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Law Enforcement Management Institute of Texas

Racial Profiling

A Policy Research Project
Submitted in Partial Fulfillment
of the Requirements for the Professional Designation
Graduate, Management Institute

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February 2000

ABSTRACT

The purpose of this research project is to examine whether a formal program is needed to determine if racial profiling exists within a police department, and if one is needed what type should be selected to address a community's concerns.

In June of 1999 the American Civil Liberties Union issued a report titled Driving while Black, Racial Profiling on our Nations Highways. One of the main proposals that is suggested in the report is for police departments to collect statistical data involving traffic stops. Many law enforcement agencies are using this type of data to determine the extent of racial profiling in their agencies. The Houston Police Department began using this method in August 1999 in order to comply with a presidential directive issued June 9, 1999, titled Fairness in Law Enforcement: Collection of Data.

This report takes the position that the collection of data by police officers is not the most efficient method to utilize in determining racial prejudices amongst its officers. Police departments should act internally to uncover abuse of power regarding race based acts, while working to gain the confidence of all stakeholders.

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Introduction

The purpose of this research project is to examine the issue of racial profiling in large police departments. Specifically, whether a formal program is needed to determine if racial profiling exists and if one is needed what type should be selected to address a community's concerns. Numerous lawsuits have been brought against police departments alleging, racial profiling. In June of 1999, President William J. Clinton issued an order that mandated Federal Agencies to collect data defining the scope of this problem. Currently, police departments are entering into consent decrees while others are voluntarily imposing stringent guidelines on officers to collect information on all activities that officer's initiate.

The problem police department's face is not to appease the targeted audience by providing window dressing, but to implement policies that will expose personnel, which harbor racial, ethnic and gender, prejudices. Police Departments must have the trust of the communities that they serve. With the trust that is placed in them, police executives must be able to articulate to the community that policies are in place that will identify personnel that harbor types of prejudices and that this behavior will not be tolerated in the ranks. Police Executives are not only faced with the task of

implementing policies of this nature that will address community concerns, but also take into account how the morale of the officers of the department will be effected.

This research paper will examine the politics behind this issue, policies that have been mandated by courts, and policies currently in place by police departments. Information for this project will be obtained from books, police journals, case law and other documents.

HISTORICAL, LEGAL, and THEORETICAL CONTEXT

The impetus behind the push for the documentation of police stops in the Houston Police Department was to comply with a presidential directive to federal law enforcement agencies June 9, 1999, titled Fairness in Law Enforcement: Collection of Data. This directive mandated Federal agencies to design and implement a system to collect and report statistics relating to race, ethnicity, and gender. The intent of the directive was to determine the extent of racial profiling in Federal law enforcement agencies. Prior to the release of this directive, bills were sponsored in both the houses of Congress in April 1999, which mandated the Attorney General to conduct a national study of traffic stops by law enforcement officers. Coinciding with the release of this directive and the

introduction of these bills in Congress, was a special report issued in June 1999, by the American Civil Liberties Union titled Driving while Black. Racial Profiling on our Nations Highways. In the report, two court cases are cited which the ACLU contends that racial profiling is proven. In Chavez v. Illinois State Police, the ACLU submitted to the court an analysis of databases maintained by the Illinois State Police that were analyzed by "experts" that prove Hispanic motorists were singled out for traffic enforcement.

Review of Literature or Practice

The practice of profiling was developed in the early 1970s by Paul Markonni, a Drug Enforcement Agent who developed behavioral characteristics to spot drug couriers. It is the contention of the ACLU that law enforcement began to rely on race as the sole factor in stop and search situations, rather than taking into account other behavioral factors. Numerous lawsuits have been filed against law enforcement agencies (Chavez v. Illinois State Police, Wilkins v. Maryland State Police, v. New Jersey). In a case filed by the ACLU against the Philadelphia Police Department, an out of court settlement was agreed to in which the police department would have to record information regarding

vehicle stops.

The American Civil Liberties Union Special Report, June 1999, states, "Significant blame for this rampant abuse of power also can be laid at the feet of the governments "war on drugs," a fundamentally misguided crusade enthusiastically embraced by lawmakers and administrations of both parties at every level of government." The report outlines the current ACLU lawsuits against police agencies along with testimonials of individuals who claim to be victims of "Driving While Black".

The Gallup Organization released a poll December 9, 1999, in which forty-two percent of blacks feel that the police stopped them just because of their race or ethnic background. Additionally, six percent of whites felt that they were stopped because of their race. In the same poll, when asked the question if the practice known as racial profiling is widespread, 77 percent of blacks said racial profiling was widespread compared to 56 percent of whites saying that the practice of racial profiling was widespread.

While police departments such as Philadelphia and Pittsburgh are being mandated by court orders to track racial data, others cities such as San Diego ,Ca., San Jose, Ca, and Houston TX. are voluntarily tracking racial data involving traffic stops.

