

**The Bill Blackwood
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**Racial Profiling:
“A Factual Analysis”**

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ABSTRACT

Law enforcement is constantly involved in a complex web of community issues and concerns. Racial profiling has risen to the forefront as one of the leading community concerns. The catalyst for this is unknown what is known is that the law enforcement community and the community itself are in a continual mode of absorbing media sound bites and newspaper headlines that raise suspicions without providing the facts in their entirety. The reality of the media impact on both entities is more often than not negative.

An overview of the multifaceted issues surrounding racial profiling from defining it to identifying when it occurs are some of which will be discussed in this research paper. A comprehensive look at each area will reveal just how each part affects the interpretation of the data collected. A survey of law enforcement from across the state will be conducted to identify characteristics that may or may not affect the statistical data compiled by the current racial profiling law. Additionally, an evaluation of law enforcement personnel in regards to common racial profiling terms will be made to obtain a clearer picture of the necessity for better training.

Research in these areas should grant some insight into what can be improved in the realm of private and public education for both the citizens and law enforcement personnel across the state.

Furthermore identifying intricate areas of importance in the statistical process will enable many agencies to improve their process and provide reports that are more accurate to the public on a recurring basis.

TABLE OF CONTENTS

	Page
Abstract	
Introduction.	4
Review of Literature	6
Methodology	10
Findings	11
Discussions/Conclusions	13
References	15

INTRODUCTION

Mention the term ‘Racial Profiling’ and you almost always have someone’s ear; add the word “police” and you have a nationally news worthy story. As such, it produces headaches for police administrators who struggle to manage the political repercussions of a negative public image as it relates to these headlines. In the past few years, there has been a national movement to create racial profiling laws to address the perceived injustices committed by law enforcement personnel against certain ethnic groups.

The identified problem is that the racial profiling laws are not accomplishing the original goal. What it does accomplish is the collection of a large amount of data that is subsequently misused; which in turn creates further turmoil and skepticism between law enforcement and minorities.

Many people in the law enforcement community view racial profiling laws as a “social band-aid.” This is partly because of a prevailing cynicism and firm belief that racial profiling does not exist on the grand scale that many special interest groups would have the public believe. Author Heather MacDonald, provides insight into this perspective in her book titled, “Are Cops Racist?”. She provides statements from an inner-city perspective; which are seldom mentioned because of the lack of perceived news-worthiness. In her book she says, “The *New Times* has sent scores of reporters out to cover police-community relations, but they never seem to find people like the Reverend Terry Lee”. In his interview with her he says, “The police do ‘great work,’ he told me emphatically. They allow our senior citizens to walk to the market; they patrol when we are sleeping; they are on our black watch for us.” In her book she adds, “Lee speaks for the silent majority of inner-city residents who see the police as their guardians and have only contempt for anti-cop agitators.” It is unfortunate that comments like the Reverend Lee’s are seldom heard in the media. Instead, explosive sound bites of the mothers or fathers yelling

police brutality or racial profiling often consume the bulk of media attention. This is where the vocal minority gain momentum in the push for special interest based on injustices brought on by perceived racially biased police practices. The more sensational the story the higher the probability it will be on the six o'clock news.

A quick glance at almost any newspaper will provide insight into the prevalence of racial profiling stories in the media. Most center on the statistical data provided from agencies as a direct result of newly enacted racial profiling laws. Headlines, such as "*Study Says Racial Profiling Continues Dark Tradition*," from the *Garland Journal News*, often create an even greater injustice to the community and law enforcement based on the contention that most of the data is being used out of context. In the above article it states, "minorities were searched at an alarmingly higher rate than Anglos during routine traffic stops in 2003." Will Harrell, the Executive Director of the ACLU of Texas is quoted as saying, "This report suggests that police in Texas are not only racially profiling, but are also policing in an inefficient, ineffective way." There are considerable areas of debate with both of these statements, which if taken at face value are very damaging to the law enforcement community.

