

COMMENTARIES

The Production and Governance of Race in Licensing Decisions: The Initial Findings of an Ethnographic Researcher Exploring Race At Night In 'Greenshire'

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Drawing from interviews and observations with police licensing managers and town licensing officers, this paper highlights how race is produced and sustained in licensing decisions in 'Greenshire'. Previous research has evidenced the disproportionate impact of the Licensing Act 2003 on racialised night time venues in 'Southview', London (Böse and Talbot, 2007, Talbot 2004). Building on this work, this paper explores how race is produced and governed in licensing decisions in a more provincial context. I consider the disparities between the objectives set out in the Licensing Act 2003 and what occurs in practice. I reveal how the licensing objectives are presented as objective and non-discriminatory and argue that this does not translate to licensing practice. I highlight how the racialised Other (Hall 1997) continues to be problematised in licensing decisions, reflected in the tentativeness around temporary event notices for 'urban' nights and increased licensing conditions for pubs known for a their Gypsy, Roma or Traveller clientele.

Keywords: race; policing; night; licensing; ethnography

Introduction

Numerous stories have saturated the media recently which have drawn attention to how licensing decisions are made along racial lines (Peyer, 2016; Nagesh, 2016). Until recently, the Metropolitan police force used the 696 form to inform licensing decisions about live music events asking for details of the ethnicity of the audience and the music genre which would be played. The form was banned by the Mayor of London in November 2017 for discriminating against black and minority ethnic performers and events which played racialised forms of music such as bashment and grime (Gillet, 2017; O'Connor, 2017). Despite the increased attention given to the importance of race in licensing decisions, the academic literature on this topic remains sparse. By drawing on findings from an ethnographic study in 'Greenshire', this commentary will reveal the ways in which licensing officers construct the Licensing Act 2003 as non-discriminatory. I problematise this by revealing how licensing decisions and practices continue to be shaped by racial prejudices which play out differently in localised contexts. Whilst some licensees benefit from localised licensing arrangements which allow them to stay open late and host 'urban' nights, others are required to submit temporary event notices (TENs) for the same events. I argue that TENs are used to police 'urban' nights and reveal how decisions around TENs are based upon the individual judgements of licensing officers. This paper will argue that licensing decisions continue to operate along racial lines and suggests that licensing professionals and night time researchers give importance to how discriminatory understandings of racialised individuals and groups continue to inform licensing decisions, creating barriers to diverse nightlife.

In this commentary, I will use the term 'racialisation' to refer to the process by which particular ethnic or racial identities are ascribed to individuals or groups. In using this term, I draw attention to the process in which certain groups or individuals become racialised, rather than writing about 'race' as a fixed entity (Murji and Solomos, 2005).

The Policing of the Night

The Licensing Act of 2003 abolished set opening and closing hours to encourage a more relaxed, European drinking culture in the United Kingdom (Hough et al, 2008). However, fears over twenty-four hour opening hours, coupled with a move towards populist politics, led to an increased regulation of the night in the early 2000s (Talbot, 2007). Under the Licensing Act (2003), the responsibility for licensing decisions shifted from magistrates' courts to local authorities who were to work in partnership with the police when making licensing decisions. Licenses are said to be usually granted unless local authorities and the police have objections based on the four licensing objectives (Hough et al, 2008: 1), to:

- Prevent crime and disorder
- Promote public safety
- Prevent public nuisance
- Protection of children from harm

Despite the apparent neutrality of the licensing objectives, media stories have continued to reveal how licensing decisions occur along racial lines. In 2014, the Fridge Bar in Brixton was forced to close after unsubstantiated claims by the police that the bar generated high levels of crime and disorder, with the venue blaming black customers for this (Peyer, 2016). More recently, police licensing officers banned the Dice bar in Croydon from playing Bashment in 2016, claiming that it was linked to disorder (Nagesh, 2016). Until recently the Metropolitan police force were using the 696 form to inform licensing decisions about live music events (Talbot 2011). Until 2008, the form requested information about the style of music that would be played, listing music of black origin, such as Bashment, RnB and Garage and requested the ethnicity of the target audience (ibid). The form received criticism for racial profiling and one Chief Inspector defended its use, stating that with certain genres of music there is statistically more likely to be disorder at events (ibid). In late 2017 the London Mayor, Sadiq Khan, banned the use of the 696 form in a move to ensure that the night time economy is a welcoming place for performers of all music genres (Gillett, 2017).