In July 1999, the Houston Police Department implemented the Police Self-Initiated Contact Database Project. This project mandated that patrol Officers record information pertaining to the race and gender of every self initiated officer contact. The department outlined three goals of this project:

1. Develop a method to capture officer-initiated activity by race and gender for those persons stopped or searched by police.
2. Determine to what extent racial profiling exists within the Houston Police Department.
3. Formulate responses to prevent and eliminate racial profiling where it exists

The Houston Police Department Self-Initiated Police Contact Data from January 1, 2000-March 31, 2000 showed a total of 22,232 contacts. The Statistical breakdown of these contacts is as follows:

	Contacts	Arrested	Released	Ticketed
Asian	875	18	112	745
Black	6347	273	1424	4650
Hispanic	6453	265	1332	4856
Native Am. 15		1	7	7
White	8542	204	1411	6927

Shortly after this project was initiated I the, Houston Police Officers Union conducted an internet poll on their web page concerning how this

new policy was affecting the way patrol officers were performing their duties. The survey question stated: "Has the Racial Profiling policy had an effect on your job performance?" The responses were as follows:

No. I stop and arrest crooks, and issue traffic citations as usual. 27%

Yes. I turn a blind eye, because I don't want my actions to be misinterpreted as being racial. 49%

I only stop, or issue citations when I have to. 32%

I've been on vacation, and haven't the slightest idea what this is all about 2%

While widely criticized by politicians and journalists, the practice does have its defenders who argue that the practice may have some merit.

Walter Williams a professor at George Mason University writes regarding

The New Jersey State Police, "According to the 1997 FBI Uniform Crime

Report, 63 percent of the 65,624 drug arrests were minorities (50 percent

being blacks and 13 percent being Hispanics). Since blacks are only 13

percent of the total population, it means law enforcement officials can

assign a higher probability that a drug trafficker is black more so than other racial groups."

The New Century Foundation's report "The Color of Crime" argues that

blacks are so much more likely than Americans of other races to commit

crimes that police may be justified in stopping and questioning them more frequently.

Discussion of Relevant Issues

Before a discussion of racial profiling can continue, the first thing that needs to be established is a working definition of racial profiling. The best definition can be taken from the web sight of the American Civil Liberties Union "Arrest the Racism" where it states that "Scores of innocent, law-abiding people of color --have suffered the humiliation of being stopped on the nation's highways simply because of the color of their skin". The only alteration that needs to be made to this definition is that color must be omitted. Failing to omit "color" would suggest that citizens who do not fit the ACLU's definition of color would could not be subject to racial profiling. For the purpose of this paper Racial Profiling will be defined as "a practice where innocent law abiding people are stopped solely due to the color of their skin".

Issues relating to the possible motives of the groups who purport that racial profiling is rampant in police departments must be examined. The ACLU makes it clear on their websight and in their special report that they do not feel that this is isolated to particular officers in a particular

department, but rather they state, "it's time for our national leaders to realize this is not about a few "bad apples." It's about the whole tree, right down to the roots." Statements such as this call into question hidden motives and bias behind the allegations made by the ACLU. Studies conducted that purport to prove charges of racial profiling in police departments must be scrutinized and questioned to ascertain if the study was conducted to produce desired outcomes.

One of the proposals that would put an end to racial profiling suggests police departments collect data on each traffic stop and document if a search was conducted. On the surface this remedy may seem viable, cost effective and reasonable, but one must not forget the repercussions of such a program. As cited earlier, a recent internet poll conducted by the Houston Police Officers Union asked the question, "Has the racial Profiling policy had an effect on your job performance. In this poll 49% chose to respond that they turn a blind eye because they do not want their actions to be misinterpreted as being racial. Houston Police Chief C.O. Bradford acknowledged that officers cut down on the number of the tickets they write because they don't like the paperwork or the idea behind it. In a Pittsburgh Tribune-Review article dated December 12,1999,

that since the city of Pittsburgh entered into a consent decree which in part mandates that officers complete a written report on traffic stops arrests have dropped dramatically. In this article Marshall Hynes, president of the local FOP states, "In the past, if you saw what you thought was a drug transaction, you could check them, Now, with the consent decree, this kind of proactive policing has dwindled down to what I think is a dangerous Level." Four officers in the Pittsburgh Police Department were asked if they are as proactive in their patrol as they were before they were mandated to collect data on race. All responded they only do what is necessary to get by Officers who possess a mind set such as this can only have a negative affect on service delivery. Police executives must not lose sight their primary purpose is to serve the citizenry. They are faced with the task of ensuring the community racism will not be tolerated and policies are in place that will weed out officers who are racists. The policies implemented must recognized as fair by the rank and file. When a Gallup poll released December 9,1999, indicates that 36% of a particular group (Black Americans) have an unfavorable opinion of local police that in

itself is a problem even if it is only perceptual.

Conclusion/Recommendations

"Serious students of the police learn quickly that, despite many existing stereotypes, policing is an extraordinarily complex endeavor" (Goldstein. 1990). Determining whether racial profiling exists in a police department can not be proven by having officers record each and every contact made. Statistics are only as good as the source documenting them and the bias of the people interrupting them. Statistics can not go into the head of a beat cop to determine reasons behind the stop.

Whether the reason behind the stop was due to a call for service, crime bulletin, GB of a crime in progress, or just a hunch of the officer. Statistics can not determine if a minority officer who works an area of town that is predominately white uses racial profiling in his stops.

While police departments use sophisticated testing devices to screen individuals who may harbor racist tendencies out of the recruiting process it would be inconceivable to believe racism would not exist in large police departments. This is what police executives must concern themselves with and put into place policies that weed these individuals out of the department. The following recommendations are suggested for a

police agency. First, the department by internal directive, prohibits the practice of racial profiling. Second, complaints that have racial overtones will be given the highest priority and investigated promptly and thoroughly. Third, a unit within the Internal Affairs Division to investigate all race based complaints. Fourth, Implementation of a tracking system to to determine patterns in officers behavior. Fifth, provide an avenue to where first line supervisors can confidentially relay concerns regarding officers and have a preliminary investigation started. Sixth, publicly announce the policies that have been put in place.

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