

**The Bill Blackwood
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**Racial Profiling: Will Mandated Requirements Solve the Issue for
Law Enforcement**

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ABSTRACT

Racial profiling whether real or perceived undermines the trust and confidence the community has in law enforcement. Years of racism in this country cannot be erased without continued efforts on the part of law enforcement and society. Despite considerable improvements in police community relations over the last several decades, trust and confidence in the police continue to be a serious issue in many communities.

The purpose of this research project is to discuss the issue of racial profiling as it relates to current mandated guidelines. The question is: Will current legislation of data collection and training for law enforcement be adequate to address the issue of racial profiling? How are police departments to manage the cost of such programs with already tight budgets? The focus of data collection will be the research of current literature and a survey of small and mid-size police departments in Texas. Information will be analyzed to determine if this mandated data collection will be just mere statistics or a method of determining prevention to racial profiling.

The challenge for police departments is to embrace data collection and use it as a tool for improvements. To teach sensitivity and refuse to allow racial profiling when it violates a persons civil rights. The logistics may be difficult, however it is a measure of our civilization.

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INTRODUCTION

Racial profiling whether real or perceived undermines the trust and confidence the community has in law enforcement. Years of racism in this country cannot be erased without continued efforts on the part of law enforcement and society. Despite considerable improvements in police community relations over the last several decades, trust and confidence in the police continue to be a serious issue in many communities. Our laws are a reflection of the principles that society feels are important and the boundaries society agrees on imposing with the resources available. How will law enforcement executives respond to both the reality and the perceptions of biased policing with the resources available? (Police Executive Research, 2001)

The purpose of this research project is to discuss the issue of racial profiling as it relates to current mandated guidelines. The question is not whether racial profiling is wrong because it is wrong when it is the sole factor used to make a stop. The question is: Will current legislation of data collection and training for law enforcement be adequate to address the issue of racial profiling? How are police departments to manage the cost of such programs with already tight budgets? The focus of data collection will be the research of current literature and a survey of police departments in Texas.

In June 1999, President William J. Clinton issued an order that mandated federal agencies to collect data on the race and gender of persons contacted by federal agencies (Cohen, Lennon, Wasserman, 2000). Then in February 2001, President George W. Bush announced "Racial profiling is wrong and we will end it in America." (Callahan, 2001). On September 1, 2001, the state of Texas mandated that

law enforcement agencies collect and maintain data on racial profiling (LEMIT, 2003). Many agencies had voluntarily imposed guidelines to address this issue prior to the state of Texas mandating this collection of data.

The problem of implementing a system of data collection on race and gender for a period of time is that it may be costly in both time spent collecting and disaggregating data. The next question then becomes: Will the data collection address the issue of racial profiling? The bottom line is now that data collection and training are required, how are police departments going to handle this requirement? There are really only two solutions for many police departments: either collect data with technology or collect data with paper-base solutions. Either solution entails collecting data.

Also, will the data collected show that law enforcement agencies or individuals practice racial profiling in any type of criminal investigation from traffic stops to murder investigations? How is this information going to be used by administrators to prevent racial profiling? The problem that police departments face is not to appease the government or their community with statistics that are in line with the conviction rate. The challenge is to implement policies and procedures that will expose personnel that harbor and bring racial prejudice to their jobs. As officers become more sensitive to the issues of racial profiling will that affect crime rates in the communities?

This paper will look at current data, journal articles, and a survey of some small to mid-size Texas Police Departments data collection methods. Information will be analyzed to determine if this mandated data collection will be just mere statistics or a method of determining prevention to racial profiling. Current practices will be

discussed in hopes of highlighting promising practices that have effectively inhibited racial profiling.

REVIEW OF LITERATURE

Racial profiling has been defined by the Department of Justice as any police-initiated action that relies on race, ethnicity or national origin, rather than the behavior of an individual or information that leads the police to a particular individual who has been identified as being or having been engaged in criminal activity (Garrett, 2001). This should not be confused with the use of race in addition to other factors that identify probable cause. According to a Gallup Poll released in December 9, 1999, more than half of all Americans report that they believe law enforcement actively engages in racial profiling. Members of society are influenced by stereotypes. It is believed that all discrimination is not intentional it is subconscious and based on stereotypes. However, a few biased officers can build fear and distrust in the public. There have been outcries by a multitude of Black and Hispanic individuals that they have been questioned or detained for no reason. Since the events of September 11, individuals from the Arab community have made accusations that they have been detained for no other reason than their ethnicity.

