as possessing a negative sacred force so destructive that their expression creates a virtually un rebuttable sign of prejudice when used by people to describe other kinds of people. In popular culture, symbolic indicators of personal prejudice are now treated as so diabolical that they cannot be used safely in many situations in which they were used casually before the 1960s. The hunt for bias as personal prejudice proceeds in tandem with popular cultural codings of the evil. As the eponymously named Earl Butz unwittingly demonstrated more than twenty years ago, joking by an official at the expense of an ascriptively designated group can now let loose spirits of humor that may quickly turn self-destructive if the audience is expanded to include representatives of the "others" who are being ridiculed.⁴ Social researchers follow a parallel logic of presumptive damnation, for example by coding as sexist broadcasters' descriptions of female athletes as "girls" (Sabo and Jansen 1992).⁵

The hunt persists for indicators of prejudice that are still emitted by the unwary. For example, U.S.-born Asian American university students often spice autobiographical statements in their graduate school applications with indignant recollections of remarks such as "How well you speak English!" or "You don't have any accent," which they offer up as obvious indicators of racial prejudice. And researchers, somewhat paradoxically using their own stereotypes with some success, search for overt expressions of invidious stereotypes in what they presume have been backwaters to progress. Criminal justice researchers must look for the old ways in increasingly out of the way locations, such as in rural and small town courts as compared to large urban jurisdictions (Feld 1995).

Obstacles to Trapping Bias in Psyches

Personal prejudice, conceived as a stained state of mind, a spoiled quality of character, a perverse outlook, a corrupted predisposition, or a hostile set of attitudes, calls the bias hunter to an essentially hermeneutic task. One serious problem with discerning the spirit behind an expression is that of determining what Erving Goffman (1974) has called the "frame" and the "key" of an expression. (Currently, analysts of "postmodern" life address these issues as matters of "irony.") A judge in open court refers to a litigant before him as a "nigger." The local district attorney quickly demands that the judge be removed from the bench. But the judge does not step down. Instead he contacts friends in the local civil rights organizations in which he has long been

active, and they help to create a setting in which he can get a hearing for his version of the event, which is that he was mocking the racist perspective of a litigant in the case before him.⁶

Social research is not exempt from similar risks of imputing prejudice in circumstances where an expression may be heard in a different key by interviewer and interviewee or by third parties to the interview who may come on it later. Do we understand Mark Fuhrman's use of "nigger," in an interview with an aspiring script writer, as motivated by racist passions, as a private joke about what Fuhrman took to be the interviewer's prejudices about white L.A. policemen, or as an unsolicited audition, an effort to enact a screen-worthy racist cop?⁷ Without a clear understanding of the frame (the interaction context) and the key (the nature of personal involvement) in which an expression is uttered, the analyst lacks a firm basis for imputing prejudice to an interviewee.

In social research today, there is often an awkward struggle as interviewees, anticipating that their opinions might be construed as racist, try to work out a key to share with an interviewer. One can detect an unsuccessful effort by interviewee and interviewer to establish a common key in the following passage from a much-cited study that attributes "racism or discrimination as a significant cause [of blacks'] disproportionate representation" among the jobless. The interviewee is described as a suburban drug store manager.

Interviewee: It's unfortunate, but, in my business I think overall [black men] tend to be known to be dishonest. I think that's too bad, but that's the image they have.

Interviewer: So you think it's an image problem?

Interviewee: Yeah, a dishonest, an image problem of being dishonest men and lazy. They're known to be lazy. They are [laughs]. I hate to tell you, but it's all an image though. Whether they are or not, I don't know, but it's an image that is perceived.

Interviewer: I see. How do you think that image was developed?

Interviewee: Go look in the jails [laughs]. [Kirschenman and Neckerman 1991, 221]

Any uncertainty in the interpretation of what this transaction means about the interviewee's racial attitudes, such as precisely why he is

laughing, apparently is to be resolved by the reader joining with the authors in silently snickering contempt.⁸ But in order to understand this employer's laugh as evidence of racism, one must presume the existence of the employer's racism that the data are supposed to demonstrate.

Where the issues of frame and key are not in doubt, the effort to establish bias may falter on the need to impute a broader substantive context in order to understand whether *res ipsa loquitur* indicators of prejudice are indicating favorable or unfavorable attitudes. If black athletes are more often described by sportscasters as "naturally talented," is that an insulting imputation of biological predetermination to nonintellectual careers or a metaphor expressing aesthetic dimensions in observed performance (Sabo and Jansen 1992)? When judges use terms of endearment to address female attorneys, are they imposing gender-specific obstacles, offering opportunities for adversarial maneuvering, or enacting innocent rituals such as the still-acceptable gender references "Mr." and "Ms." (Riger et al. 1995)? There is a difference in treatment, but what the difference means, indeed whether such expressions even raise a *prima facie* case of prejudice, depends on whether one assumes that consequential practices are nonrandomly related to the difference in expressions.

The problem of how to read such expressions is one that distinctively haunts the search for bias in the form of psychological prejudice, as opposed to studies of bias either as differential outcomes or as nonparallel pressures anticipated by decisionmakers. The other two methods of hunting for bias are not faultless, but neither do they play so closely with the lid of this particular Pandora's box. For even when prejudice is established, it is another matter to demonstrate that the personal outlooks of decisionmakers play a significant role in influencing the distribution of rewards and penalties to cases. What may be at stake may be only the appearance of unjust treatment. Only in some institutional arenas, such as the administration of criminal justice, do such limited findings reliably constitute grounds for objection.

The Moral Career of Stalking Prejudice

One of the virtues of the search for bias in the form either of outcomes or of pressures in the social context of decisionmaking is the relative impersonality of the inquiry. Bias in the form of prejudice

targets individuals, and because of the characterological understanding of prejudice, reforms tend to address individual personality in a deep way. When, for example, students of bias in juvenile justice interpret the interview responses of court personnel as racist, they may recommend not only sensitivity or "diversity training" programs but also personally focused review procedures (Frazier and Bishop 1995). Triggered by the charges of coworkers and observers that casual expressions by criminal justice personnel are racist, such review procedures carry implications for the tenor of everyday work life that will be chilling for some civil libertarians.

Another problem for researchers who would document bias as a form of personal prejudice has developed in part from the very success of bias hunters in introducing bias as an interpretive category in popular culture. In a number of extraordinarily publicized cases, symbols of prejudice have been taken as sufficient to justify remedial action without the outraged audience receiving a full airing of the defense. In the O. J. Simpson case, the prosecution abandoned Mark Fuhrman after he was shown to have made apparently racist remarks of a sort that he had denied having made; no contextual account of the remarks was developed. In 1995, ATF (federal alcohol, tobacco and firearms) agents were sanctioned when a videotape of their annual social affair displayed racist signs; the sanctions were geared in part to overcome the agency's initial failure to treat the charges with sufficient concern (Michael Abramowitz, "Early 'Roundup' Allegations Were Ignored by ATF Officials," *Washington Post*, July 22, 1995, p. A1, col. 4). The Texaco corporation recently issued an apology and settled a pending multi-million dollar claim shortly after the broadcast of an audio recording of executives' seemingly racist conversations.

The very speed at which controversies like the Texaco matter are settled deprives researchers of the evidence on contextual meaning that a vigorous defense would provide. On closer listening, it appeared that the Texaco executives had not used the word "nigger," as originally reported, and that another phrase that initially seemed to reek of prejudice (a reference to "black jelly beans") was a reference to a metaphor used by a human relations consultant employed by the corporation (Kelly 1996). The incident less clearly demonstrates that large corporations are racist than that their concerns about public image overwhelm their interests in creating a clear public record on the question of whether they are racist.

Such public events, by promoting a widespread understanding that allegations of racist attitudes can be explosively powerful, have far-reaching consequences for researchers who would hunt for bias in the form of personal prejudice. Prejudice is flagged with increasing ease even as resources for its documentation become more restricted. Recall the uneasy character of the interview noted above, in which a drug store manager varied the tone of his comments on blacks as potential employees. The more successful the indictment of prejudice through charges aired in public discourse, the more difficult it is to interpret research interviews that seek to gather high-quality, original data on the matter.

Additional obstacles for documenting bias in the form of personal prejudice have been mounting as research practices have become more sophisticated. For decades, only whites were asked about their views of blacks, and surveys that showed a high percentage of whites agreeing with negative views of blacks (as lazy, irresponsible, prone to violence, complaining, boastful) were readily taken as shocking proof of racism. But in a recent, leading survey that included black views, the percentage of blacks agreeing with negative views of blacks exceeded the levels reached by white respondents. Sniderman and Piazza (1993, 45) comment on results from the 1991 National Race Survey (which interviewed 1,744 whites and 182 blacks):

Whenever there is a statistically significant difference between the views of blacks and whites, it *always* takes the form of blacks expressing a more negative evaluation of other blacks than do whites.

What if everyone is prejudiced? For social researchers, such findings challenge the process of characterizing some people as "not prejudiced" and, hence, what it can mean to be prejudiced. Similarly, if black employers have views of black job applicants that are similar to those of white employers, does that not bear on the understanding that the latter's views are racist (Wilson 1996)?

The interpretation of prejudice has become more problematic, not only because of increases in popular motivations for making charges of traditional forms of prejudice but also because of an enlarged understanding of what people can be prejudiced about. A recent study of a focus group discussion conducted in Los Angeles shows Latino, Chinese, Korean, and black participants all understanding that prej-

udiced attitudes impair their job chances. It also found "Anglo" women seeing that, with regard to promotions, "it's the boys' club" that determines who moves up. And "Anglo" men, lacking ethnic and gender bases for seeing themselves victimized, had no difficulty finding that prejudice hurt their chances because they lacked a kinship bond of the kind that is acquired through one's educational experience.

I don't know if I want to clarify it in terms of an ethnic group. I would say, you know, maybe that it's all the same fraternity or something like that. Or went to the same school together. [Bobo et al. 1995, 75]

At some point, the proliferation of symbols that people are willing to read as indicia of prejudice forces research on personal prejudice to take on hermeneutic burdens that would make a literary critic jealous.