The regulation of nightlife, since the earliest licensing statute, has concerned itself with big business and criminalising popular cultural forms (Böse, 2005; Talbot and Böse, 2007). This can be seen in the policing of beat clubs in London and Manchester which were eventually closed in the 1960s due to the 'moral dangers' they were said to present to young people (Talbot, 2004). Talbot's research in 'Southview', conducted in the late 1990s, found that police licensing officers continued to make strong associations between black culture and criminality. This had a detrimental impact on black licensees and their venues, as they were less likely to benefit from police licensing officers' 'early warning systems'. 'Early warning systems' were used by the police to inform licensees of inspections prior to these happening. As black licensees were understood to be less cooperative, they were often not informed of inspections prior to them happening. This eventually led to the closure of 'Mango', an established pub amongst the West Indian community as they perceived that the licensee was not operating according to 'acceptable business practice' (Talbot, 2007: 30). Talbot's work was therefore crucial in highlighting how racial prejudices inform licensing decisions and practices which disproportionately impact black licensees and racialised night time venues.

Despite the importance of Talbot's work, there has been a lack of research on the policing of the night which has given importance to race since. Hobbs et al.'s (2003) ethnographical study of bouncers highlighted the importance of the night as a place of transgression whilst also paying attention to the significance of masculine identities to door staff. Following this, research on the night has continued to build on how gender has influenced night time policing, with O'Brien's (2010) work highlighting the significance of the gendered door at night. More recently, Hubbard and Colosi (2015) have drawn attention to the importance of gendered notions of morality and disgust in the denial of licenses for sexual entertainment venues in the UK. This research is crucial in highlighting how gendered subjectivities continue to influence licensing decisions, with discussions around sexual entertainment venues framed as causing specific harms to women and reinstalling long-standing debates about the vulnerability of women at night (Hubbard and Colosi, 2015: 589). In this commentary, I extend the literature on licensing by outlining how understandings of race and racialised groups continue to inform discriminatory licensing decisions and practices in Greenshire.

The Research

In this commentary, I will outline how licensing officers draw upon the licensing objectives as the basis for their decisions, with the objectives presented as neutral and objective. I will then explore how licensing decisions are made in practice in this context and highlight how these continue to be informed by racial subjectivities. I will go further to highlight how these are based upon the individual judgements of licensing officers and the particular location which they are policing. These findings are based on an ethnographic study which was conducted in Greenshire in 2018. This study involved interviews with – and observations alongside – police licensing officers, town licensing officers, police officers, door staff, venue managers, taxi drivers and owners of fast food outlets. Observations included watching front line police officers and door staff policing the night 'on the ground'. I also observed police licensing officers carry out licensing checks at night. I spent time in more formal settings where race was discussed, such as during police diversity training and senior level police meetings. In building a rapport with my research participants, I spent time in 'backstage settings' (Goffman, 1990) with police officers and licensing officers in the office, police car, team briefings and in the break room.

participants and the police areas which my research findings have been based upon have been given pseudonyms to protect the anonymity of the police force and the individuals within my study. The police licensing officer in North Greenshire did not want to be observed or interviewed and as such the below findings are reflective of observations and interviews with police licensing officers, town licensing officers and police officers in West Greenshire and South Greenshire.

Licensing Decisions and Practices as Objective and Non-Discriminatory

In this section I outline how the four licensing objectives of the Licensing Act 2003 are cited exclusively by police and town licensing officers as the basis on which they make licensing decisions. The licensing criteria were presented as an objective and factual basis on which licensing officers made impartial decisions. The following snippets from interviews with licensing officers reveal this:

There are four licensing objectives, so you can only make representations for review or make any comment on the licence under four categories, they are: (1) prevention of crime and disorder, which obviously, we take primacy on, (2) prevention of children from harm, (3) public nuisance and (4) public safety. I can't just say for example, I don't like that person, therefore I don't think they should have a licence, or I don't think they should be going until 4 in the morning because it does not fit with the natural surroundings. It has to fit into one of those four categories and you would have to evidence that obviously.

