

## Argument 1 – Against Criminal Profiling

Criminal profiling is a means by which an investigation may be helped or hindered. It must be weighed in the balance of justice to victims and protection of the innocent. Criminal profiling has been around since the 1870s, and many people can argue that, since the beginning, it has proven successful in many cases. Despite the positive stories, there is a dearth of information giving scientific evidence that this investigative tool is a valid means of investigation or prosecution. The following examples cast a shadow of doubt on the viability of criminal profiling.

On July 15, 1992, Rachel Nickell was sexually assaulted and stabbed forty-nine times while on a walk in Wimbledon Common with her two-year old son. Investigators called in clinical psychologist Dr. Paul Britton to help. He developed a profile which led the police to Colen Stagg who was known to walk his dog on the Common. As a result, Stagg was arrested and charged with Nickell's death about a year after the murder occurred. In the meantime, Stagg was crucified by the public. "He suffered death threats, physical attacks, and became one of the most hated man in Britain" (BBC). One year after Stagg was charged with Nickell's murder, he was released, because the police had, according to Judge Justice Ognall, attempted to "incriminate a suspect by positive and deceptive conduct of the grossest kind" (BBC). A new set of investigators were put on the case, and in June 2006, based on DNA evidence and the questioning of the suspect, the police charged Robert Napper, who confessed to the murder of Rachel Nickell. (BBC)

Besides investigative problems criminal profiling can cause, there are also legal implications. In 1994 in *Penson V. State*, "the defendant was convicted of burglary and arson based on his illegal entrance and subsequent setting of a fire in a county rescue building" (Ingram, 1998, p. 250). The testimony of a FBI serial arsonist profiler was given by the state and admitted to court. He testified about the defendant's personality and history. The defendant was convicted. Later the appellate court declared the profiler's testimony as inadmissible character evidence, because the defendant's character was not an issue. As a result, the conviction was overturned. (Ingram, 1998, pp.250-251)

Despite these instances criminal profiling could result in a profile that could lead to a suspect, and a profiler could, in some cases be used as an "expert" witness. A profile could increase the speed in which a suspect is apprehended, and, therefore, removed as a threat to society. It could also help build a case for the prosecution. Most importantly the psychology of criminal profiling is a proven, valid science.

On the other hand, profiling could result in focusing too much energy and time on the wrong suspect or lead to the victimization of an innocent person, which in turn might become a legal liability. A profiler or his profile may not even be accepted in court. If the profile is made public, an unsub could change his mo to throw off police. Criminal profiling is also a subjective opinion offered by both experienced and inexperienced profilers whose craft is not backed up with valid

scientific research, but on the experience and the knowledge of each individual profiler. While, admittedly, criminal profiling could lead to positive results, there are many negative consequences to be considered in criminal profiling.

One of the negative consequences to criminal profiling is developing false leads that waste the time and energy of investigators. Investigators can develop tunnel vision that might cause them to focus on too few factors (Ramsland, 2010, p. 104). This is where an investigator overlooks clues that would lead to the real unsub (Ramsland, 2010, p. 104-105). This was the case with the Nickell/Stagg case. It was years before Nickell's real killer, Robert Napper, was apprehended, because once Stagg was arrested and then convicted, the police had no further interest in finding the real killer. They thought they had the right man in custody. Professor David Canter, director of the Institute for Investigative Psychology, proposed in 1998 that the case of Nickell/Stagg indicated that "the readiness with which the psychologist ' profiler' elaborated on the police assumptions by providing spurious interpretations of the events, helped to maintain a misguided investigation for much longer than was appropriate" (Canter, 1998). As in the case of Stagg, this could also lead to the victimization of an innocent person.

Another consideration of criminal profiling is the possibility that if the profile of an unsub is made public in an attempt to catch the killer, the killer might actually change his mo in order to throw off police, making it more difficult to track down a killer. Katherine Ramsland, in her book "The Forensic Psychology of Criminal Minds," published in 2010, points to the instance of Dennis Radar also known as the BTK (Bind, Torture, Kill), watched news reports and "purposely shifted his mo at times to deflect them and to amuse himself over confusing them" (pp. 104-105). Investigators became confused over which cases were linked to BTK. (Ramsland, 2010, pp. 104-105)

In several cases, the testimony of criminal profiling has been excluded from court. In *State v. John Erva Dunn*, Case No. 10-97-02208 the detective giving the testimony had sixteen years experience as a homicide detective and had trained in the FBI as a criminal investigative analyst. "The judge excluded his testimony because 'he found it to be of scant relevance to (the) case' such that it would not assist the jury and further found that some of Sgt Gebob's testimony involved matters about which he was not shown to be qualified to give expert opinion" (Outline of Memorandum on Law etc). In *State v. Code*, 627 So.2d 1373 (La. 1993), FBI Agent Douglas' testimony was suppressed because the court decided that Douglas was not an expert in the field of psychology to be able give psychological evaluation of crimes. Douglas had a master's degree in educational psychology with an emphasis on counseling and had used the crime-investigative analysis in over 5,000 cases. During that Trial, Douglas "conceded that none of his testimony could be stated to a reasonable scientific certainty" (Outline of Memorandum on Law etc.). Appellate court agreed with the trial court's findings.

