

Lori Young (533992)

Racial Profiling and Data Collection

CJ- 246

Over the last several years, allegations of racial bias in traffic stops have become so common that the practice has been popularly labeled as “DWB” (Driving While Black.) Racial profiling is the practice of targeting or stopping a pedestrian or driver based primarily on their race, rather than any individualized suspicion or crime. Is racial profiling really discrimination or just good police work? I have found that it depends on whom you ask and what definition of “racial profiling” they believe.

Yost Zakhary, Public Safety Director of the city of Woodway, Texas believes that racial profiling occurs, but not at the rate many claim. Zakhary, a native of India, says the percentages show blacks commit more crimes. Any violation of the traffic code is a legitimate reason for pulling a driver over, Zakhary says. He also mentions the United States Bureau of Justice Statistics that found that blacks comprised 12% of the American population and 50% of the prison population. He states that statistics show blacks are eight times more likely than non-blacks to commit a crime. “Unfortunately, Zakhary states, in racial profiling if blacks are more likely to commit crimes than whites, innocent blacks are more likely than innocent whites to have encounters with police. He gives the example of a description of a black man wearing a red jacket. Police officers will target ALL black men that might be wearing red jackets. Innocent blacks would be questioned because they might fit the description, it does not mean officers are discriminating or using racial profiling in a negative way. Zakhary is in favor of “data collection” and says the cameras in patrol cars provide accountability for his officers.

There are many individuals and organizations willing to offer solutions to what President Bush called “a national problem.” Racial profiling is one of the most critical issues facing law enforcement today. In order to address this problem, legislation should be introduced to include “a standard definition” of racial profiling.

The first step towards a solution to address racial profiling is to develop and enforce police policies which prohibit racial profiling in cases where it is clearly wrong. For example, when an officer stops a car based off the fact the driver is of a certain race and *then* looks for a possible traffic violation. “Racial profiling is difficult to define and also difficult to detect when shrouded behind a traffic stop that seems legitimate in every other way.” (Holbert, 2004) Policies should also include mandatory data collection and the effort to place video cameras in each police vehicle.

According to the ACLU, (American Civil Liberties Union) the number of states collecting data has increased but many states have been slow to enact effective legislation to outlaw the practice of racial profiling. The analysis of data can be critical in helping diagnose the types and levels of bias within the agency as well as helping develop systems to eliminate bias. Many believe that data collection is not effective and will show to be expensive and time consuming. Others believe the value of data collection clearly outweighs any time and costs. However, data collection done incorrectly can lead to misunderstandings and a waste of time. Standards on data collection must be developed. One of the major benefits of implementing a data collection policy is that it sends a strong message to the community that the department

is against racial profiling and that racial profiling is not consistent with effective policing and current policies and procedures.

In Chapter 14 of *Multicultural Law Enforcement, strategies for peacekeeping in a diverse society*, the authors explain that when racial profiling becomes an issue, many agencies begin collecting data on the race/ethnicity on the people stopped and/or searched by police. “Many state agencies and highway patrols actually require officers to report demographic information for drivers and passengers when they stop motorists and vehicles for violations.” (Strom, 1999) Collecting data is crucial from a public policy point of view, and it is critical from a police management and public service point of view. “Collecting data and interpreting them, if done correctly, reflects accountability and openness on the part of the agency.” (Shusta, 2005)

Data collection has been met with negativity by many officers who feel the process has the potential to escalate an already tense situation because having an officer ask a driver what race or ethnic group they belong to could make them irritated and possibly cause a hostile reaction. Those in favor are quick to argue that the data collected is not based on what race or ethnic group drivers actually belong to, but what race or ethnic group the officers think they belong to. The entire data collection process is based off the officer’s perception of the driver. Data collection is necessary to identify the problem and necessary that sufficient categories of data are recorded. The necessary

categories are: location of the stop, date and time of the stop, the reason for the stop, the race, age, and gender of the driver, their disposition and data related to any searches.

**Figure 2**

**Traffic Stop Data Elements  
Recommended for Collection<sup>a</sup>**

<b>Basic Stop Information</b> <ul style="list-style-type: none"><li>▪ Date.</li><li>▪ Time.</li><li>▪ Location.</li><li>▪ Length of stop.</li><li>▪ Identity of officer.</li></ul>
<b>Identity of Individual Stopped</b> <ul style="list-style-type: none"><li>▪ Race and ethnicity.</li><li>▪ Age.</li><li>▪ Gender.</li></ul>
<b>Type of Stop</b> <ul style="list-style-type: none"><li>▪ Reason for the stop.</li><li>▪ Outcome of the stop.</li></ul>
<b>Search Information</b> <ul style="list-style-type: none"><li>▪ Whether search was performed.</li><li>▪ Legal basis for search.</li><li>▪ What was searched.</li><li>▪ Whether contraband was found.</li><li>▪ Description of any property seized.</li></ul>
<small><sup>a</sup> Elements recommended by both the U.S. Department of Justice and Police Executive Research Forum.</small>

Data collection is practical because you cannot manage what you do not measure.