Further complicating the interpretation of expressions of prejudice are the new ascriptive rules of deixis that have developed for distinguishing ironic and other uses of denigrating terms. "Nigger," pronounced by blacks, is now presumptively understood as an ironic usage, while its use by nonblacks is presumptively treated as strictly liable. It now takes substantial argumentation to offer an ironic reading of defamatory racial and gender terms when they are used by people who lack the biological bona fides to put a self-effacing gloss on them. A sharp split between a richly nuanced and a straight, serious reading of the same expressions, depending on whether the defamatory term is self-indicating or not, has become familiar in American popular culture.

This split has been institutionalized commercially by the development of a segregated culture market in which ascriptively licensed merchants, such as "rap" singers of popular music and autobiographical performance artists, sell ritualized expressions of prejudice to the masses, sometimes with fabulous success. The public sensitivities developed since the civil rights era have been exploited to create a series of monopolies for ascriptive groups (ascriptive by ethnicity, gender, sexual persuasion, disability, and so forth) over an emotionally supercharged part of the national cultural marketplace. But if public discourse can sustain an increasingly clean line between subtle and simple readings of expressions of personal bias, academic

researchers find this hermeneutic schizophrenia increasingly difficult to manage.

Students of bias-as-prejudice understand that there are interpretive dangers in their methods, even if they do not fully acknowledge them. Study after study begins by claiming, in its title and opening paragraphs, to document prejudice as a feature of personal psyche, but in the quick of the hunt the search almost always becomes a study of *perceptions* of prejudice. Researchers of prejudice appear to know that they cannot in the end finesse the challenge that called them to the hunt. They often slide between, on the one hand, careful descriptions of their findings, which are the perceptions of one set of people that another set is prejudiced and, on the other, groundless claims of having bagged the evil itself. Authors of studies on prejudice often try to let passages such as the following slip by, but some necks will snap in the reading:

Presence of Bias [a category used in the author's analysis] refers to the belief in the presence of discrimination. Women in this study perceived more bias than men, and lawyers perceived more than judges. Identifying the extent of discrimination may be the first step in correcting the problem of gender bias. [Riger et al. 1995, 478]

Given the challenges of documenting prejudice in a historical epoch when prejudice is no longer proud of itself, those who would rely on perceptions of bias to establish psychological prejudice risk discovering, at the end of the chase, that they have been playing a virtual reality game.

To review, the documentation of personal prejudice has developed through three historical stages of research. From the 1940s to 1970, social psychological research was inspired by a definition of the prejudiced person as one who held negative racial ideas that were resistant to factual argumentation. The image of the biased person as a nonrational, emotionally governed, thick-headed sort was popularized in application to anti-Semitism (see, for example, Allport 1954; Selznick and Steinberg 1969).

This first stage of research began to be overtaken by methodological critiques and historical changes in the 1970s. Critical voices began to shake the faith that the line between fact and fantasy, or emotion and reason, was as bright as the early researchers had assumed. What level of proof should be necessary to discount asser-

tions that Jews were clannish and tricky in business (Seeman 1981)? At the same time there was a major downward shift in respondents' declarations of prejudiced principles or "overt" racism. Whites dramatically stopped expressing views of inherent black inferiority and began embracing the ideal of desegregation (Schuman, Steeh, and Bobo 1988). A new generation of research would have to find prejudice in more subtle forms if it was to find major groupings of prejudiced psyches.

Accordingly, in the 1970s the documentation of personal prejudice entered a second stage by introducing a metaphysical distinction, one between what people *say* they believe about race relations and what they *really* believe. If respondents no longer voiced favorable views about the maintenance of racial barriers and segregation, they could still be considered racist if they opposed the implementation of programs to redress the inequalities that had been imposed on blacks (Sears, Hensler, and Speer 1979). Implementation—practical government actions to promote equality—was real stuff; ideals and principles were something else, something morally and psychologically less weighty. Now evil intent and spoiled personality could be scientifically found behind the opposition to progressive policies.

By the 1990s, both the straightforward interpretation of individuals' characterizations of racial groups as indicating prejudice and the metaphysical interpretation of conservative policy views as indicating prejudice were seen to be on shaky grounds. Some governmental efforts toward equal treatment, such as busing, had long been opposed by whites at levels so high (near 90 percent) as to make questionable the reading of policy views as signs of prejudice. But now opposition to busing began growing to substantial levels among blacks. As whites' negative statements about blacks continued to decline, and as whites' support for egalitarian and integration ideals continued to increase, a new generation of bias hunters began to question the logic of the earlier metaphysical distinction (Bobo 1983).

Advances in methodological sophistication created a new dilemma to confound the documentation of personal prejudice. In "experiments" that varied the order in which survey questions were put to respondents, it was found that people who voiced their views of blacks before they were asked for their views on affirmative action were *more positive* about blacks than were people who were first asked

their opinion on affirmative action and then asked for their views on blacks. Racial hostility explained little of the variance in opposition to affirmative action, in part because that opposition was so intense and widespread; but asking about the issue of affirmative action significantly increased the expression of interracial hostility (Sniderman and Piazza 1993). Social survey researchers have reason to question their contribution to popular culture if, by hunting bias enthusiastically, they are stirring the dogs of prejudice to leap out of subconscious caves.

Experiments within surveys (randomly assigning to respondents questions that differ in strategic ways) have improved the ability to ferret out a significant level of prejudice in the forms of personal dislike and pro-segregation sentiment, and to show that such traditional racism is still biasing views against pro-black policies (Schuman and Bobo 1988). But for over twenty years the big game in the survey hunt has been "new," "subtle," or "symbolic" racism (Sears et al. 1997), a target pursued in a way that is circular, logically and perhaps empirically. Respondents' views on race issues (for example, believing that most blacks on welfare could get along without it or that the position of most blacks has improved in recent years) are used to impute "symbolic racism," which is then used to explain views on (other) racial issues (for example, busing and affirmative action). Neither empirical grounds nor explicit definitional criteria justify labeling the independent variable as "racism." Thus, ironically, the effort to demonstrate underlying bias in the form of irrational prejudice at most can show rational consistency in overt policy views. (Compare, the argument by Sniderman and Tetlock 1986.)

More subtly, these bias hunters disregard that white opposition to race-specific policies may itself increasingly be in opposition to imputations of racism. The researchers imagine that when people are polled, the questions elicit buried or covert thoughts and feelings about stereotypical blacks. But perhaps "symbolic racists" are in a different discourse, one directed at advocates, whatever their race, who would arbitrarily denigrate people as racist. As culture wars have exploded in the twenty years in which "symbolic racism" has been hunted, the survey researcher's shotgun has become so bent around that it risks hitting, not racist respondents but respondents' opposition to a perceived mass of racial moralists consisting of politicians, culture commentators, and social scientists who would im-

pute the powerfully insulting term, racism, without a demonstrable warrant.

Attacked both as a politicized corruption of scientific research (Tetlock 1994) and as politically naive for failing to recognize the ubiquitous interpenetration of racial and social views (Bobo 1998), some advocates have retreated from "symbolic racism" to "racial resentment" (Kinder and Sanders 1996), and some leading survey researchers carefully avoid provocative terminology altogether, preferring neutral language about "racial attitudes" (Schuman et al. 1997). The central finding on "symbolic racism," that a large segment of the white population has views on race issues that are, presumably, offensive to most blacks as well as independent from both the liberal-conservative split and from overt expressions of racism, remains robust. But "symbolic racism" researchers have not explored the context and meaning of respondents' expressions sufficiently to determine whether that body of opinion should be denigrated as racist and dismissed, or explored as an outlook in contemporary culture wars with historically emergent meanings for its adherents. (The possibility that the same race questions change their meaning over time is noted in Schuman et al. 1997, 193, 327). Significantly, when researchers look for "subtle prejudice" they typically exclude "minority" respondents (for example, Meertens and Pettigrew 1997), a move that conveniently sidesteps the challenges that would be posed by the substantial proportions of minority respondents who share some of the responses that are systematically labeled "racist" when attributed to whites (Schuman et al. 1997, 251, 257, 308). Imputing "racism" or "prejudice" without an evidentiary base of the traditional anti-black affect and pro-segregation sort and without explaining what "racism" means when the label is stamped on views shared by whites and at least a significant minority of blacks, increasingly seems to be an outworn rhetorical strategy that risks intimidating discussion and hindering research progress.

The certainty with which social researchers originally took for granted statements about blacks and Jews as indicating prejudice has been deeply shaken. When respondents do not agree to characterize themselves as racist, bias hunters are hard-pressed to find the methodological authority with which to confer the label. If, to boot, survey researchers intensify intergroup hostilities by searching for psychological bias by asking questions about controversial public policies, what is left to call hunters to the chase?

Organizational Outcomes

The normative theories for independently condemning bias as personal prejudice and as organizational outcomes have been discussed for thirty years now, perhaps most elaborately in the context of race and employment opportunities (for example, Fiss 1971). It is now widely taken for granted that, without any evidence about what decisionmakers in the system think or how they make decisions, researchers can document bias by showing that:

- Arbitrators' outcomes favor employees over employers (Bingham 1995).
- The news media broadcast the comments of noncandidates in presidential campaigns disproportionately from the liberal side (Lowry 1995).
- The sons of well-educated and occupationally elite fathers were underrepresented among Vietnam-era soldiers (Wilson 1995).
- A lower percentage of female than male students speak up in university classes (for a review of several studies, see Brady and Eisler 1995).
- A higher percentage of black than white juveniles are detained after arrest (studies cited in the following section).

If a question is raised as to how the biased outcomes are produced, the researcher can, without fixing blame on personnel of the organizations studied, point in one of at least two directions. First, one can indicate the organization's role in giving institutional form and specific personal impact to prejudices that operate outside a decisionmaker's jurisdiction. For example, if blacks are incarcerated in disproportion to their representation in the general population, but in proportion to their representation among arrests, one may still treat the imprisonment decision as racist by suggesting that judges carry forward the racism that governs the decision to arrest or, even without alleging prejudice among police, by suggesting that racial bias in employment opportunities explains racial differences in criminal conduct. Judges, in this view, unwittingly join forces with the racism that persists somewhere outside the criminal justice system.

Second, one may invoke understandings of deeply institutionalized cultures of prejudice to rebut claims that differential outcomes equitably reflect differential performance. In this manner, one may dismiss evidence that women fare less well in promotions in sales jobs because they are less "aggressive." One may argue that "aggressiveness" has become part of a gratuitous general conception of sales work, a culture shared by men and many unenlightened women (Eichner 1988).

