

Racial Profiling

[T]he scope of racial profiling in America has expanded greatly since 9/11. Today “driving while black or brown” has been joined by “worshipping while Muslim,” “walking while South Asian,” and “flying while Middle Eastern.”
— Benjamin Jealous, president of the NAACP, “Profiles of the Profiled” (2004)



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For many years, blacks and other minorities have complained that police often target minority drivers, pulling them over for minor infractions or no reason at all and often subjecting them to humiliating car or body searches. Christopher Darden, an African American and former prosecutor, has been stopped many times by police. He said that “to be pulled over for no good reason is very offensive. But then to be asked for consent to search your vehicle just ratchets things up another notch. And in those situations where you’ve been forced out at gunpoint or you’ve been asked to spread out on the street, to lay out on the pavement, makes you boiling with anger.”

John Lambeth of Temple University conducted a study to determine whether blacks were being targeted on the New Jersey Turnpike. He found that African Americans made up 13.5 percent of highway users and 15 percent of the speeders, but he found that they represented 35 percent of those stopped by police. They were almost five times more likely to be pulled over as other drivers. Similar results were found in studies conducted in Maryland and Florida.

Other minority community members complain that they too are stopped and questioned by authorities for no good reason. Latinos protest that they are targeted at Border Patrol checkpoints within the United States. Arab-Americans claim that they are often detained for long periods by airport security, especially since the September 11, 2001 terrorist attacks.

Pulling over a car, or stopping a person, solely on the basis of the driver’s race violates the 14th Amendment to the U.S. Constitution, which guarantees equal protection under the law. If proven, it would invalidate an arrest or the use of any evidence seized from the driver. Federal civil rights laws outlaw it and several states have passed laws specifically against this practice.

The more difficult question arises over police officer discretion in deciding who to pull over. In the 1996 case of *Whren v. U.S.*, the U.S. Supreme Court unanimously ruled that police may stop a car for any traffic or equipment violation even if they have a different motivation for making the stop, such as the suspicion of drug trafficking.

Some experts point to “profiling” as the major cause of disproportionate traffic stops and searches on minorities. Profiles are systems used by police to predict criminal behavior. Some use scientific methods

and statistics to develop a list of factors that make up a profile of a potential suspect. They might include age, location, type of car, time of day, driving patterns, route of travel, and whether the driver is alone. Profiles can also target white citizens. For example, a police officer might be more likely to pull over a late-model car for a minor traffic violation if it were driven by a white youth at night in an inner-city neighborhood where drug dealing occurs. In this case, the driver might fit a profile of someone who is likely trying to buy drugs.

Since 1999, 27 states have passed laws requiring police to keep track of the race and ethnicity of everyone they stop. The data is forwarded to experts to analyze whether and to what extent officers are targeting people on the basis of race or ethnicity. These laws are widely supported by minority leaders. Walter Wilson, legislative director of the National Association for the Advancement of Colored People, has stated: “The NAACP believes that comprehensive data collection is critical to the process of ending racial profiling. Without data collection, there is no progress on this issue.”

Other states and the federal government are considering such laws. But strong opposition to these laws has come from police groups. They argue that stopping people is already hazardous and forcing officers to ask people about their race and ethnicity will needlessly lengthen stops and inflame the situation. They also don't think the statistics will prove anything because people stopped will probably reflect the racial makeup of the community they are stopped in. They believe that instead of collecting data, all allegations of officers targeting minorities should be thoroughly investigated.

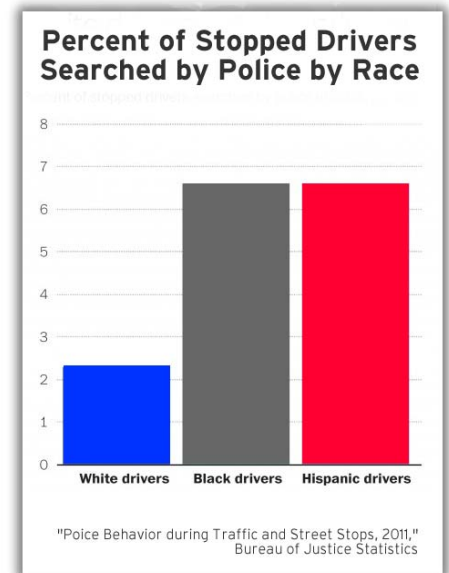
Although it is clearly illegal to single out a person solely on the basis of race, many people favor profiling when race or ethnicity is one of several factors. (This is sometimes called “partial racial profiling.”) They argue that it is an effective law-enforcement tool. Bernard Parks, former chief of the Los Angeles Police Department, has stated: “We have an issue of violent crime against jewelry salespeople. . . . It's a collection of several hundred Colombians who commit this crime. If you see six in a car in front of the Jewelry Mart, and they're waiting and watching people with briefcases, should we play the percentages and follow them? It's common sense.” Parks is an African American. He sees nothing wrong with using race or ethnicity as one factor in a profile.