The reason for President Clinton's federal mandate of law enforcement agencies to collect data on the race and gender of persons stopped by law enforcement is because of incidents such as the following. In August 1998, U.S. Sergeant First Class Rossano V. Gerald and his young son Gregory were driving across Oklahoma when they were stopped twice and detained for several hours for no apparent reason by law enforcement personal (Harris, 1999). Another incident resulted in the death of David Belle, Jr. a Texas resident, who died in the state of

Louisiana (Ruiz, 2000). Belle was black and driving a rented vehicle when he was detained for a drug search. After being on the side of the road for some time in the heat he collapsed and later died. No drugs were found. Whether all the information was publicized is not as important as the public's perception.

Incidents such as these contribute to the belief of some minorities that police officers unfairly target them because of color and this leads to mistrust. Mistrust of the police makes minorities less likely to cooperate with the police by reporting crimes and aiding in police investigations. To free police officers to do their job of reducing crime a plan has to be implemented so that communities trust law enforcement officials and they can work together.

Federal and state laws have made racial profiling a criminal and civil offense. At the time these laws were made the focus was on prejudice towards Blacks and Hispanics, but after 9/11 the issue became more complicated as the focus changed towards Middle Easterners and many Americans' view changed. According to a recent Time/CNN poll taken after the September 11th attack, 29% of those interviewed thought it would be appropriate to allow law enforcement to stop people on the street for random searches (Huntington, 2001).

Many Americans who previously said that racial profiling has no place in law enforcement are now rethinking that position. The fact that all of the terrorists whose pictures have been published have Arab backgrounds has led to some profiling by private citizens (Nichols, 2001). Forty-nine percent of U.S. citizens reported they now would approve requiring citizens of Arab descent to carry an identification card issued by the federal government based on a few people of Arab descent being identified as terrorist (Huntington, 2001). Is this not racial profiling by our citizens? So we see that

law enforcement officers are often in a precarious situation as the demands of our society are ever changing.

The first step in the solution of any problem is evaluation. According to civil rights activists law enforcement agencies need to collect data on the race of all the drivers that they stop, as well as related data about the character of the stops (Epstein, 2001).

In Texas during January 2002, law enforcement agencies were mandated to begin collecting data on stops that resulted in a citation, with no new appropriated money (LEMIT, 2003). In January 2003, it was mandated that data be collected for any initiated stop by law enforcement (LEMIT, 2003). The collection and evaluation of this data is necessary for identifying the problem and giving direction to any efforts to eliminate profiling both as a practice of individual officers and as a department. Will this data change community perception or will the data confirm perception? Will it improve the crime rate?

Police Chief David Bejarano of the San Diego Police Department views the data collection as an opportunity to proactively address an issue community members are concerned with (Garrett, 2001). The two main methods to document race of persons stopped are through paper documentation and video. Some monies became available in late 2002, however this still caused a financial burden on law enforcement agencies (LEMIT, 2003).

Currently, law enforcement agencies have had to decide how they are going to meet the mandated guidelines. At first, many departments used a card system and changed their citations to include more information (Garrett, 2001). An officer who

initiates a stop for any suspected offense has to record the following information:

(LEMIT, 2003)

1. A physical description of each person detained as a result of the stop, including the person's gender; race or ethnicity, as stated by the person or as determined by the officer to the best of his/her ability.
2. The location of the stop and the suspected offense.
3. Whether a search was conducted or not and if it was with consent.
4. Whether probable cause to search existed.
5. Whether contraband was discovered and type.
6. Whether an arrest was made or not and the charges.
7. Whether the officer issued a warning or a citation and the charge.

Once the information is gathered then the department has to compile and analyze the information contained in these individual reports. Then the information has to be submitted to the governing body (LEMIT, 2003).

When analyzing this information it is important to not only count raw data, but to compare the percentages of minorities in a particular area or community to the number of stops in that area or community (Montgomery, 2001). Also, there is a need to look at all of the mandated items and not look at them in isolation.