For many bias hunters, the methodological issue is solely a technical matter of comparing two definitions of a population, the one generated by the possibly biased institution and another generated by independent, morally neutral criteria. The model for this methodology is the long history of research on sampling bias. The definition of a population produced through a given sampling procedure, say a telephone sample survey of residents, is compared with a door-to-door census in a small geographic area or perhaps with a mail sample survey. The results of the telephone sampling procedure will be "corrected" by the results of the independent census or sampling procedure, either on the presumption that the census is more accurate or on the view that neither the telephone nor the mail sample is more correct but that a weighted average of their findings is more likely to be near the true distribution of population than is either sample considered alone.

Similar weighting techniques for correcting organizational biases have been proposed in various institutional areas. "Affirmative action" is understood by some of its proponents as a correctional weighting procedure for employment opportunities, independent of any proof of personal bias against qualified applicants by employers, on the view that the principle taken from the Declaration of Independence, that "all men are created equal," provides a morally binding, irreducible, independent measure of the population picture that organizational action should, in a scaled down version, reproduce. If applicants are not equally qualified, the principle of equal human worth, or competency in an existential sense, means that bias must have operated somewhere in the background, and there is no need to specify where, how, or by whom. To insist that the victims carry the burden of proving how bias was operationalized by social machinery is, in this view, to compound historically rooted injustice or, in a resonant contemporary phrase, to blame the victim.

Obstacles for Capturing Bias in Organizational Outcomes

The strategy of studying outcomes to establish bias faces a distinctive series of interpretive problems. One of the virtues of a conception of bias as a matter of personal prejudice is that, given a common cultural history in a society, one would expect prejudices to run consistently in a given direction through a multistage person-processing system, for example against rather than for blacks, all the way from hiring through the various stages of promotion in an employment career, and for rather than against white-collar defendants over the stages of criminal case careers. But outcome studies, once they begin to get even moderately complicated in modeling organizational processes, describe outcomes at successive stages of case or career processing, and the outcomes often are not consistent in the direction of advantage they describe. Barriers to employment at one stage may be reversed by affirmative action at another.

In a frustrating paradox for those who hunt bias in outcomes, bias appears to be systematically less visible in the final stages of case processing and career development where decisions are themselves more visible. This paradox is captured by the image of gender and ethnic "glass ceilings" in occupational careers. Since most organizations have fewer positions at the top of their hierarchies, the "n" of employment decisions becomes smaller at higher levels. Employment decisions at the top will be relatively more visible because they generate a relatively small database and because decisions on top jobs get unusual attention from internal and external audiences. But the inputs to employment decisions at the top, and thus the workings of any bias that may be present, are less visible because they are more idiosyncratic, making it harder to compare candidates. "Leadership" requirements are in a sense systematically invisible because they are about the ability to respond to unprecedented circumstances—the unknown. It is easier to write a job description for the work demands of the past than for those of the future.

The paradox of lesser visibility of bias in outcomes later on in employment careers has a parallel in the processes of criminal sentencing in juvenile (Dannefer and Schutt 1982), death penalty (Baldus, Pulaski, and Woodworth 1990), and white-collar cases (Wheeler, Weisbud, and Bode 1982). Let us assume that in the early stages of official action to create criminal cases, biased processes of sifting evidence give white and high-status defendants disproportionate op-

portunities to escape punishment. (This is, in fact, so, as I argue later, because bias in the earliest stages of white-collar, as opposed to street crime, case-making is more often a matter of unrecorded shifts in the direction and intensity of a suspicious gaze.) At later stages of decisionmaking, white-collar crime law enforcement officials respond to "cases," that is, to a formally documented pool of matters: arrests, referrals from investigating agencies, dossiers summarizing grand jury inquiries, and so forth. A bias toward capturing white-collar crimes early in the process would tend to make the cases addressed by officials at later stages especially egregious offenses. Officials at later stages will then seem to be exercising a neutral or even reverse-bias treatment of a class of suspects that was handled with special lenience at earlier stages (Berk and Ray 1982). Thus at the stages of case processing where the data for outcome studies are most "hard" (accessible, formally equivalent, and routinely and reliably produced), bias is likely to be least in evidence or, worse, to be systematically misleading. Put in other words, the most methodologically defensible outcome studies of bias in criminal justice administration are themselves biased against documenting bias accurately.

Another common methodological problem arises from the failure of organizations to specify formally the contingencies of their decisionmaking. "Comparable worth" and other studies of bias in employment generally begin by contrasting how two groups are distributed in applicant pools and how they are represented in job offers, promotions, or wage and benefit rates. Researchers then investigate whether differences in group outcomes may be explained by differences in the work that group members do or by the qualifications that they possess. But employers are not necessarily able to state, with a formality that would facilitate social research on bias, the considerations they use in sifting job applications. Outcome studies often reach a kind of standoff in which researchers, having demonstrated group differences in rewards that cannot be explained by existing, legitimate, measurable differences among members, confront employers who in effect will not reorganize their decisionmaking routines to produce data on as-yet unmeasured differences unless researchers can make not doing so very costly. But the bias hunter's ability to increase the pressure on employers hinges on the credibility of the case about bias that can be made with existing data. The debate here runs into a cul de sac over the question, who has the

burden of coming forward with improved data, the social researcher or the employer? From the side of the social researcher, it is tempting to expect work organizations to reconstitute their operations so that they could be more easily studied. From the side of the employer, changes in operating or even documentation procedures might be appropriate if existing practices are biased, but that is the very matter at issue.

A similar problem haunts outcome studies of bias in all institutional settings. Social researchers typically come to the organizational targets of their inquiries relatively ignorant of traditional local procedures and culture. The measures of outcome that researchers devise often initially show bias, but they also show signs of artificiality. Thus a highly systematic study of news broadcasts may show a bias in favor of industry representatives, as opposed to consumer or environmental groups, in measures of spokespeople given airtime (Danielian 1994). But the initial posture of news stories involving industry and consumer/environmental conflicts is almost always critical of industry rather than of consumer/environmental groups. It is the forest cutting, air polluting, or oil spilling activities of industry, not the employment practices or tax filing status of advocacy groups, that are typically the premise of the story. Thus it is not clear that a balance of spokespeople—that is, industry's equal right to defend itself—is a sensible measure of equality. Social researchers are themselves biased to ignore the issue of the framing of news stories. What determines which stories do and do not become news in the first place is a trickier matter to quantify than is interest group representation in stories that are broadcast.

A similar issue—whether the hunted or the hunter has the burden of coming forward with readily measurable evidence that would rule out hypotheses rival to an explanation of bias—arises in the analysis of outcomes in death penalty cases. Existing studies indicate that there may be racial bias in the greater likelihood of a death sentence for the killers of whites. In resisting being swayed by such proof, courts have explained that “there are, in fact, no exact duplicates in capital crimes and capital defendants”; that is, decisionmakers may have been responding to nonracial aspects of cases that escaped the researcher's best efforts at measurement. Consider the following argument, which is intended to restore force to a showing of outcome bias in the face of such a defense.

Of course, if that conclusion is correct, it casts doubt on nearly every statistical study that is offered to establish a relationship in the real world. For example, studies that explore the relationship between smoking and heart disease control for a number of variables that might explain the relationship—age, blood pressure, diabetes, and obesity, for example—but inevitably they do not consider every factor that could possibly influence the health of each particular person. [White 1991, 154]

There is, however, a key difference between the two contexts for assessing bias, one that judges are not likely to miss even if social researchers and death penalty critics would prefer to ignore it. There are numerous reasons why, with respect to obtaining better measurable evidence of causation, it makes sense to impose a burden of coming forward with alternative explanations on tobacco companies but not on the prosecution in death penalty cases. With regard both to smokers' deaths and jury decisions, we would improve our understanding of the relevance and weight of causal influences if we had a more detailed record of causal processes. Tobacco companies could obtain additional data and offer their rival hypotheses as to what factors other than tobacco cause the greater mortality of smokers, in contrast to matched groups of nonsmokers, while still making cigarettes in the same way. But the additional data that the prosecution would need to demonstrate nonracial influences on jury decisionmaking is of a different nature. Research progress in this arena is likely to depend on transforming implicit processes of small group interaction into explicit forms of self-examination. It is not clear that juries could take on the burden of, in effect, explaining their decisions while remaining juries. Judges seem to be resisting what they hear as demands that they make legal proceedings into adjuncts of research projects that hunt for bias.⁹

Several other methodological challenges confronted by researchers of bias in organizational outcomes are specific to particular institutions. Employment is a highly differentiated social institution, as compared to the centralization of the criminal justice system and the relative concentration of the news media. If outcome studies document bias in one employment sector, they may document offsetting biases in another. This complexity is not abstract; it is the reality of contemporary American socioeconomic life. Thus in Los Angeles, there is ethnic bias in employment in the garment industry, in favor

of Latinos; in public employment, in favor of African Americans; in white-collar Hollywood, in favor of Jews; and in nursing and other hospital employment, in favor of Filipinos (Waldinger 1997).

Shall we ignore the overall picture and undertake affirmative action in order to give blacks a proper representative presence in furniture manufacturing jobs and to boost Latinos to the advantages that blacks now enjoy in recruitment to public employment? Shall we aim for a society in which there is no bias in any employment sector or for one in which every group has the opportunity to discriminate within an equally prosperous zone (Glazer 1987)? Hunters of bias in organizational outcomes consistently find bias execrable in any employment area in which it is documented; but is such a stance more practical or morally superior to promoting a societal structure of offsetting biases?

The difficulty of these normative questions has methodological parallels. If we complete an analysis of bias in newspapers and major broadcast news programs, we may consider that we have covered the field because we tend to equate "the press" with these forms of dissemination, and "the press" has constitutional significance as a category. But why should we consider that a study of bias in manufacturing employment is complete before a study of bias in hospital employment has been conducted? "Manufacturing" is separate from the "health sector" and from "public employment" in various senses, but none justifies putting boundaries on the reach of social research.

If bias hunters first look at the "bottom line" of the distribution of income in different population groups, and then only look for employment bias to account for a given group's underrepresentation in income data, they may implicitly sanction biases that overrepresent the same group in other institutional sectors. And if the "bottom line" of outcomes does not show inequality, should that undermine the search for biased outcomes in particular employment sectors? The issue is not hypothetical. Over the past twenty years in Los Angeles, black working women have obtained and held parity with white working women with respect to median annual earnings (Waldinger and Bozorgmehr 1996). Does that dispose of the issue or leave the proper measure of income (such as range and standard deviations rather than just medians) as the sole remaining issue for investigation?