Randall Kennedy, a law professor at Harvard, opposes using race as a factor in profiles. He doesn't think that police necessarily use this practice because they have racist motives. Instead, he thinks they may believe it is simply an effective law-enforcement tool, and Kennedy believes they may be right. But Kennedy points out that many innocent people get stopped by police using these profiles. And, he says, they often don't just get stopped once, but many times. This, he says, causes great anger and alienation. “Alienation of that sort gives rise to witnesses who fail to cooperate with the police, citizens who view prosecutors as ‘the enemy,’ . . . and jurors who yearn to ‘get even’ with a system that has, in their eyes, consistently mistreated them. For the sake of better law enforcement, we need to be mindful of the deep reservoir of anger toward the police that now exists within many racial minority neighborhoods. Racial profiling is a big part of what keeps this pool of accumulated rage filled to the brim.”

The Effect of September 11 on Profiling

The terrorist attacks of September 11, 2001 spurred some to rethink whether racial profiling might be a proper police tactic. Because terrorist attacks are so devastating, police must focus on preventing them before they occur. The perpetrators of the September 11 attacks were Arab males. Is it proper for police to single out Arab males?

According to a November 2010 Washington Post poll, 70 percent of Americans support “profiling people . . . in order to determine who gets selected for extra security screening at airports.” The current practice allows screeners to do random searches and to search those who appear suspicious. But it does



not allow racial profiling. Presidents George W. Bush and Barack Obama and most members of Congress have opposed using racial profiling at airports.

New York Post columnist Dick Morris supports profiling at airports. He argues: “We know that a long and depressing list of terrorist attacks — culminating in 9/11 — have been executed by Arab men between the ages of 17 and 40. There is every reason to stop all such men who seek to board airplanes and subject them to intensive searches.”

Frank Keating, the former governor of Oklahoma and a former FBI agent, does not believe ethnicity should be the sole factor, but it should be allowed to be a factor in profiles. He criticized airport security for preventing officials from looking closer “if someone is speaking Arabic or reading the Koran or praying” He said: “Random searches contribute nothing to safety at all.”

Stuart Taylor, a columnist for *National Journal*, explained that he opposed racial profiling in most cases, but not in cases of terrorism. He stated: “There’s a big difference between pulling someone over in the rain to hunt for drugs in a harassing way . . . and stopping somebody going through an airport for a few minutes to make sure he’s not carrying a bomb” He went on to say: “Unless you can thoroughly search everyone, which would be great, but it would take hours and hours and hours, it makes sense to search with special care those people who look like all of the mass murder suicide hijackers who did the deeds on September 11th.”

Abed Hannoud, a Michigan prosecutor and member of the Arab American Political Action Committee, also believes in profiling based on behavior and background. He says that “profiling can work if it’s done right. In the case of Arab Americans, it is done wrong.” He says that he has been stopped in airports because his U.S. passport lists Lebanon as his country of origin. He points out that terrorists can disguise themselves and buy U.S. passports that say anything they want. “So the narrow view of security, the narrow view of focusing on some passport of some nationalities misses the point. It is dangerous, besides hurting Arab Americans and offending us.”

Frank Wu, a professor at Howard University Law School, opposes profiling at airports. He counters: “Even if we were to take an absurd number, let’s say a thousand people of Arab descent within the United States are terrorists, that’s still a fraction of 1 percent of the Arab population [in the United States]. The other 99 per cent are law-abiding citizens like you or me. Having racial profiling sweeps too broadly It’s simply wrong.”

In 2004, Amnesty International USA, a human rights group, issued a report on racial profiling. It found that since September 11, 2001, racial profiling by “police, immigration, and airport security procedures has expanded” The report stated that racial profiling has “frequently distracted law enforcement officials and made them blind to dangerous behaviors and real threats.” It cited the example of the Washington DC-area sniper attacks in 2002. The profile called for a white, disaffected male acting alone or with another. The actual killers were black and had been stopped by police several times, but let go. One FBI agent stated: “A black sniper? That was the last thing I was thinking.”

Writing & Discussion

1. A bank is robbed and the suspect is described as an Asian woman driving a red sports car. Police start looking for such a suspect. Is this a racial profile? Explain.
2. Amnesty International in its 2004 report defined racial profiling as “the targeting of individuals and groups by law enforcement officials, even partially, on the basis of race, ethnicity, national origin, or religion, except where there is trustworthy information, relevant to the locality and timeframe, that links persons belonging to one of the aforementioned groups to an identified criminal incident or scheme.” Do you think this is a good definition of racial profiling? Explain.
3. Do you think profiling is an effective law-enforcement tool? If so, are its benefits worth its costs? Explain.
4. Should police ever be allowed to consider race when deciding whether to stop someone? Explain.

ACTIVITY: What Should Be Done About Profiling?

To find out more about racial profiling, some states have passed laws requiring police to collect data on the race and ethnicity of everyone they stop. Other states and the federal government are considering doing the same. Opponents of data collection support other measures such as police videotaping every traffic stop or police distributing their card to everyone they stop so that people can easily file complaints. In this activity, students role play advisers to a state governor who is considering introducing legislation on racial profiling.

1. Form small groups. Each group should:
 - a. Discuss the problem of racial profiling and various proposals for addressing it.
 - b. Decide which proposal, if any, to support. (Students may create their own proposal.)
 - c. Prepare to report its decision and the reason for it back to the class.
2. The groups should report back and the class should discuss the various proposals. Conclude the activity by voting as a class on the proposals.