The use of a paper system to collect this information is very time-consuming. The officer fills out the paper work then the information is input into a computer. Not only does this take more of the officers' time, it takes more of the record clerks time. This time equates into money. Some departments have mobile computers in all of their cars so it takes less time to input the information and transfer it to a main frame. Other departments have gone to a video record as an alternative. Many

administrators prefer to use video and audio equipment because it would spare their officers the time and effort of recording the data manually (Todd, 2003). In Texas, some departments use video equipment purchased with grant money. However there are many hidden expenses with this system. For example, the videotapes have to be kept for 90 days. In a department like Angleton Police Department where there are 28 patrol officers who are working a 12-hour shift 45 tapes minimum per officer are needed to meet the 90-day requirement for videos, this is 1,660 tapes. Then a system for securing the videotapes and personnel to over see this system is required. This budget item then has to be replenished every year. The video equipment is fragile and has to have regular maintenance. If the system fails for any reason then the officer is back to his paper trail. One disadvantage to the use of video for reviewing information in larger departments is the lack of easily reviewed statistics. Sheriff Anderson of Tarrant County says that it would be easier to look up data on a searchable computer format rather than looking back through hundreds of videotapes (Todd, 2004). So the review of patterns of officers is more difficult to assess.

One advantage of the video system is the multipurpose function of this system. When officers know the video is recording their every action, it raises their level of concern. The officer then becomes more aware of their approach to a stop and their interaction with the individual. This helps with officer safety during traffic stops. Videotapes are effective tool in the prosecution of cases and help to resolve complaints against officers.

METHODOLOGY

The research has two questions: Will data collection systems address the problem of racial profiling? What is the most efficient and effective way to address the issue?

Racial profiling is prejudice. Departments do not want to admit that their officers are involved in racial profiling. Although, it will be helpful to have data and training it is unclear if it will make a significant difference. Sometimes the perception that the issue is being addressed, and officer sensitivity to the issue is enough to change the community perception. The bottom line to most people is that their community is a safe place to work and play.

In an attempt to address this issue it was important to find out if police departments believed there was a problem with racial profiling. Next it was necessary to find out how mandated data was collected and what worked for different departments. A survey issued to more than 50 smaller police departments in the coastal area of Texas asked seven questions concerning racial profiling. Forty percent of the department responded. These responses were from patrol personnel through administration and were gathered through personal contacts and mail. The survey was sent before all of the mandates had gone into effect. Listed below are the questions and the responses (Table I).

Table I. (Survey of Racial Profiling).

1. Does racial profiling exist in your department?

0% yes 100% no

2. Does your department believe racial profiling legislation is needed?

	13% yes	87% no
3. Has your department been accused of racial profiling?		
	7% yes	93% no
4. If a complaint was filed against an officer for racial profiling was there any evidence that the officer was guilty of profiling.	0% yes	100% no
5. Do you believe data collection will help with racial profiling?		
	27% yes	73% no
6. Has data collection for racial profiling cost your department money?		
	100% yes	0% no
7. How does your department collect racial profiling data?		
	37% paper	24% mobile computer
		53% video
some agencies marked more than one selection for question 7		

The information was used to determine law enforcement perception of racial profiling in this area.

Knowing that racial profiling is based on an individuals prejudice legislation to prevent racial profiling in Texas may help make officers sensitive to the issue and help administrators identify individuals who bring these prejudices to the work place. Changing behavior may very well begin with data, because without data all you have is people giving anecdotal experiences. Data can be interpreted in different ways and could be harmful to police departments that are doing their jobs. An example of this was in Arlington County, Virginia where Police Chief Ed Flynn responded to citizen complaints to clean up a drug problem in a black neighborhood. Flynn put together an effective program to address the problem. The citizens were thankful, but the data

generated showed a disproportionate number of minority arrest (MacDonald, 2001). Raw data on its own can be dangerous. For example, the data shows that an officer disproportionately stops minorities and the information is not compared to the graphics of the driving population of that location, false conclusions may be drawn.

FINDINGS

There has not been enough data collected to verify if racial profiling is as prominent as the media seems to indicate. In the survey the following responses were gathered from the seven questions asked. First, does racial profiling exist in your department?

One hundred percent of the police departments surveyed believed that racial profiling was not a concern for their departments. All of the departments questioned denied that racial profiling was a concern. This could be for fear of being slapped with a reputation of racial profiling, denial that a problem exists or that they truly believe the department on the whole does not participate in this.

Second, does your department believe racial profiling legislation is needed?