The administration of criminal justice presents special problems for capturing bias in outcomes. There is the problem of a lack of an

authoritative independent touchstone for assessing organizational outcomes. In the employment area, for example, the success of unusually inclusive firms in a given sector may be cited to indict relatively exclusive firms. It is, however, a tricky matter to compare criminal justice results across jurisdictions and argue, for example, that a higher proportion of white people convicted in cities indicates that there is an inequitable failure to prosecute white criminals in small towns (Feld 1995).

The problem is not that the state, through police action, provides the only reliable definition of the distribution of crime. For thirty years, it has been possible to use victim surveys to check suspicions of bias in police action against independent measures of criminality. (Twenty-year-old findings that racial distributions in police arrests roughly paralleled racial distributions in victimization surveys have not been overturned; see Hindelang 1981.) The study of white-collar crime has highlighted a more intractable problem in developing independent benchmarks for the measurement of social class equity in criminal law enforcement. For most white-collar crimes, criminality does not take a situation-specific form that would allow disinterested stranger-observers to make authoritative reports of crime. Instead if criminal intent exists, it will have been diffused through a large set of routine practices, each of which may appear normal when viewed alone. When a parking meter attendant takes a bribe, there is a specific situation for the quid pro quo that an observer or undercover agent might efficiently put into evidence; when a president takes a bribe, the quid pro quo may be diffused over years of elaborate policymaking. Victimization surveys can be used to check for race, geography, and sex biases in police arrests with respect to common crimes, but not for biases that might let white-collar criminals off the hook.

Adding to the relative invisibility of white-collar crimes, common crimes disproportionately produce presumptive evidence of criminality—brutalized bodies, broken door jambs, and stashes of contraband—that enable law enforcement officials routinely to establish that crimes have occurred even without knowing the identity of the criminals. In contrast, when political corruption cases fail, they often end with protestations that not only is the accused innocent but no crime ever occurred. The very practice of street crimes often entails creating clear evidence that a crime is occurring. In order to rob someone, it helps to convince the victim quickly and unambiguously

that he or she is being robbed. When defrauding an investor, on the other hand, it is helpful to steal a little from a lot of people, not to answer the phone too often, and to exercise the right of all innocent Americans to go bankrupt. When owners want to torch a building, they can arrange to have fires spring out of apparently negligent maintenance; without such an insider's advantage, an arsonist is more likely to leave evidence that enables fire inspectors to make presumptive conclusions that a "suspicious fire" has occurred (Goetz 1997).

Researchers who would find social class bias in the outcomes of criminal justice processing therefore must choose between the horns of the following dilemma. If they hunt for outcome bias by using victim allegations of criminality as the touchstone for measuring the evenhandedness of law enforcement response, they risk becoming the prisoner of partisan conflicts and of paranoid claims that attribute personal miseries to business and governmental conspiracies. If, however, they insist on authoritative evidence for allegations of victimization before finding bias, their procedures for documenting bias will be systematically biased against perceiving white-collar criminality and in favor of depicting street crimes.

Perhaps most troublesome to the logic of proving class bias in criminal processing is a rarely materialized but significant possibility: the prosecution of white-collar crimes can undermine the state of criminal law in a way that the prosecution of common crimes generally cannot. Vilhelm Aubert long ago identified this problem in a study of political negotiations over the criminalization of unpaid employment tax obligations in middle-class Norwegian households (Aubert 1952). Many criminal prohibitions of business and political practices were created on an understanding that they would not be broadly and vigorously enforced, an understanding reflected in limited appropriations for enforcement mechanisms. An increase in the successful prosecution of robberies and homicides is not likely to result in a movement to reduce the reach of criminal law enforcement, but a dramatic increase in tax fraud prosecution might, a sudden surge in the prosecution of international business bribery already did, and a large-scale prosecution of presidential campaign contributors and recipients very well may.

There are, then, distinctive problems of metaphysics and of political philosophy in hunting for independent measures with which to

assess social class bias in the outcomes of criminal law enforcement proceedings. These were glossed with élan by Edwin Sutherland (1940), who described corporations as guilty of crimes on the basis of records of civil enforcement actions by government agencies. But since Sutherland's expressly socialist-inspired work on white-collar crime, these problems have haunted less politically committed white-collar crime bias hunters.

Because many criminal prohibitions of white-collar occupational conduct only exist to the extent that they are not enforced, *the hunt for social class bias in outcomes is itself biased against perceiving a bias in favor of white-collar criminals*. Those who would assert social class bias in law enforcement outcomes are in the uncomfortable position of waiting until cases conclude for authoritative proof of criminality to emerge. Gaps between cases that are effectively prosecuted and white-collar crimes that escape punishment appear with great regularity, but only retrospectively. By the time these bias hunters come face-to-face with their prey, hunting season is officially over.

The Natural History of Research on Bias in Outcomes

As with researchers who would document bias in personal psyches, cultural changes since the 1960s have significantly changed the research field that is encountered by researchers who would find bias in organizational outcomes. The historical experience in death penalty research represents a general pattern of continuing evolution in various institutional areas. Beginning with *Furman v. Georgia* in 1972, (408 U.S. 238) the U.S. Supreme Court made a series of decisions in response to charges that state systems of capital punishment are racist and arbitrary. It is arguable that the effects of reform have been to diminish but also to obscure the influence of bias in the administration of death penalties. Juries are now less likely to express racial prejudice unambiguously because they are more likely to have black members. And by blocking the death penalty for the rape of an adult woman, the Supreme Court also blocked the continued production of what had been the strongest evidence of racial bias in capital punishment (White 1991, 135-63).

A novel, unanticipated upshot of making bias less visible in the outcomes of criminal justice administration has been the emergence of a conflictual and silent discourse, carried on at the tacit level of practical action more than through explicit statements, of cross-

cutting charges of bias in system outcomes. In 1992, an all-white jury acquitted Los Angeles policemen of allegations of aggression against black suspects, and then race riots were the response to what was seen widely as a biased case outcome.¹⁰ For two days, live television coverage showed blacks and masses of immigrant Latinos looting stores. In California, verdicts in the O. J. Simpson and Reginald Denny cases were widely perceived among the white population as controlled by black jurors who, it was presumed, acted in a biased manner.¹¹ The O. J. Simpson verdict was especially controversial. Black college students were shown on television celebrating the acquittal, while many white citizens understood the jury to be treating the trial as a kind of negative affirmative action case in which facts specific to a black candidate who was qualified for conviction were overlooked in favor of redressing racial bias in the outcomes of routine criminal cases. In the aftermath of the riots and the controversial verdicts, California voters passed statewide voter initiatives that limited the ability of illegal immigrants to obtain public services, that increased criminal penalties (a "three strikes" law), and that ended affirmative action by state agencies.

What role did a perception of bias in the routine workings of the criminal justice system play in producing the verdicts in the Denny and Simpson cases? What role did the riots and the controversial verdicts play in contributing to passage of voter initiatives that were hostile to minorities? When the most critical arenas for assessing bias move into the jury room and the voting booth, bias becomes especially difficult to document, given the rules of institutional secrecy surrounding both processes as well as the historical uniqueness of votes on statewide propositions and of verdicts on particular cases. This paradoxical history (in which allegations of racial bias are, in a vociferous if inarticulate fashion, addressed to secret government processes) is summed up in two new, disturbing challenges for research on bias. One is symbolized by public assertions, some offered by University of California research professors, that the state's governor was racist because he backed anti-immigrant and anti-affirmative action voter initiatives. The hunt for bias in the outcomes of voting processes is here thrown back to a rhetoric alleging personal prejudice. The other challenge is symbolized by accumulating journalistic and anecdotal evidence that black jurors across the country, believing that correction is needed for the criminal justice system's

biased outcomes, are refusing to base their judgments on evidence of individual guilt and are producing a record number of hung juries (Rosen 1997). The century draws toward a close with cross-cutting and perhaps unprecedentedly strong beliefs that racial bias rules the populist lawmaking and criminal punishment institutions of democratic government and with social researchers more confounded than ever in their attempts to find a neutral methodology to establish bias in organizational outcomes.

Unequal Pressures on Decisionmakers

A third strategy of investigation, although well represented in research studies, has yet to be appreciated as a distinct way of documenting bias. (See, for example, the review of studies of bias in Harris and Hill 1986.) As with the hunt for biased psyches, the focus here shifts back to specific individuals. However, the focus is on patterns that characterize how power wielders interact with others in their routine work practices, not on their personalities. More specifically, the focus is on actions taken toward the decisionmaker by others. Bias in this perspective is a matter of an imbalance in the pressures that an empowered person has reason to anticipate.

In Gary Becker's (1957) economics of discrimination, this perspective comes to life when the costs to an employer of not discriminating (such as reduced cooperation from an existing, prejudiced workforce) are set against the opportunity cost of lost profits that is entailed if discrimination is abandoned, the labor pool expands and wages fall.¹² If Becker's model does not deny that personal psychological prejudice is rampant, it does deny that one need be concerned to establish whether or not the employer-decisionmaker is him- or herself prejudiced. It is, in any case, much less clear how to reduce psychological pressures to discriminate than how to increase the cost of discrimination. One makes markets more competitive, for example by reducing trade barriers so that southern U.S. manufacturers must compete with foreign suppliers of substitute products.

Various research methodologies, but especially ethnographic research, tend to produce a similar perspective on bias, although they usually do so without guidance by theory or self-consciousness about the effort. Implicitly, they describe relative pressures against active and passive errors. To the extent that people are concerned about

making errors at work, their concerns take the form of either apprehensions that someone will say that they have bungled a task they attempted or anxieties that someone will charge that they failed to take on challenges that a more competent employee would have perceived and seized. When researchers become curious as to *how* organizations shape the fates of the people they process as news subjects, applicants and employees, service clients, or criminal suspects, they naturally develop materials for documenting an appreciation of bias in the interaction context of work. A similar curiosity is stimulated when researchers who have constructed statistical descriptions of outcomes at several stages of people processing attempt to make sense of inconsistent indications of the direction of bias.