Scott, Police licensing officer, February 2018

For us it is literally we, **we have no say**. We've got the four licensing objectives and that's the **only** reason we can refuse an application, is if they don't comply with the four licensing objectives.

Jessica, Town licensing officer, May 2018

We might make representations against a licence but that's all based on the licensing objectives and **nothing else**, it's all to do with public safety and crime and disorder and obviously the other two objectives as well.

Gregory, Police licensing officer, February 2018

Jessica highlights how licensing officers 'have no say' whilst Gregory made it clear that licensing decisions were based only on the licensing objectives and 'nothing else'. In this sense, by referring to the licensing objectives as a basis for their licensing decisions, the licensing officers I interviewed presented their licensing decisions as non-discriminatory. Interestingly, Scott constructs discrimination as something which would be communicated explicitly in speech or written on a form, stating 'I can't just say for example, I don't like that person'. Consequently, discrimination is not constructed as something which could play out in implicit ways, such as in the tentativeness surrounding 'urban' nights or 'traveller' pubs as I highlight below.

The Licensing Act 2003 also increased the responsibility placed on the licence holder to police their venue, a theme which was mirrored in interviews with police and town licensing officers. Each police and town licensing officer I interviewed highlighted that their focus was the licence holder and not the clientele. This was reinforced by police licensing officers in night time economy meetings attended by licence holders, venue managers, security firms and door staff. Responsibilisation techniques led to the creation of 'gang' lists by police licensing officers who would share these with licence holders to help them 'self-police'. Scott shares:

Scott: we will notify the pubs and clubs, it's not a banned list, you can't legally ban people, we'd love to, but we can't ... so we go to the clubs with a list and say, there's your information, you choose to let them in.

Interviewer: but you mentioned earlier you don't see race as important to that list?

Scott: It's not key, absolutely. It is part of a wider force focus on gangs. There's a gang matrix where affiliated gang members are scored in terms of their criminality blah blah blah ... we release the top 10 images of those gang members to our pubs and clubs, again, it isn't a banned list. It's saying these people are predominantly using drugs, carrying knives, they're a risk, when it comes down to self-policing, how can they self-police if you don't give them the information?

Interviewer: of that top 10 are quite a lot of them black?

Scott: predominantly yeah. At present, I think all are. Yeah.

Interview with Scott, Police licensing officer, February 2018

Here, Scott argues that race was unimportant in the construction of ‘gang’ lists despite all individuals on the ‘gang’ list being black. Discursive deracialisation techniques are drawn upon, which means that racial explanations are omitted or de-emphasised, whilst negative views continue to be shared and discrimination continues (Augoustinos, 2007: 133). Scott reaffirms this in the snippet above by stating, ‘it’s not key, absolutely’. In using techniques of discursive deracialisation then, negative representations of young black men as ‘gang’ members are presented as having little relevance to race. In addition, the increased focus on responsabilisation techniques under the Licensing Act 2003 means that discriminatory ‘gang’ lists become reframed as ‘information sharing’ techniques which help pubs and clubs self-police at night. By deracializing these ‘gang’ lists, they become framed as the legitimate actions of the police force in helping pubs and clubs self-police. The ‘gang’ label was widely applied to young black males from the neighbouring city, with similar acts by white individuals not considered to be ‘gang’ related in Greenshire. The ‘gang’ was therefore one of the ways in which the police force constructed the young black male from the city as the dangerous ‘Other’, legitimising the over-policing of young black men which was maintained in discriminatory licensing practices (Hall et al, 1978; Williams, 2015).