The greatest obstacle law enforcement faces in response to such boisterous and unsubstantiated claims is not the inaccuracy of the data it is the inability of most law enforcement officials to understand and explain the data. A general lack of understanding of the overall statistical process is often the reason for this. The purposes of this research paper are two-fold, the first of which is to analyze the validity of the Texas racial profiling methods, second is to assess the level of knowledge and understanding among law enforcement professionals regarding the methods used under the law.

A sample study will be conducted to obtain some insight as to what the current knowledge base is for the law enforcement community. It is believed that the lack of education

among law enforcement professionals and the community further exacerbates the racial profiling issue. The results of the study will be used to shed light on the methodology used to assess racial profiling existence and to establish if there is a need for further racial profiling education for both law enforcement communities and the communities across the state. The main goal is to improve race relations and bridge the gap between law enforcement professional and minority communities through education.

REVIEW OF LITERATURE

Texas' Racial Profiling Law:

Much of the confusion or inaccuracies surrounding racial profiling start with the lack of understanding about the entire concept of the law meaning what is and is not 'racial profiling' and the methods used to identify it's occurrence. For the purpose of this paper the following definition, as given by Sergeant Bobby Beasley in his Administrative Research Paper for The Law Enforcement Management Institute of Texas (LEMIT), which states the following as the definition of 'racial profiling': "a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity."

Texas Racial Profiling Reporting Process:

The Texas Code of Criminal Procedure Article 2.133, titled *Reports Required for Traffic and Pedestrian Stops*, provides the following reporting requirements under the law: (Add Reference)

1. Physical description of each person detained as a result of the stop, including:
 - (A) the person's gender;
 - (B) the person's race or ethnicity
2. The traffic law or ordinance alleged to have been violated or the suspected offense;
3. Whether the officer conducted a search or not and if it was consensual or not
4. Whether any contraband was discovered and if so what type

5. Whether probable cause to search existed and the facts supporting it
6. Whether the officer made an arrest as a result of the stop or the search
7. The street address or approximate location of the stop
8. Whether the officer issued a warning or citation

An overview of the data required in Texas provides some insight into what value there is or is not in the outcome or interpretation of the collected data.

National Study of Racial Profiling:

A comparison using a national study sanctioned by the U.S. Department of Justice (DOJ) illustrates the weakness of the Texas process. In 2002, the DOJ through the Office of Community Oriented Policing Services (COPS Office) and the CNA Corporation, of racial profiling data collection and analysis, conducted a comprehensive study. This study, titled “How to Correctly Collect and Analyze Racial Profiling Data: Your Reputation Depends on it!” (COPS Study) provides an in-depth insight into the many complications encountered when attempting to identify racial profiling by the use of statistical data alone.

Some important findings were identified in this study. At first glance, some of those findings in and of themselves seem to mean little but when compared to the Texas’ method their significance is magnified exponentially. The national COPS study recommends numerous areas of consideration before making any kind of assumptions from the data obtained. The following are areas in the study listed for consideration:

1. Base Rates
2. Measuring Race
3. Geographical and Functional Allocation of Police Operations
4. Multiple Predictors of Stops and Searches
5. Criteria for the Existence and Extent of Racial Profiling

Each area affects the interpretation of the data in one way or another and some more so than others do. Unfortunately, special interest groups choose not to account for many if not all of the areas listed. Understanding the points raised in the study is the first step towards improving the value of the report.

Base Rates:

The initial stage of gathering statistical data in almost any statistical process involves establishing a baseline or base rate. For the purposes of this paper, the term baseline is used. Collecting data is essentially useless unless you have a relatively accurate baseline available for comparing and contrasting against other data. The Texas Department of Public Safety (DPS) is responsible for the gathering of the baseline data. Each person who obtains a Texas drivers license is required to complete an application, which requires them to list a current address and their ethnicity. Once the information obtained is placed into a database, it is separated utilizing postal zip codes. This information becomes what is known as the baseline data, which is the data that all other information is compared with.