Difficulties for Documenting Bias in Its Interaction Context: The Case of Class Bias in Criminal Justice

A focus on differential social class treatment by the criminal justice system reveals multiple analytical problems for hunting for bias in the constellation of pressures surrounding decisionmaking. In this institutional context it is relatively obvious that one cannot conclude the hunt by comparing how a given organization handles different types of people or cases. A similar point holds but is more difficult to see when bias is sought in employment, broadcasting, and other institutional contexts.

There is a range of social class statuses within the pool of suspects addressed by any law enforcement agency, but these differences are relatively small compared with the pools of suspects formed by the state and federal systems in the United States. Thus one of the initial problems confronted by the effort to document social class bias in law enforcement is that the researcher must comprehend and develop a common language to talk across systematically divided organizational worlds.

The challenge is made geometric by the multiplicity of cultural worlds that constitute the system of federal law enforcement, which in recent history has included postal inspectors, ATF agents, the Secret Service, the Federal Bureau of Investigation, the Securities and Exchange Commission (SEC), treasury agents, wildlife protection personnel, customs officers, specialized drug enforcement units that are mobilized and put to rest from time to time, and so forth. In contrast, local police and sheriff departments relate to city- and

county-level prosecution offices within a relatively homogenous cultural world and within a relatively simple set of interorganizational relations. If common and white-collar crime defendants are as apples to oranges, the researcher must compare how relatively simple and extremely complex social machines try to peel and crush them.

Although there are relatively tight organizational relationships between the police agencies and prosecution offices that handle the bulk of cases dealing with common crimes, the agencies that must cooperate to make federal cases against white-collar crimes are "loosely coupled" (see the application of this concept to criminal justice in Hagan 1989).¹³ As a result, a comparative study of common crime and white-collar crime law enforcement must contain two methodologically different studies. The researcher can construct an atemporal model of the ideal typical functioning of the common crime enforcement system (see, for example, Rosett and Cressey 1976). But in order to document the social realities on the side of white-collar crime enforcement, the researcher must track a series of mini-social movements in which investigative agencies push prosecutors into action and prosecutors hustle agencies to get the resources necessary to make cases.

If the documentation of multiagency, intralaw enforcement pressures presents a substantial practical challenge to hunters of bias in criminal justice administration, the mobilization of pressures by audiences outside law enforcement creates substantial problems of another methodological order of difficulty. The series of scandals known as "Watergate" presented great opportunities for documenting class bias in law enforcement, but these research opportunities were so great as to caution severely against generalizing research findings.¹⁴

What should we make of such historically heightened social pressures on prosecutors not to make the passive error of failing to pursue cases of white-collar crime that ought to be brought to justice? Do they show that the enforcement system is usually biased against common criminals and away from aggressive responses to white-collar crime? Or do they show that law enforcement is moving in the opposite direction?

This methodological problem—that the data sets for analyzing social class bias in criminal justice processing only become richly available in historically unrepresentative times—would be more manageable if criminal justice processes in the 1980s had returned to

their pre-Watergate status. But what happened was more complex. Subsequent scandals have reignited mini-waves of law enforcement against particular forms of white-collar crime. A prime example is the massive enforcement effort against fraud in the savings and loan industry (Pontell, Calavita, and Tillman 1994). The savings and loan enforcement experience and smaller-scale affairs such as Orange County's bankruptcy indicate another methodologically troublesome pattern. Unpredictable economic recessions bring business failures, which then predictably bring massive pressures from victims for governmental redress, in turn bringing even more predictable demands from legislators for investigations and prosecutions that will flesh out a moralized account of the victimization. Starts of economic hysteria and fits of morally indignant investigation systematically pattern the law enforcement effort against white-collar crime.

The methodological upshot of these fluctuations in enforcement effort is that hunters for social class bias will find a relatively stable target when examining the pressures on law enforcement against common crime but must describe a more jittery phenomenon when they try to analyze law enforcement against white-collar crime. Even though the system of pressures for and against the enforcement of white-collar crime law cannot be captured and confined, there surely is a beast out there that leaves a historical trail. The researcher must pursue that most elusive target of inquiry, a trajectory of historical development.

The Reversal of Bias in the Institutional Career of Case Processing

There is plentiful evidence that social class, considered as a matter of an individual's financial and social resources, systematically affects the fates of criminal cases (for an exceptionally useful study of the advantages that white-collar crime suspects receive from their defense counsel, see Mann 1985). When we define white-collar crimes by whether or not holding a position of trust is a distinctive resource for committing crime, there is additional plentiful evidence that social class, independent of one's financial resources, systematically affects the treatment that cases receive. However white-collar cases are defined, the different treatment they receive itself differs by the stage of case processing.

In the early stages of case development, it is easier for enforcement officials to let high-status people go and harder for officials to bring

charges against them, as compared to the situation of low-status suspects. At the time that the prosecutor must decide whether to bring an indictment, common criminals, as compared to white-collar criminals, generally have relatively few resources with which to protest their innocence. In addition, the victims of common crimes are likely to be more actively and authoritatively pressing for prosecution than are the victims of white-collar crimes such as political corruption, price fixing, and inside trading. (As noted earlier, victims of white-collar crime often do not suspect that they are crime victims until a criminal case is well under way.) With respect to white-collar as opposed to common crimes, it is relatively easy for a prosecutor to avoid *even deciding* whether or not to prosecute (Katz 1979).

In the juvenile justice system, suspects with high personal status also have recurrent, significant advantages. Middle-class juveniles enjoy such advantages when they are stopped by the police, brought to police stations for processing and investigation, considered for deferral from formal charging, sentenced to types of punishment, and sent to detention facilities (Leonard, Pope, and Feyerherm 1992). Juveniles from well-to-do families have greater resources to hire lawyers who will argue that errors are being made if cases are handled aggressively. They also have family resources that make it easy for enforcement officials to dispose of cases in ways that are less harsh for the accused. In order to get formal charging deferred, middle-class families may offer to arrange for private therapy, pay tuition at special schools, and transfer an adolescent to the home of a respectable relative. The more desirable treatment facilities are likely to "cream" the applicant pool. Even the fact that the juvenile has a privately retained lawyer will sometimes indicate to judicial personnel that the family is committed to the youth's future and that the process has in a material sense already been a punishment (Feeley 1979).

Middle-class juveniles appear to receive more personally palatable treatment than do lower-class juveniles essentially because they can facilitate the interests of the enforcement system in pursuing diversionary and rehabilitative as opposed to individual justice goals. Poor juveniles generally have fewer resources for writing compelling essays that might get them admitted to desirable treatment facilities, for arriving at interviews with admission officials with their supportive parents on hand, and for locating relatives who, without themselves displaying multiple social problems to investigating social workers,

could offer alternative residential placement. Comparing those who get sentences of confinement, poor (and black) juveniles more often get sent to impersonal, institutional facilities (Leonard, Pope, and Feyerherm 1992).

The flexible administrative framework of juvenile justice was historically based on an understanding of the need to rescue the urban immigrant poor from beginning careers in crime (Platt 1969). A richness of opportunities was created to avoid the "last resort" (Emerson 1981) of a presumably alienating period of detention. That this historical background has come to give advantages to suburban middle-class youths of native-born parents only adds irony to the injustice of social class inequalities in the enforcement system.

The substantive interests of regulatory agencies in promoting social justice inadvertently confer similar advantages on white-collar crime defendants. If securities or banking investigators approach organizations suspected of fraud with the sole intent of making a criminal case, they are likely to proceed in ways that will bring loud protests from persons other than the target. (On the following, see Shapiro 1985; Pontell, Calavita, and Tillman 1994.) Some victims will pursue civil remedies, which may be more difficult to mount if civil discovery becomes clouded by a pending criminal investigation; courts may effectively block civil recovery if a criminal action is filed. Some investors will not yet have lost money but will certainly lose if the suspect institution goes bankrupt after being criminally charged. Interest group observers may argue persuasively to legislators that the industry as a whole would have better protection if oversight agencies would give priority to widespread compliance rather than to isolated criminal prosecutions. By restraining its ability to develop criminal cases, an oversight agency has a powerful tool with which to induce cooperation in the implementation of old and in the development of new regulations. Anticipating how these third parties may respond, the agency develops an acute self-consciousness about the costs entailed, should it move ahead with criminal prosecution.

In contrast, the police may have a great variety of noncriminal law enforcement functions to perform (Bittner 1979), but when they arrest an adult for a common crime such as robbery or car theft, they are rarely interested in a multiplex relationship aimed at reconstructing the suspect's life in the community, much less the lives of people similarly situated.

Goals of social justice produce advantages for people of high status in the early stages of both the administration of juvenile justice

and the regulation of white-collar occupational deviance. In both areas, legality, or the goal of treating alike cases that are similar from the standpoint of the suspect's culpability and without considering the consequences of prosecution for third parties, is compromised because of mandates to protect the weak. Regulatory agencies that oversee businesses generally profess the goal of making investment and consumer markets equally secure for participants whatever their social status, a service that the smaller investor and consumer especially needs. As a general matter, the bigger the business firm, the greater the number of consumers and investors it serves, and the more significant the protection that an oversight agency can obtain by forgoing criminal law enforcement in favor of modified business practices.

Later in the administrative careers of common and white-collar criminal cases, the imbalance of advantages generally diminishes and in some respects reverses. In many district attorneys' offices, plea bargaining that reduces or dismisses an official charge is closely supervised and regulated in contrast to the discretion exercised by police on the streets and in the stationhouse.¹⁵ There is a concern for the appearance that the record will have for journalists and political opponents, both as to the conviction rate and as to the criteria for downscaling charges. In effect, at this point in its development, the process of handling a case creates records that make it feasible for new types of outside audiences subsequently to review administrative action, and that possibility, by way of anticipation, enters the immediate interaction context of decisionmaking. To the limited extent that middle-class juvenile or adult defendants are part of the pool of those charged by city and county prosecutors, advantages they enjoyed earlier in case-processing history are likely to diminish. Indeed, the demand by the U.S. electorate in recent years to create greater vigilance against the error of not punishing the guilty has led to a series of mandatory sentencing and virtually mandatory charging laws that increasingly specify the outcomes a prosecutor must seek.

When enforcement agencies address white-collar crimes, a reversal of bias develops near the stage of bringing formal charges. Resources aiding the making of criminal cases routinely turn up unexpectedly in white-collar crime investigations. In order to figure out how criminality was arranged and how high culpability reaches, investigators commonly need the cooperation of insiders. The probing that is necessary to document the culpability of a given white-collar criminal is likely to turn up numerous crimes committed by others.