Temporary Event Notices and the Policing of ‘Urban’ Nights

In this section I highlight how localised police licensing practices result in different licensing responses to ‘urban’ nights across the county. When referring to ‘urban’ nights, I am utilising terminology used by my research participants to refer to nights where racialised forms of music would be played, such as grime, bashment and hip hop and where an increased number of black night time participants would attend. Temporary Event Notices (TENs) allow the licence holder to apply for an extension to their hours or a change to the activities permitted by their licence whilst also allowing those who want to host one-off licensable events at unlicensed premises to apply (Home Office, 2011). In Greenshire, TENs were dealt with separately in each police division which meant that applications were responded to differently in each location based upon the individual licensing officer’s subjective judgements.

‘Envy’ is a nightclub in South Greenshire which hosted ‘urban’ nights on a weekly basis. The existence of Envy and the promotion of ‘urban’ nights was drawn upon by licensing officers across the county as evidence that Greenshire was welcoming towards black night time participants. Nevertheless, ‘urban’ nights at Envy only occurred on week days and were not promoted on weekends. Rebecca, a venue manager at ‘Monarchy’, a nightclub situated in West Greenshire, argued that she was unable to host similar nights at Monarchy:

Envy can pretty much do whatever they want, they can stay open until 6 o’clock in the morning, they put on whoever they want and they do and half the people they put on I think ‘gosh I wish we could have them here’. I think licensing would say no to me, it’s policed quite tightly in West Greenshire I think. I do feel that we’re policed completely differently, because even, when I went to the police station recently for a meeting, I said to Rita ‘but South Greenshire can do this..’ and she said ‘don’t talk to me about South Greenshire that’s not my problem’, so what they do at Envy is not what I can do, I can’t do that, I can’t do that.

Rebecca, Venue Manager at ‘Monarchy’, April 2018

This snippet from Rebecca highlights how the licensing response to ‘urban’ nights differs across the county. Monarchy was unable to open as late or host the same performers as ‘Envy’ due to the differential response by licensing officers in West Greenshire. If Rebecca wanted to host an ‘urban’ night at Monarchy she would have to submit a temporary event notice requesting an extension to her opening hours. On the other hand, the licence holder at Envy held a licence which meant that the club could stay open until 6am on a weekday for ‘urban’ nights. This meant that ‘urban’ nights at Monarchy were more closely monitored through the submission of temporary event notices, whilst they became a regular feature of South Greenshire’s nightlife. Much of the policing literature (Fyfe, 1991; Fielding, 1996, Muir, 1979) highlights the localised nature of policing, with police officers particularly attached to their beat code, their district or their division. I want to extend this by highlighting the localised nature of licensing attitudes which led to a differential response to ‘urban’ nights across the county. Rita reaffirms the localised ways in which licensing decisions were made by sharing that South Greenshire is ‘not her problem’. In addition, not only were licensing decisions made in a localised context, they were also made on an individual basis, with Scott sharing in interview that he may have a different response to a licensing request compared to the other licensing officers that he worked alongside.

The apprehension towards ‘urban’ nights in West Greenshire also played out in informal licensing practices, with licensing officers telephoning Rebecca following temporary event notices for ‘urban’ nights to question her about specific artists and promoters. Rebecca noted that the same level of inquiry did not exist regarding mainstream weekend nights. ‘Urban’ nights in West Greenshire therefore received an increased level of attention from licensing officers compared to mainstream nights. Meanwhile, Envy consistently hosted ‘urban’ nights on a weekly basis, despite these

being segregated to weekdays. The black night time participant, whether they be a performer, a promoter or a clubber, was therefore understood and responded to differently by licensing officers across the county. This is not to say that ‘urban’ nights and the black night time participant remained unproblematised in South Greenshire and North Greenshire, although this difference was reflected more in the attitude and practices of door staff.

In addition, Jessica, a town licensing officer in West Greenshire, shared how applications for temporary event notices for nights with an assumed Gypsy, Roma or Traveller audience were responded to differently. Jessica explains:

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Jessica: I think for us, our biggest issue and we have refused applications, especially temporary event notices or have asked for harsher conditions, but that is for the traveller community which is our biggest issue. There is one in the town centre which is known and we keep an eye on, at least you know they’re there, but there have been a few out of area ones which have had extensions to their hours refused because we know it is likely to have a high traveller group going in.