There are several problems associated with this method of establishing a baseline. The first concern is the manner in which the ethnicities are grouped. For example, Whites encompass Caucasian and Hispanics with no distinction between the two. A second concern with using this method of developing a baseline is the geographical divisions used to group the data. For example, if one wanted to pull the baseline data for Round Rock, Texas correctly you would have to utilize five different zip codes (78664, 78680, 78681, 78682, and 78683). The problem arises when you take into account the fact that each zip code does not solely encompass a geographical area of Round Rock, Texas. One of those encompasses a considerable portion of Georgetown, Texas (located to the north of Round Rock) and one encompass a very small portion of Round Rock and a larger portion of Austin, Texas (located to the south of Round Rock) than it does Round Rock. In essence, you would be using a large portion of data that does not accurately reflect the true demographics of what is implied to be the ethnic population within the geographical boundaries of the actual city of Round Rock, Texas.

Measuring Race:

Measuring race is an area that is not as simplistic as one might think. The following are some concerns addressed in the national study:

How do you separate certain ethnicities?

What if the person doesn't tell you their race?

What if the race is mixed?

What if the officer forgets to record or loses the data?

These questions are not considered as variables or factors in the overall accuracy of the data in most reports. The probability of any one of these issues making an impact in the overall outcome is not significant but important.

Geographical and Functional Allocation of Police Operations:

Geographical and functional allocation of police operations are two of the greatest unknowns in the entire data collection field. Many fail to understand how these two terms can even affect the statistics. Once the terminology is explained and understood most people can easily see how relevant this area is to the entire concept of tracking police contact. If police executives fail to allocate the proper police resources where crime is most prevalent, then their careers would be short lived. No one can argue that crime occurs most often in areas considered lower-socio-economic areas. There are many contributing sociological and economical factors that make this so. There is often a correlation between the occurrence of crime and the allocation of police personnel. Hence the greater the number of police in a geographic area and the amount of contact made with the residents of that area will reflect those particular demographics. If that area is predominantly of one ethnic race then the percentages will reveal that.

Criteria for the Existence and Extent of Racial Profiling

The criteria used to identify the existence and extent of racial profiling is a significant part of insuring there is some sense of validity to the process. Many models use the 5% method for this process meaning any variance of contacts with certain ethnicities outside 5% would be reason for alarm. This of course does not account for differences in policing methods, available resources, or the difference in crime patterns for each jurisdiction. Below is an example of a chart listed in the COPS Study, by the Connecticut State Police, in which they use the same concept. Based on their contact and population comparisons being less than 5% different their criteria states they are not racially profiling. This is an example of a process that does not account for many variables.

Summary Table 4B

Summary of Connecticut State Population and the Statewide Traffic Stops				
Race	State Population		Traffic Stops	
	Number	Percent	Number	Percent
White	2,859,353	87.0%	264,747	83.7%
Black	274,269	8.4%	38,272	12.1%
American Indian	6,654	0.2%	665	0.2%
Asian/Pacific Islander	50,698	1.5%	5,421	1.8%
Other/Unknown	96,142	2.9%	7,053	2.2%
Totals	3,287,116	100.0%	316,158	100.0%

After taking many of these factors into account, it would appear that the statistical process of accurately identifying racial profiling is almost impossible. Clearly, there must be methods that can dramatically improve the process, which will make it much more accurate.

METHODOLOGY

As stated, earlier the identified problem is that the racial profiling laws are not accomplishing their original goal. What it does accomplish is the collection of a large amount of

data that is subsequently misused, which in turn creates further turmoil and skepticism between law enforcement and minority communities.

The hope is that by improving education for law enforcement professionals about the actual statistical process and all of its relevant factors associated with racial profiling then there would be a better understanding of how to make it more accurate and assist them in communicating those facts to the community. In essence, the by-product of better-educated officers would be a better-informed community with a goal of decreasing the racial divide.

A law enforcement survey was developed in the form of a questionnaire to assess the knowledge of law enforcement officers across the state. The key area of interest is the actual understanding of the racial profiling process. The survey consisted of approximately 128 questionnaires that were sent out of which 59 were completed and returned. The findings will be assessed into groups of relative data and compared to the current findings and assumptions made about racial profiling. The results should support the original hypothesis about racial profiling.

The independent survey was conducted over a two-month period and does not represent empirical data; rather, it represents a cross-section of prevailing attitudes and perspectives, which the author submits is an essentially accurate foundation for opinions expressed in this research paper.