Moreover, when investigative agencies are highly selective and engage in substantial case preparation before referring cases for prosecution, they are likely to develop relationships with prosecution offices that bring them high rates of case acceptance.

The reversal of an earlier bias in favor of white-collar crime suspects occurs in part because prosecutors believe that this pattern is generally understood to exist.¹⁶ When investigative agencies and prosecutors decide to commit themselves to "make" cases of white-collar crime, they often target individuals and organizations, allowing the charges to take whatever fortuitous forms they may. Often charges are brought under such substantively uninformative and morally uninspiring rubrics as making "false declarations" to the government. What becomes key for the prosecutor is the construction of a melodrama in which "the capacity of law enforcement" triumphs over the toughest obstacles and brings down the most powerful operator in the criminally stained institutional area. To the prosecutor in the federal system, these symbols make sense; he or she presumes that there is a professional audience—in federal law enforcement communities, on the local federal bench, in the local bar—that will appreciate the significance of the case in these terms. Thus it is common to find prosecutors boasting of having successfully brought the "first" case of a given type, as if someone is keeping count.¹⁷

The upshot of this law enforcement culture is that, when prosecutors are assessing a well-developed investigative file, a suspect's high social status becomes a heavy disadvantage. Only a handful, or perhaps only one senator, party boss, brokerage house, or Fortune 500 executive may be convicted, but if the convicted felon stood at the head of a vast hierarchy of power, it is presumed that his fall will help jar the lower levels of the institution into submission to government authority. And the more prestigious the opposing counsel, the greater the satisfactions of a conviction for the prosecutors involved.

By the time the criminal justice process works its way to sentencing, the biases that earlier on favored criminals of higher social status seem to have vanished almost completely (Wheeler, Weisburd, and Bode 1982). There are several ways of understanding this surprising finding (Wheeler, Mann and Sarat 1988). If white-collar criminals enjoy comparatively greater powers to discourage prosecution, then those relatively few who become white-collar convicts

must be an especially egregious lot, compared to common criminals who have less means to resist being swept up in the criminal justice process and carried on to its end.¹⁸ And independent of what they find when they look at the particularities of the individuals before them, judges often understand that a white-collar criminal is likely to have gotten away with many other offenses and that the defendant up for sentencing must stand for many who will never be brought into the system.

Legality Versus Equality

The hunt for bias in the form of differential pressures on decision-makers produces a vivid awareness of the tensions between legality and social class equality. The tensions in the processing of criminal cases have three critical parallels with the search for gender and race inequalities in employment settings. First, concerns for legality treat bias at each stage of an occupational history as problematic, ignoring reversals and the possible cancelling effects of biases at later stages. At any stage of decisionmaking, an imbalance in the pressures to hire or advance candidates due to their ascriptive attributes is objectionable. But when bias at any stage becomes objectionable, institutions are deprived of tools for correcting historically received patterns of social justice or group inequalities. Legality, when applied too strictly, undermines objectives of righting historical injustices. The furor over affirmative action essentially reduces to a conflict between proponents of legality and proponents of social justice.

Hunters for bias in employment face a second challenge on the issue of whether they should seek evidence of bias across-the-board or only in organizations in which historically disadvantaged groups fare poorly. For example, social justice concerns could justify limiting bias research to the underrepresentation of blacks in construction, without considering the overrepresentation of blacks in public employment. But concerns for legality, or the evenhanded administration of power over individuals, respect no such limits.

Third, the hunt for bias in the social interaction context of decisionmaking raises civil liberties concerns about the pursuit for civil rights. When the investigating gaze turns toward the ways that audiences facilitate or resist a decisionmaker's choice of alternatives, research crosses over organizational boundaries and enters the informal lives of individuals and communities. The investigative reach

extends to the personal biographical and often kinship-based processes through which ethnic and gender-based communities alert and aid their members to job opportunities in different parts of the economy. At this point, not only civil liberties agencies concerned about the freedom of expression, association, and privacy but also ethnic and gender associations are likely to see a trespass and rise to oppose the hunt. They can anticipate that stripped of practical value for influencing the distribution of employment opportunities through informal socialization, gender cultures, kinship ties, and ethnic affiliations would diminish in strength.¹⁹

Bias Research and the Fate of Righteousness

It is not too much to state that bias hunting has been the major innovation by American academic social research in the effort to unveil and describe the distribution of evil in society in the late twentieth century. Researchers working on race prejudice in the 1940s and 1950s had Hitler in mind as they sought to document anti-Semitism and keep racism from slipping underground. In the 1960s, research on bias, responding to the civil rights movement, shifted its concerns from Jews to blacks, then expanded the hunt to cover women and numerous other historical victims of bias. In the United States, the Watergate incident made the issue of social class bias in criminal justice processes—an issue that had been alive for a relatively few Marxist scholars—relevant to a far larger, institutionally better established, and politically rather bland community of law-and-society academic researchers.

One way to highlight the distinctive nature of bias hunting as a form of social research is to note that questions of explanation have been marginal to the movement. Even though explanation was a major concern in the fields of criminology and social stratification in the postwar period from, roughly, 1945 to 1975, explanation was not the central focus in studies of personal prejudice. The focus was less on the “why” of prejudice than on its reality, “nature,” and social distribution, all three being questions whose answers could motivate and guide remedial efforts. When researchers began to search for bias in organizational outcomes, questions of why organizations would be biased were largely moot. If researchers could show that capital punishment was biased against blacks, or employment in academia was biased against women, or news coverage was biased in favor of

corporations, it would be more or less obvious “why” that was the case. Virtually no one asked just whose prejudice, from just what epoch in history, and just how irrational hostilities had caused the biased outcomes; generalities about historical oppression, cultures of discrimination, lack of education, and social psychological research on the relationship of intergroup contact to intergroup prejudice were generally sufficient. It was a measure of the general respect accorded the evil of bias that it could be taken essentially as its own cause and explanation.

It has been the work of the third strand in the movement—that of hunting for bias in the interaction context of decisionmaking—that has smuggled the explanatory issue back onto the research agenda. But as researchers began to document how and why people get treated differently in the everyday workings of organizational processes, the moral thrust of their research began to run into new obstacles. Numerous patterns of tension between moral fervor and grounded explanation have been growing in the hunt for bias.

For one thing, the very success of early efforts to document bias has led to institutional changes that have diminished the moral appeal of attacks on persisting patterns of bias. The case against racial differences in the administration of capital punishment was at its height when the problem was that white murderers would escape death while equivalent black murderers would be executed. But reforms made in the wake of such evidence have produced a much less direct, much less inspiring critique of current race differences in the official administration of death. Now the problem is often posed as one of executing murderers of whites in cases like those in which murderers of blacks are not executed. To satisfy that complaint, we might logically execute both more blacks and more whites who murder blacks. The humanistic sensibilities that oppose capital punishment are no longer in a natural alliance with the moral forces against racism.

Second, the study of outcome bias at successive stages in the movement of cases through organizational systems has produced a much more sophisticated picture of how people processing works in various institutional settings, enabling us to appreciate that bias at an early stage often will be taken into account by decisionmakers at later stages. The picture that emerges is less unidirectional in the group advantages it describes. And at the late stages of processing, such as in sentencing, where decisionmaking is most visible, the appearance of

bias is harder to make out. To adapt a pun that Susan Shapiro (1985, 214) used to good effect in describing her study of the SEC's processing of cases against big and small securities law violators, by the time researchers follow sets of cases through tortuous organizational processing trails, there is not much morally inspiring light at the end of the funnel.

Third, social research has interacted with popular culture in ways that threaten to dampen enthusiasm among the hunters. Researchers now may be surprised to find themselves among the hunted, for example when a staff turns on its leaders to allege bias in the administration of a research project that seeks to document bias (Schuman et al. 1983). And, despite a decline in the overt embrace of racial bias by whites, black Americans have become less positive in reviewing progress in civil rights:

There has been a continuing decline in black beliefs that a lot of progress has been made in civil rights, with only 19 percent choosing that alternative in 1986. [Schuman, Steeh, and Bobo 1988, xiv]

Perhaps this decline in faith honors past progress and recognizes that further advances have become more difficult. Perhaps it discounts American culture's integration goals as hypocritical. In either case, progress in race relations has enabled a black middle class to expand significantly in the past twenty-five years, especially through avenues of public employment, and this has made it more difficult to document morally inspiring patterns of discrimination. The example of upper-middle-class African Americans competing against working-class Hispanic and Asian Americans for state university admissions did not loom on the horizon when the season for hunting bias was inaugurated with great fanfare in the 1960s.

Finally and most interesting for the history of social thought, research results have made the moral cosmology that was the original foundation of bias hunting increasingly untenable. An effort to document the existence and social distribution of evil is also an effort to document who in society is good. It is striking to recall that the search for bias in the psyches of the general U.S. population emerged in the wake of World War II as a liberal parallel to another lively hunt to differentiate good people from evil people, the conservative hunt for communists in symbolically powerful institutions of American society. But if moralized beliefs about personal character were originally appealing across the political spectrum for impassioned if ideologi-

cally opposite reasons, by the 1960s the lines of division no longer could be drawn as clearly.

It became clear that organizational biases run in different directions, not only when cases are traced through different stages of institutional processing, but also when the research gaze moves from institution to institution. It is increasingly appreciated that the state would have to intrude intimately into family and ethnic network relationships in order to free employment sectors from bias across-the-board. Bias research has now spewed up the prospect that we may not want to have a ubiquitously good society, in the sense of one that provides equal opportunity in each social institution, considered separately. What is more likely is that contemporary multiethnic societies will thrive on a range of domains of competing discriminations, with perhaps only exceptional institutions, such as university faculties and news broadcasting staffs, modeling the earlier ideal of a representative social composition. As surveys show, Americans like to see themselves as devoted to integration. The American political economy appears to have found that the efficient way to serve that desire is to dedicate a small number of high-profile, showcase institutions to depict an inspiring collective self-portrait, but not to burden the whole society with a thoroughgoing reconstruction.