Interviewer: why is that then?

Jessica: it can be from fights, refusal to pay, it is hostile, they can go quite hostile, especially if you get a group of them together, it just turns into the pub being overrun.

Interview with Jessica, Town licensing officer, May 2018

Factual claims about Gypsy, Roma and Traveller individuals, namely that they would fight and ‘go hostile’ meant that temporary event notices for venues or nights with an assumed Gypsy, Roma and Traveller audience were responded to more punitively than mainstream nights. Jessica shares that she would either refuse applications or ask for harsher licensing conditions for these nights. Consequently, Gypsy, Roma and Traveller groups became constrained to pubs where they could be, in Jessica’s words, ‘kept an eye on’. Keeping Gypsy, Roma, Traveller individuals in certain pubs was also maintained by door staff and venue managers who labelled these individuals ‘no no’s’. This meant that Gypsy, Roma, Traveller individuals usually received a blanket ‘no’ on the door of nightclubs and bars on the high street. Gypsy, Roma and Traveller individuals were therefore unable to navigate the night time scene in the same ways as a white privileged night time participant, with this practice upheld in discriminatory licensing practices.

Conclusion

To conclude, despite claims regarding the neutrality of the Licensing Act 2003, racial prejudices are a key factor informing licensing decisions in Greenshire. These play out differently based on the local context as well as the individual licensing officer’s subjective judgements. Licensing responses continue to problematise nights with an increased black audience, particularly black night time participants from the city, who are frequently constructed as affiliated with a ‘gang’. Racial prejudices therefore impact formal and informal police licensing practices, from the creation and sharing of ‘gang’ lists to more informal modes of policing ‘urban’ nights such as phone calls to venue managers about promoters or performers. We therefore need to problematise understandings of the Licensing Act 2003 and the four objectives as neutral and objective as licensing decisions continue to be informed by wider racial prejudices which construct the racialised night time participant as problematic. By continually applying an ‘objective’ framing to licensing practices, this makes their racialised nature difficult to acknowledge and therefore alter.

Ethics and Consent

Please note this research has been given ethical clearance from the University of Westminster, reference number ETH1617-0571. The police force, the participants and venues contained within have been anonymised using pseudonyms and all participants have given informed consent to take part in the research.

Competing Interests

The author has no competing interests to declare.

Author Information

Nikhaela Wicks is a PhD student exploring the ways in which race is produced and sustained in the policing of the night time economy in ‘Greenshire’. My research interests lie in policing of the night (both formal and informal) and race.

References

Augoustinos, M. 2007. The Language of ‘Race’ and Prejudice: A Discourse of Denial, Reason and Liberal-Practical Politics. *Journal of Language and Social Psychology*, 26(2): 123–141. DOI: <https://doi.org/10.1177/0261927X07300075>