When questioned if racial profiling legislation is needed 13% said “yes” and 87% said “no”. Most agencies may feel that there are already laws on the books that deal with discrimination. Some of the 13% felt racial profiling legislation is needed to keep the officers from demonstrating their prejudice on the job.

Third, has your department been accused of racial profiling?

Of the departments reporting seven percent said their department had been accused of racial profiling. This may mean that an individual in their department has been accused of this, even though someone has been accused the department

did not believe racial profiling is currently present based on the previous question.

Fourth, if a complaint was filed against an officer for racial profiling was there any evidence that the officer was guilty?

One hundred percent indicated that no evidence was found to indicate the officer was guilty. Often a complainant is upset or maybe trying to get the charges against them dropped. This is where more data could be helpful.

Fifth, do you believe data collection will help with racial profiling?

The findings are that only 27 % of the departments questioned believed that data collection of the required information on race and ethnicity believed the information to be helpful in preventing racial profiling. Seventy- three percent indicated that data collection would not be helpful. Some people believe that the data can be changed before it is turned in making the data invalid.

Sixth, has data collection for racial profiling cost your department money?

All of the departments report that the requirement has cost their department money. This cost is seen in man-hours, extra personnel, maintaining and purchasing of equipment. This may include new citations, computers, software, video cameras or videocassettes.

Seventh, how does your department collect racial profiling data?

Thirty-seven percent of the departments are using a paper system, this is often scantron cards. All of the departments indicated

that they use an in-house computer system for compiling the data.

Twenty-four percent stated they use a mobile computer system for data collection which saves time in transferring the information into their in-house computer system. Fifty-three percent of the departments have the video recordings. Many indicated that they would like video cameras in all their units, but it is currently cost prohibitive for some department even though state funding has been made available.

This accounts for only a small number of departments in the area, however this is believed to be a representative group. This survey indicates that these law enforcement agencies have indicated that unnecessary mandates are being placed on their agencies. Racial profiling whether real or perceived are detrimental to law enforcement's ability to perform their job.

Legislation to collect data is here to stay. The collection of this data is only as good as the data and the person that is interpreting the data. The data can be an useful tool for raising the awareness of racial profiling and to help law enforcement administrators guide officers in the performance of their duties. Whether it is cost effective is still to be determined.

Law enforcement agencies are using paper, computers, video and a combination of the above listed systems to collect data. Cost is a factor in what system agencies are using to manage this requirement?

At this time no system stands out as the best practice for all sizes of departments. Much depends on the existing equipment and needs of the department.

DISCUSSION

Is current legislation of data collection and training adequate to address American societies fear of racial profiling? The answer is that it is a step in the right direction. Through data collection and training officer sensitivity is raised to the issue of racial prejudice and community perception becomes more positive. The survey indicated that either individuals in the police departments surveyed were afraid to admit that racial profiling may exist or it has been blown out of proportion by the media. Admitting a concern or problem makes individuals and departments nervous about law suits. Either way will data collection prevent racial profiling from ever occurring? No, not completely.

Years of racism in this country cannot be erased without continued efforts on the part of law enforcement and society. Racial profiling whether real or perceived will not be tolerated in law enforcement when it violates a persons civil rights. Legislation has made law enforcement aware that this is an important issue and that racial profiling when used alone is not acceptable. Data collection is here to stay and it will be the challenge of law enforcement agencies to learn how to efficiently gather and interpret the data. Even though agencies may not indicate there is racial profiling in their department the data can be used for making improvements within the department. Being proactive, with prevention of racial profiling with training and the collection and assessment of data can help improve law enforcement agencies. Improvement of law enforcement agencies will result in better community relations. All of which can be done with no loss of personal freedom, simply a heightened tolerance for an appreciation for what needs to be done to reach the goal (Huntington, 2001).

What is the most efficient and effective way to address the issue of racial profiling in police departments? Technology offers the most efficient and effective method of gathering data. However, the cost makes only the use of technology impossible for some departments at this time. So a combination of systems, paper, computer, video is the best practice. The cost of these mandates to agencies will have to be absorbed and in some cases may mean cuts in other areas of their budget. It is a matter of prioritizing with required programs and equipment.

The challenge for police departments is to embrace data collection and use it as a tool for improvements. To teach sensitivity and refuse to allow racial profiling when it violates a persons civil rights. The logistics may be difficult, however it is a measure of our civilization.

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