The moral anthropology that originally fueled bias hunting is also being challenged. It is no longer taken for granted that fact and fantasy, truth and prejudice, biased and unbiased people can be disentangled methodologically. It turns out that evidence of prejudice by members of one group about members of another will only seem obvious if researchers stay away from learning what the latter think about their own kind. Because of the emergence since the 1960s of public relations arms for virtually all victim groups, it is now almost impossible to study victims close up without undermining their public images and producing fuel for "blaming the victim" (Katz 1997).

Bias research began with the sensible conviction that, in effect, once we figured out who the Nazis were and how to get rid of them, it would be time enough to figure out why they existed. Now it increasingly appears that we cannot first get the facts on bias straight while treating the social processes that produce bias as matters of secondary concern. How much bias exists cannot be established without understanding how people find out about and are recruited to jobs, how criminal justice personnel sequentially interact with juveniles and their families, and how respondents understand discourse as they speak with interviewers. For the social research community,

the major challenge now is to accept that bias can only be described as well as it can be thoroughly and contextually explained.

I thank Bob Kagan, Donald Horowitz, and Melvin Seeman for patient critiques of earlier drafts, and an anonymous reviewer, solicited by the editors of this volume, for providing exceptionally painstaking comments. This chapter was first delivered as a talk at Lund University, Sweden, and then at the spring 1997 conference honoring Stanton Wheeler at Yale law school. Questions by participants at both sessions were very helpful.

Notes

1. Some of the expansion may be explained by the proliferation of journals in social science and the addition of publication sources to the database, but twenty-two of the thirty-six sources of the 1,995 articles on bias were publishing in 1972. The count grossly underrepresents the relevant research literature because it ignores all but sociological publications, picks up only articles with "bias" in the title (rather than "prejudice," "discrimination," and so forth), and ignores articles that treat the subject of bias in their text but do not use the word itself in their title.
2. Perhaps it is time to rethink the distinction between ascribed and achieved status, but if so, this is not the place. I just note that sexual orientation may be considered an ascribed characteristic because, like age, even though it may change over time and in some sense be acquired after birth, it is generally understood as having become ineluctable at some relatively early point in one's sexual biography, even if for some people it remains imaginatively and spontaneously flexible.
3. See Burstein (1994, ch. 1), for a quick refresher on how prominent and unashamed were racial, ethnic, and gender restrictions on employment.
4. "In 1976 Earl Butz, a former Purdue University dean, was forced to resign his position as secretary of agriculture after making racially offensive comments. Joking about what Republicans should offer black Americans, he stated that all a black man wants is 'loose shoes,' warm toilet facilities, and sex" (Feagin and Vera 1995, 111).
5. Broadcasters now refer to fourteen-year-old female figure skaters as "women," a practice that, in guarding against offending feminist viewers, runs the apparently minor risk of offending advocates of a protected childhood.
6. A court commissioner found himself in this dilemma in Los Angeles in the mid-1980s. See the *Los Angeles Times*, August 30, 1987, issue 106, sec. V, p. 4, col. 1.

7. In the highly publicized murder trial of O. J. Simpson, Mark Fuhrman was a Los Angeles police detective whose testimony against Simpson was impeached by revelations that, some years before, he had used racially derogatory language in a private interview.
8. Ironically, laughter is always an effort to transcend what is perceived as two inconsistent perspectives (Katz 1996). It is not inconceivable that the interviewee's laughter was not aimed at blacks but rather was part of an effort to resolve his apparently uneasy relationship with the interviewer.
9. In a quite different context, that of the allegedly biased actions of a public housing authority in disproportionately rejecting the defenses against eviction of one ethnic group, Richard Lempert has recently shown that the rhetoric of bias, or seemingly value-neutral argumentation about discrimination, resolves into a power struggle between cultures (Lempert and Monsma 1994).
10. This was a new pattern in the American history of race riots. Early in the century, for example, in Chicago in 1919, race riots emerged out of direct physical conflicts between whites and blacks. In the 1960s, for example, in the 1965 Los Angeles riots that began in the Watts neighborhood, anarchy emerged directly out of police stops of blacks. In the 1980s and 1990s, race riots have typically started only after juries (in Florida as well as in California) have acquitted policemen who were criminally prosecuted for actions against blacks.
11. A videotape frequently aired during the riots that erupted following the acquittal of Los Angeles policemen for beating Rodney King showed Reginald Denny, a white truck driver, being pulled out of his truck without provocation and being kicked and beaten in a seemingly joyous manner by several black males. The assailants, although convicted, were acquitted of charges carrying severe penalties.
12. In the employment context, bias is said to be "rational" when managers dispassionately anticipate the personal prejudices of their superiors or their organization's clients. For an application to gender bias, see Larwood, Sz wajkowski, and Rose (1988).
13. Within federal criminal law enforcement, referral and acceptance relationships among agencies are subject to constant policy negotiations (Rabin 1972). Such negotiations are critical for understanding the pressures anticipated by a decisionmaker if he or she goes ahead or fails to proceed with a case. Some agencies, like the SEC and the tax division of the Justice Department, have unusually high rates of success when referring their cases for prosecution at U.S. attorney's offices. Others, such as federal welfare agencies, are known to refer cases of client fraud in order to get rejections that will enable them to export responsibilities

while clearing their internal books. Some agencies, before contacting a prosecutor's office, work their cases up much more than do others. There is no simple way to summarize the overall mix of pressures that other enforcement agencies bring to bear on U.S. attorneys. One must trace interorganizational relations to understand which agencies are likely to cite a prosecutor as having erred for not proceeding with a case and which agencies will not care.

14. In the immediate wake of Watergate, prosecutions of white-collar crime reached into business, political, and even university communities in a multitude of unprecedented ways. In domino-like fashion, the exposure of the president to criminal investigation exposed to prosecution a series of lower institutional authorities (Katz 1980). Watergate inspired regulatory officials to take extraordinarily aggressive postures in developing and pressuring prosecutors to institute cases of fraud and corruption, and vice versa. Unprecedented investigative initiatives, plus a succession of scandalous revelations in the mass media, brought whistle-blowers out at federal and state levels across the country.
15. "To enforce internal office control, all D.A.s [district attorneys] in Los Angeles were required to fill out an 'alibi sheet' for any case lost at trial or dismissed, to explain why they think it was lost. Records were also kept by supervisors in the D.A.'s office on charge reductions and other plea bargains negotiated by each deputy, in order to ensure some accountability. One D.A. explained: 'The head of trials never gets mad if you lose a case. That could happen to anyone. But you'll really get burned if you make a [nontrial] disposition when you shouldn't have. In other words, when you go beyond your authority you'll get reprimanded, but not when you make an error'" (Mather 1979, 18).
16. I draw here on my observational study of the federal prosecutor's office in the Eastern District of New York (Katz 1979).
17. Academics will recognize this rhetorical form as one that is common in discussions on cases of promotion. There is no need to scale down the magnitude of one's enthusiasm to the narrowness of the type of conviction or of the academic field in which one claims to be "first."
18. Examining SEC decisions to prosecute, Susan Shapiro found an overrepresentation both of suspects high in organizational status and of isolated low-status suspects (Shapiro 1985, 208-11).
19. In the early 1970s, Chicago's Mayor Daley responded to news reports that he had given the city's insurance business to one of his sons with words to the effect that what good is a father if he can't help his children? It is easy to ridicule such a response when the issue is nepotism by a high public official. When, however, the focus is on workers at low levels in private industry, another range of concerns comes into play, namely the value of enabling adults to link their younger generation kin

to the job world, thereby underwriting family authority and limiting delinquency in at-risk communities.

References

- Allport, Gordon. 1954. *The Nature of Prejudice*. Cambridge, Mass.: Addison-Wesley.
- Aubert, Vilhelm. 1952. "White-Collar Crime and Social Structure." *American Journal of Sociology* 58(November): 263-71.
- Baldus, David C., Charles A. Pulaski, and George P. Woodworth. 1990. *Equal Justice and the Death Penalty*. Boston: Northeastern University Press.
- Becker, Gary S. 1957. *The Economics of Discrimination*. Chicago: University of Chicago.
- Berk, Richard A., and Subhash C. Ray. 1982. "Selection Biases in Sociological Data." *Social Science Research* 11(4): 352-98.
- Bingham, Lisa B. 1995. "Is There a Bias in Arbitration of Nonunion Employment Disputes? An Analysis of Actual Cases and Outcomes." *International Journal of Conflict Management* 6(4): 6.
- Bittner, Egon. 1979. *The Functions of the Police in Modern Society*. Cambridge, Mass.: Oelgesclager, Gunn, and Hain.
- Bobo, Lawrence. 1983. "Whites' Opposition to Busing: Symbolic Racism or Realistic Group Conflict?" *Journal of Personality and Social Psychology* 45(6): 1196-210.
- . 1998. "Race, Interests, and Beliefs about Affirmative Action." *American Behavior Scientist* 41(7):985-1003.
- Bobo, Lawrence, and Vincent L. Hutchings. 1996. "Perceptions of Racial Group Competition: Extending Blumer's Theory of Group Position to a Multiracial Social Context." *American Sociological Review* 61(6):951-72.
- Bobo, Lawrence, Camille L. Zubrinsky, Jr., James H. Johnson, and Melvin L. Oliver. 1995. "Work Orientation, Job Discrimination, and Ethnicity: A Focus Group Perspective." *Research in the Sociology of Work* 5(5): 45-85.
- Brady, Kristine L., and Richard M. Eisler. 1995. "Gender Bias in the College Classroom: A Critical Review of the Literature and Implications for Future Research." *Journal of Research and Development in Education* 29(1): 19-21.
- Burstein, Paul. 1994. *Equal Employment Opportunity: Labor Market Discrimination and Public Policy*. Hawthorne, N.Y.: Aldine de Gruyter.
- Danielian, Lucig H. 1994. "The Heavenly Chorus: Interest Group Voice on TV News." *American Journal of Political Science* 38(4): 1056-78.
- Dannefer, Dale, and R. K. Schutt. 1982. "Race and Juvenile Justice Processing in Court and Police Agencies." *American Journal of Sociology* 87(3): 1113-32.
- Eichner, Maxine N. 1988. "Getting Women Work That Isn't Women's Work: Challenging Gender Bias in the Workplace under Title VII." *Yale Law Journal* 97(June): 1397-417.