FINDINGS

A review of the survey results as completed and submitted by various law enforcement officers indicates an obvious lack of education regarding the entire realm of racial profiling. When asked if they had the ability to explain several common terms associated with racial profiling statistics, 79.7 % stated they had no knowledge. Where the remaining respondents indicated they had knowledge of the terms only one provided the correct information. There was

no correlation between either college education, years of experience or supervisory/non-supervisory roles with the knowledge of racial profiling.

Other significant findings in the survey indicated that a majority of respondents 100% reported having an area in their jurisdiction that has a higher call load than other areas. Additionally the demographics of the areas that they indicated as having the highest call load more often than not reflected a majority population that was an ethnic minority. An article titled, “Blacks and Whites as Victims and Offenders in Aggressive Crime in the U.S.: Myths and Realities,” states that Blacks are over-represented among offenders in each category of aggressive crime: in homicide at a level 315% greater than their representation in the general population, in sexual assault at a level 404% as great, in aggravated assault at 274% greater than their representation in the general population.” The dynamics behind why the statistics are so staggering are unknown. What is known is that they reflect a reality of crime in lower socio-economic areas, which are often populated by minorities. These findings reinforce the need for improved methodologies in racial profiling because the current Texas method does not account for these types of variables.

According to the survey results, 99 % of the agencies had at least one specialized unit in their department. This question on the survey was aimed at identifying areas of the ‘functional allocation of resources’ as discussed in the COPS Study. If not accounted for ‘specialized policing’ can greatly affect the interpretation of collected data and much if not more than those previously discussed. The COPS Study provides an interesting example of how specialized enforcement can be a factor. The special enforcement example given in the COPS Study pertains to seatbelts. This example sheds some light into how this may or may not affect the statistics, “revealed that African-Americans have seatbelt non-compliance rates that are three times higher than any other race or ethnicity. Consequently, African-American youth are victims

of traffic fatalities at similarly disparate rates.” Because of the enforcement action, this information is highly valuable in the overall picture regarding the amount of African-American violators that may have been stopped and cited.

A section covered in the survey, which may or may not yield credible results is the section, which asks the question, do you believe racial profiling, exist in the State of Texas? Approximately 1.5% felt it never occurs, 47% felt it is seldom occurs and 47% felt is occasionally occurs and 1.5% felt it always occurs. These numbers are interesting because they provide a sense of perspective from those that perform the actual actions in question. The ability to complete the survey and remain anonymous was evident by all indications the results should be representative of the participant’s true feelings. This would seem to indicate a small amount of any racial profiling is occurring. Of course, the answer to this question can be affected by perception and not personal observation, which may or may not affect the outcome, which must be considered.

In general the survey results indicate a clear lack of education that exist in the law enforcement community and the identification of similar characteristics in communities that may affect profiling data as collected under the law.

DISCUSSION/CONCLUSION

The most significant problems with the racial profiling law are methodology and general lack of education, which are both illustrated in this research. The independent research conducted for this paper established that the racial profiling education level is minimal at best. The study indicates there is no correlation between rank, age, level of education or any other factor that would increase or decrease ones level of knowledge in this area. The fact is that the law enforcement community as a whole is grossly under-trained in this area. This negatively affects the overall outcome because there is an inability to accurately explain the current

published reports; drastic improvement of education for law enforcement personnel is proposed as the short-term answer to this issue. After all the community is making assumptions based on raw, unexplained and often misleading data by media outlets. One this is clear perceptions if often reality unless otherwise explained.

If the lack of education in this area were improved, then the chances of obtaining valuable insight that will enhance the current methods used would be possible. The by-product would then result in a more improved method of tracking, educating and addressing the racial profiling issues.

All though the sample survey is small in size approximately, 59 questionnaires, it does represent a cross-section of prevailing attitudes and perspectives in the law enforcement environment, which the author submits, are essentially an accurate foundation for opinions expressed in this research paper. The belief is that a more comprehensive study could be undertaken but the results would be very similar in nature. The educational aspects of statistics and their relevance are minimal at best in many professions and law enforcement is no exception.

The overall importance of this research and study is to help in building bridges across that ever-expanding divide that exist between law enforcement and minority communities.

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