- Böse, M.** 2005. Difference and Exclusion at Work in the Club Culture Economy. *International Journal of Cultural Studies*, 8(4): 427–444. DOI: <https://doi.org/10.1177/1367877905058343>
- Fielding, NG.** 1996. *Community Policing*. Oxford: Oxford University Press. DOI: <https://doi.org/10.1093/acprof:oso/9780198260271.001.0001>
- Fyfe, NR.** 1991. The Police, Space and Society: The Geography of Policing. *Progress in Human Geography*, 15(3): 249–267. DOI: <https://doi.org/10.1177/030913259101500301>
- Gillet, F.** 2017. Form 696 scrapped by Metropolitan Police: ‘Racist’ Paperwork Accused of Unfairly Targeting Grime Acts is Axed’. *The Evening Standard*. Available from: <https://www.standard.co.uk/news/london/met-police-scrap-live-musicform-696-after-it-was-criticised-for-being-racist-and-targeting-grime-a3688166.html> (last accessed 12 April 2018).
- Goffman, E.** 1990. *The Presentation of Self in Everyday Life*. 2nd ed. London: Penguin.
- Hall, S.** 1997. Race and the Floating Signifier (video) Available at: <https://www.mediaed.org/transcripts/StuartHall-Race-the-Floating-Signifier-Transcript.pdf> or <https://www.youtube.com/watch?v=bMo2uiRAf30> [accessed 14/10/2019]. DOI: <https://doi.org/10.1007/978-1-349-15881-2>
- Hall, S, Critcher, C, Jefferson, T, Clarke, J and Roberts, B.** 1978. *Policing the Crisis: Mugging, the State and Law and Order*. London: The Macmillan Press Ltd.
- Hobbs, D,** et al. 2003. *Bouncers: Violence and Governance in the Night-time Economy*. Oxford: Oxford University Press.
- Home Office.** 2011. Temporary Event Notices Fact Sheet. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/118375/tens.pdf [last accessed: 21 March 2019].
- Hough, M,** et al. 2008. The impact of the Licensing Act on Levels of Crime and Disorder: An Evaluation. Home Office. Crown Copyright. Available at: <http://eprints.bbk.ac.uk/3798/1/3798.pdf> (last accessed: 4 March 2019).
- Hubbard, P and Colosi, R.** 2015. Respectability, Morality and Disgust in the night-time Economy: Exploring Reactions to ‘Lap Dance’ clubs in England and Wales. *Sociological Review*, 63(4): 782–800. DOI: <https://doi.org/10.1111/1467954X.12278>
- Licensing Act.** 2003. Available at: <https://www.legislation.gov.uk/ukpga/2003/17/contents> (last accessed 4 March 2019).
- Muir, WK.** 1979. *Police: Streetcorner Politicians*. London: University of Chicago Press. DOI: <https://doi.org/10.7208/chicago/9780226218663.001.0001>
- Murji, K and Solomos, J.** 2005. *Racialization: Studies in Theory and Practice*. Oxford: Oxford University Press.
- Nagesh, A.** 2016. Police branded racist for ‘banning club from playing Jamaican music’. *Metro*. Available from <http://metro.co.uk/2016/03/12/police-branded-racist-for-banning-club-from-playing-jamaican-music-5748276/> (last accessed 11 February 2017).
- O’Brien, K.** 2010. Inside Doorwork: Gendering the Security Gaze. In: Ryan-Flood, R and Gill, RS (eds.), *Secrecy and Silence in the Research Process: Feminist Reflections*, 117–132. Oxon: Routledge.
- O’Connor, R.** 2017. Sadiq Khan orders review of Form 696 after claims it discriminates against certain live music scenes. *The Independent*. Available from: <https://www.independent.co.uk/arts-entertainment/music/news/form-696-sadiq-khan-review-grime-garage-bashment-j-hus-kojo-funds-matt-hancock-latest-a7963546.html>. (last accessed 15 March 2019). **Peyer, R.** 2016. Brixton’s Fridge Bar to close months after police accusations of links to serious crime. *Evening Standard*. Available from <http://www.standard.co.uk/news/london/brixtons-fridge-bar-to-close-months-after-police-tell-oflinks-to-serious-crime-a3089236.html> (last accessed 2 February 2019).
- Talbot, D.** 2004. Regulation and Racial Differentiation in the Construction of Night-time Economies: A London Case Study. *Urban Studies*, 41(4): 887–901. DOI: <https://doi.org/10.1080/0042098042000194160>
- Talbot, D.** 2007. *Regulating the Night: Race, Culture and Exclusion in the Making of the Night-Time Economy*. Aldershot: Ashgate.
- Talbot, D.** 2011. The Juridification of Nightlife and Alternative Culture: Two UK Case Studies. *International Journal of Cultural Policy*, 17(1): 81–93. DOI: <https://doi.org/10.1080/10286631003695547>
- Talbot, D and Böse, M.** 2007. Racism, Criminalization and the Development of Night-Time Economies: Two Case Studies in London and Manchester. *Ethnic and Racial Studies*, 30(1): 95–118. DOI: <https://doi.org/10.1080/01419870601006579>
- Williams, P.** 2015. Criminalising the Other: Challenging the Race-Gang Nexus. *Race and Class*, 56(3): 18–35. DOI: <https://doi.org/10.1177/0306396814556221>

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