- Emerson, Robert M. 1981. "On Last Resorts." *American Journal of Sociology* 87(1): 1-22.
- Feagin, Joe R., and Hernán Vera. 1995. *White Racism: The Basics*. New York: Routledge.
- Feeley, Malcolm. 1979. *The Process Is the Punishment: Handling Cases in a Lower Criminal Court*. New York: Russell Sage Foundation.
- Feld, Barry C. 1995. "The Social Context of Juvenile Justice Administration: Racial Disparities in an Urban Juvenile Court." In *Minorities in Juvenile Justice*, edited by Kimberly Kempf Leonard, Carl E. Pope, and William H. Feyerherm, pp. 66-97. Thousand Oaks, Calif.: Sage Publications.
- Fiss, Owen. 1971. "A Theory of Fair Employment Laws." *University of Chicago Law Review* 38(2): 235-314.
- Frazier, Charles E., and Donna M. Bishop. 1995. "Reflections on Race Effects in Juvenile Justice." In *Minorities in Juvenile Justice*, edited by Kimberly Kempf Leonard, Carl E. Pope, and William H. Feyerherm, pp. 16-46. Thousand Oaks, Calif.: Sage Publications.
- Glazer, Nathan. 1987. *Affirmative Discrimination: Ethnic Inequality and Public Policy*. Cambridge, Mass.: Harvard University Press.
- Goetz, Barry. 1997. "Organization as Class-Bias in Local Law Enforcement: Arson-for-Profit as a 'Non-Issue.'" *Law and Society Review* 31(3): 557-87.
- Goffman, Erving. 1974. *Frame Analysis: An Essay on the Organization of Experience*. Cambridge, Mass.: Harvard University Press.
- Griffin, John Howard. 1961. *Black Like Me*. Boston: Houghton Mifflin.
- Hagan, John. 1989. "Why Is There So Little Criminal Justice Theory? Neglected Macro- and Micro-Level Links between Organization and Power." *Journal of Research in Crime and Delinquency* 26(May): 116-35.
- Harris, Anthony R., and Gary D. Hill. 1986. "Bias in Status Processing Decisions." In *Rationality and Collective Belief*, edited by Anthony R. Harris, pp. 1-80. Norwood, N.J.: Ablex.
- Hindelang, Michael J. 1981. "Variations in Sex-Race-Age-Specific Incidence Rates of Offending." *American Sociological Review* 46(4): 461-74.
- Katz, Jack. 1979. "Legality and Equality: Plea Bargaining in the Prosecution of White-Collar and Common Crimes." *Law and Society Review* 13(Winter): 431-59.
- . 1980. "The Social Movement against White-Collar Crime." In *Criminology Review Yearbook*, vol. 2, edited by Egon Bittner and Sheldon Messinger, pp. 161-84. Beverly Hills, Calif.: Sage Publications.
- . 1996. "Families and Funny Mirrors: A Study of the Social Construction and Personal Embodiment of Humor." *American Journal of Sociology* 101(5): 1194-237.
- . 1997. "Ethnography's Warrants." *Sociological Methods and Research* 25(4): 391-423.
- Kelly, Michael. 1996. "The Script." *The New Republic* 215(24): 6.
- Kinder, Donald R., and Lynn M. Sanders. 1996. *Divided by Color: Racial Politics and Democratic Ideals*. Chicago: University of Chicago Press.

- Kirschenman, Joleen, and Kathryn Neckerman. 1991. "'We'd Love to Hire Them, But . . .': The Meaning of Race for Employers." In *The Urban Underclass*, edited by Christopher Jencks and Paul E. Peterson. Washington, D.C.: Brookings Institute.
- Larwood, Laurie, Eugene Sz wajkowski, and Suzanna Rose. 1988. "When Discrimination Makes 'Sense': The Rational Bias Theory." *Women and Work* 3: 265-88.
- Lempert, Richard, and Karl Monsma. 1994. "Cultural Differences and Discrimination: Samoans before a Public Housing Eviction Board." *American Sociological Review* 59(6): 890-910.
- Leonard, Kimberly Kempf, Carl E. Pope, and William H. Feyerherm. 1992. *Minorities and the Juvenile Justice System*. Thousand Oaks, Calif.: Sage Publications.
- Lowry, Dennis T. 1995. "The Sound Bites, the Biters, and the Bitten: An Analysis of Network TV News Bias in Campaign '92." *Journalism and Mass Communication Quarterly* 71(1): 33-44.
- Mann, Kenneth. 1985. *Defending White-Collar Crime*. New Haven, Conn.: Yale University Press.
- Mather, Lynn. 1979. *Plea Bargaining or Trial?* Lexington, Mass.: Lexington Books.
- Meertens, Roel W., and Thomas F. Pettigrew. 1997. "Is Subtle Prejudice Really Prejudice?" *Public Opinion Quarterly* 61(1): 54-71.
- Platt, Anthony M. 1969. *The Child Savers: The Invention of Delinquency*. Chicago: University of Chicago Press.
- Pontell, Henry, Kitty Calavita, and Robert Tillman. 1994. "Corporate Crime and Criminal Justice System Capacity: Government Response to Financial Institution Fraud." *Justice Quarterly* 11(3): 383-410.
- Rabin, Robert L. 1972. "Agency Criminal Referrals in the Federal System: An Empirical Study of Prosecutorial Discretion." *Stanford Law Review* 24(June): 1036-91.
- Riddleberger, Alice B., and Annabelle B. Motz. 1957. "Prejudice and Perception." *American Journal of Sociology* 62(5): 498-503.
- Riger, Stephanie, Pennie Foster-Fishman, Julie Nelson-Kuna, and Barbara Curan. 1995. "Gender Bias in Courtroom Dynamics." *Law and Human Behavior* 19(5): 465-80.
- Rosen, Jeffrey. 1997. "One Angry Woman: The Dramatic Rise of the Holdout Juror." *The New Yorker*, 73 (February/March): 53-64.
- Rosett, Arthur I., and Donald R. Cressey. 1976. *Justice by Consent: Plea Bargains in the American Courthouse*. Philadelphia: Lippincott.
- Sabo, Donald, and Sue Curry Jansen. 1992. "Images of Men in Sport Media: The Social Reproduction of Gender Order." In *Men, Masculinity, and the Media*, edited by Steve Craig. Newbury Park, Calif.: Sage Publications.
- Schuman, Howard, and Lawrence Bobo. 1988. "Survey-Based Experiments on White Racial Attitudes Toward Residential Integration." *American Journal of Sociology* 94(20): 273-99.

- Schuman, Howard, Eleanor Singer, Rebecca Donovan, and Claire Selltiz. 1983. "Discriminatory Behavior in New York Restaurants: 1950 and 1981." *Social Indicators Research* 13(1): 69-83.
- Schuman, Howard, Charlotte Steeh, and Lawrence Bobo. 1988. *Racial Attitudes in America: Trends and Interpretations*. Cambridge, Mass.: Harvard University Press.
- Schuman, Howard, Charlotte Steeh, Lawrence Bobo, and Maria Krysan. 1997. *Racial Attitudes in America*. 2d ed. Cambridge, Mass.: Harvard University Press.
- Schwartz, Richard D., and Jerome H. Skolnick. 1964. "Two Studies of Legal Stigma." In *The Other Side*, edited by Howard S. Becker, pp. 103-17. New York: The Free Press.
- Sears, David O., Carl P. Hensler, and Leslie K. Speer. 1979. "Whites' Opposition to 'Busing': Self-Interest or Symbolic Politics?" *American Political Science Review* 73(2): 369-84.
- Sears, David O., Colette van Laar, Mary Carrillo, and Rick Kosterman. 1997. "Is it Really Racism?: The Origins of White Americans' Opposition to Race-Targeted Policies." *Public Opinion Quarterly* 61(1): 16-53.
- Seeman, Melvin. 1981. "Intergroup Relations." In *Social Psychology*, edited by Morris Rosenberg and Ralph H. Turner, pp. 378-410. New York: Basic Books.
- Selltiz, Claire. 1955. "The Use of Survey Methods in a Citizens Campaign against Discrimination." *Human Organization* 14(3): 19-25.
- Selznick, Gertrude Jaeger, and Stephen Steinberg. 1969. *The Tenacity of Prejudice*. New York: Harper & Row.
- Shapiro, Susan. 1985. "The Road Not Taken: The Elusive Path to Criminal Prosecution for White-Collar Offenders." *Law and Society Review* 19(2): 179-217.
- Sniderman, Paul M., and Thomas Piazza. 1993. *The Scar of Race*. Cambridge, Mass.: Harvard University Press.
- Sniderman, Paul M., and Philip E. Tetlock. 1986. "Symbolic Racism: Problems of Motive Attribution in Political Analysis." *Journal of Social Issues* 42(2): 129-50.
- Sutherland, Edwin H. 1940. "White-Collar Criminality." *American Sociological Review* 5(February): 1-12.
- Tetlock, Philip E. 1994. "Political Psychology of Politicized Psychology: Is the Road to Scientific Hell Paved with Good Intentions?" *Political Psychology* 15(3): 509-29.
- Waldinger, Roger. 1997. "Black/Immigrant Competition Re-Assessed: New Evidence from Los Angeles." *Sociological Perspectives* 40(3(Fall)): 365-86.
- Waldinger, Roger, and Mehdi Bozorgmehr. 1996. *Ethnic Los Angeles*. New York: Russell Sage Foundation.
- Westie, Frank R. 1953. "A Technique for the Measurement of Race Attitudes." *American Sociological Review* 18(1): 73-78.

- Westley, William A. 1953. "Violence and the Police." *American Journal of Sociology* 59(July): 34-41.
- Wheeler, Stanton, Kenneth Mann, and Austin Sarat. 1988. *Sitting in Judgment: The Sentencing of White-Collar Criminals*. New Haven, Conn.: Yale University.
- Wheeler, Stanton, David Weisburd, and Nancy Bode. 1982. "Sentencing the White-Collar Offender: Rhetoric and Reality." *American Sociological Review* 47(October): 641-59.
- White, Welsh S. 1991. *The Death Penalty in the Nineties: An Examination of the Modern System of Capital Punishment*. Ann Arbor: University of Michigan Press.
- Wilson, Thomas C. 1995. "Vietnam-Era Military Service: A Test of the Class-Bias Thesis." *Armed Forces and Society* 21(Spring): 461-71.
- Wilson, William J. 1996. *When Work Disappears: The World of the New Urban Poor*. New York: Knopf.