Statistics from data enables the department to make smart judgments and assists them in possibly identifying department and procedural problems. Data collection is also a

great gesture to the community, showing law enforcement has the willingness to take an inward look to prevent discrimination. It also displays a true commitment by law enforcement to address community concerns and needs. Data collection gives everyone something to work with even though it might be just a partial solution. With mandatory data collection, officers will be forced to think about what happens during an encounter and what they do and say and possibly what parts should be looked at closer. Data collection efforts not only have the potential to punish racist police officers, but also provide a basis for important policy changes. Many agencies have seen a reduction in racial profiling complaints since data collection began. Data collection can be a useful management tool for agencies to monitor the behavior of their officers and to eliminate the discriminatory practice of racial profiling. Although racial profiling often occurs because of common procedures and practices, it is agreed that there are some racist police officers that engage in unacceptable behavior. By using data collection as a management tool, agencies are able to provide officer accountability and departments would be able to identify officers who engage in profiling and other unacceptable forms of behavior and thereby work to help eliminate the problem on both a personal and agency level.

Most authors advocate the passage of legislation requiring law enforcement officials to collect data on the race and ethnicity of the people they stop. Without the data, it is extremely difficult to prove or disprove that race-based stops actually happen. The ACLU encourages ending the use of pre-text stops, such as minor traffic violations, to search for drugs on highways.

Some say a better solution would be to institute random check points and searches as some states do for catching drivers under the influence. Those in objection to this idea say in some cases, when officers are given a *choice* they would search blacks and Latinos at a significantly higher rate.

Another solution would be to install cameras in each police car. "Since the advent of video cameras in patrol cars, most charges of police racism, testified under oath, have been disproved as lies." (MacDonald, 2001) Cameras not only monitor police behavior but also discourage false complaints of misconduct. Under Texas law, if an agency does not have funds for cameras, they can submit a request for funds from the Texas Department of Public Safety. Despite the initial concern and uncertainty by officers, experience shows that video cameras not only help get the profiling problem under control, but also helps protect officers. For example, "In New Jersey, where almost all state police cars now have in-car recording systems, they have been used to defend officers more often than anyone anticipated." (Harris, 2002) The cameras protect both the officer involved and the public by recording whether proper procedures were followed.

The Civil Rights Coalition, in *Wrong Then, Wrong Now* summary, makes recommendations to combat all forms of racial profiling.

1. Every federal state and local law enforcement agency should expressly ban the use of racial profiling.

2. The ban on racial profiling should be legally enforceable, including private citizens.
3. Each agency should adopt procedures to give effect to the profiling ban, including disciplinary procedures against officers found to have engaged in profiling; complaint procedures for those who claim to have been subjected to profiling and data collection procedures.
4. Federal and state funds should be made available for law enforcement agencies to establish systems to end racial profiling.
5. Nationwide standards should be developed for the accreditation of law enforcement agencies, and such standards should include express guidance on racial profiling.
6. Police oversight agencies, such as the Civil Rights Division of the Justice Department, should give priority to the investigation and remediation of racial profiling.
7. Law enforcement agencies should strive for a more diverse workforce in order to better serve the public.
8. A public education campaign is necessary to explain the myths behind racial profiling, the effects of profiling of minorities and the flaws of profiling as a law enforcement tool.

As of June 2003, the United States Department of Justice issued a guide for law enforcement activities implementing that federal law enforcement officers cannot use race or ethnicity to any degree in making routine or spontaneous law enforcement decisions when making ordinary traffic stops. However, the guide indicates that officers may wish to consider race and ethnicity when conducting activities in



connection with a specific investigation. Profiling is obviously ok when a victim describes the accused as being of a particular race. Many officers have rejected the “racial profiling myth” saying if they pull you over, it is for a reason; either you fit a description or you have done something to raise an officer’s suspicion. Officers say they do not see color of the skin; the issue is if the individual is raising the level suspicion of the officer. In all traffic stops, the initial decision to pull a car over should be based on a serious traffic violation. “Highway stops should almost always be color-blind, but in some policing environments, where an officer has many clues to go on, race may be among them.” (MacDonald, 2001)

“Though some instances of racial profiling may be clear cut, the majority are not. Racial profiling, the practice of drawing conclusions about a person on the basis of skin color, has become one of the most emotionally charged topics of this decade” (Holbert, 2004) The best suggestion for those pulled over by police, be polite. More often times than not, you are being stopped because you violated a traffic law.

References

Zakhary, Yost. Public Safety Director, former Chief of Police, Woodway Texas.

Personal Interview. March 29, 2005.

Shusta, Robert M., Deena R. Levine, Herbert Z. Wong, and Philip R. Harris.

Multicultural Law Enforcement: Strategies for Peacekeeping in a Diverse Society.

Upper Saddle River: Prentice Hall, 2005

Holbert, Steve and Lisa Rose. The Color of Guilt and Innocence. San Ramon:

Page Marque Press, 2004

Wrong then, Wrong Now. Racial Profiling before and after September 11, 2001.

[http://www.civilrights.org/publications/reports/racial\\_profiling/](http://www.civilrights.org/publications/reports/racial_profiling/) March 29, 2005.

Strom, Kevin J. and Matthew R. Durose. Traffic Stop Data Collection Policies.

<http://www.ojp.usdoj.gov/bjs/abstract/tsdcp99.htm>. March 30, 2005

Mac Donald, Heather. The Myth of Racial Profiling. *City Journal*. Spring 2001.

[http://www.cityjournal.org/html/11\\_2\\_the\\_myth.htm](http://www.cityjournal.org/html/11_2_the_myth.htm)

Harris, David A. Profiles in Injustice. New York: New Press, 2002.