As stated before, profilers consist of both the experienced and inexperienced whose craft is not backed up with valid scientific research, but on the subjective experience and knowledge of each individual profiler. The FBI Behavioral Science Unit relies heavily on past experience and their own Classification Manual. This Classification Manual was originally developed by people

who did not hold degrees in psychology. FBI agent, McCrary and Dr. Ramsland (2003) note that “you’ll even find people offering accelerated weekend seminars that promise certification as a profiler who can consult with law enforcement agencies” (p. 12). Many police investigators are employing criminal profiling because “they feel the need to invent a narrative that makes sense of all the facts and also indicates the psychological process that give the plot ‘its dynamics’” (McCrary & Ramsland, 2003, p. 12). There is also disagreement between profilers on methodology and accuracy of profiling. According to McCrary, “behavior analysis within the context of a crime requires an in-depth education in both psychology and law enforcement” (McCrary & Ramsland, 2003, p. 12).

Furthermore, the original FBI profiler studies conducted by John Douglas and Bob Ressler, who were not trained psychologists, were not accomplished in a scientific manner. According to D.M. Risinger and J.L. Loop as cited by Devery (2010), their interviews, which form the basis for FBI profiling today, “did not appear to be conducted on the basis of a defined interview schedule or result in the compilation of formal notes or records of these interviews” (P. 395). In Douglas’ own words, cited from Douglas & Olshaker (1996, p. 117), “the program was informal and aimed at ‘letting us see the way the offender’s mind worked, getting a feel for them, allowing us to start walking in their shoes’” (Devery, 2010, p. 395). There was not a control group and B. Turvey, as cited by Devery (2010), wonders about the consistency of information to be found among serial killers and rapists who could have suffered from a range of mental illnesses and who would be unreliable and likely to lie about their histories and activities (p. 395). As McCrary said (2003), “a profile is the end result of interpretation, which is based on the interpreter’s experience and knowledge, as well as on the quality of the information provided”(p. 21).

In light of the examples and experiences discussed here, it would seem that criminal profiling may cause more harm than good. By not using criminal profiling, investigators will not fall into the trap of overlooking significant clues, making the profile fit the suspect, or having cases overturned in court. Perhaps at a later date, this investigative tool may be refined with more research and knowledge, but as it stands, criminal profiling remains a slippery slope on which to base an investigation. In the meantime, investigators can rely on tried and true methods of investigation that have positively affected the outcome of thousands of people being brought to justice and that have provided much security to the world at large.

## References

- BBC. Rachel Nickell Murder. Retrieved from [http://www.bbc.co.uk/crimewatch/solved/caseclosed/rachelnickell\\_murder.shtml](http://www.bbc.co.uk/crimewatch/solved/caseclosed/rachelnickell_murder.shtml)
- Devry, C. (2010). Criminal Profiling and Criminal Investigation. *Journal of Contemporary Criminal Justice*, 26, 393-409. Retrieved from <http://ccj.sagepub.com/content/26/4/393>
- Ingram, S. (1998). If the Profile Fits: Admitting Criminal Psychological Profiles into Evidence in Criminal Trials. Washington University. Retrieved from [www.law.wustl.edu/journal/54/Ingram\\_.pdf](http://www.law.wustl.edu/journal/54/Ingram_.pdf)
- McCrary, G.O., Ramsland, K. (2003). *The Unknown Darkness: Profiling the Predators among Us*. New York, New York: HarperCollins Publishers, Inc.
- Outline of Memorandum of Law on Admissability of "Criminal Profile" Evidence. Retrieved from [www.terriwoodlawoffice.com/pdfdocs/Criminal\\_Profile\\_Evidence.pdf](http://www.terriwoodlawoffice.com/pdfdocs/Criminal_Profile_Evidence.pdf)
- Ramsland, K. (2010). *The Forensic Psychology of Criminal Minds*. New York, New York: Penguin Group Inc.