
Racial Profiling And The Police

Introduction

Although there is not one blanket definition for racial profiling across police departments, Schaefer (2016) defines it as “any police-initiated action based on race, ethnicity, or national origin rather than the person’s behavior” (p. 55). According to Warren and Tomaskovic-Devey (2009), “the use of racial profiles dates back to the late 1970’s when federal agents created drug courier profiles for the purposes of apprehending drug traffickers in American airports.” The problem with the phenomenon of racial profiling is that stopping someone based solely on their racial or ethnic group violates their 4th Amendment Constitutional Right to equal protection under the law. In addition, before an officer stops someone they must be able to articulate the reason for stopping the person and they must be able to define what the person did to break the law (Barber & Marsh, 2000).

The Stanford University Open Policing Project was established in 2014 by Cheryl Phillip with the goal of helping researchers, journalists, and policymakers investigate and improve police/public interactions. They are a team of researchers and journalists who take statistical analysis and combine it with data journalism. The categories for which data is provided are stop date, time and location, driver’s race, sex and age, whether a search was conducted and contraband was found, if there was a citation or warning issued, if there was a frisk performed or an arrest made, the reason for the stop and if there was a violation.

This paper will present information from various sources explaining how and why racial profiling is wrong and unconstitutional. There will be data presented which shows a disparity in the stops and searches between minorities and Whites, along with information on who is more susceptible to being racially profiled.

Literature Review

According to Barber and Marsh (2000), a justifiable traffic stop is one where a police officer has reasonable suspicion or witnesses an infraction before stopping a car. The Stanford University Open Policing Project published a study showing that across the United States, Black drivers were about 20 percent more likely to be stopped by police than White drivers during the day (Ortiz, 2019). Ortiz (2019) states that a study was then conducted to analyze the rate of Black drivers being pulled over after dark when it is harder to distinguish race from a distance. Research found there was a 5-10 percent drop, which suggests that Black drivers are indeed profiled during the day. This data was collecting from nearly 100 million traffic stops between 2011 and 2017 in California, New York, and Texas, along with 29 municipal police departments (Ruiz-Grossman, 2019). According to Ruiz-Grossman (2019), although there was a higher likelihood of finding drugs, guns, and other contraband during the stops of White drivers (36%), Blacks, who possessed 32 percent, were searched 1.5 to 2 times as often.

Chan (2011) states that there is a vast literature which supports the finding that police officers often times form stereotypical opinions about the criminality of certain ethnic groups (p.76). This practice can lead to certain ethnic groups losing confidence and trust in the police, feelings of

harassment, and alienation from the legal system (Chan, 2011). According to the data analyzed by Weitzer (2000), Black residents in Chicago perceived profiling as a result of racism, whereas White residents explained that the treatment was as a result of Blacks having a greater involvement in street crime. Rosenbaum, Schuck, Costello, Hawkins, and Ring (2005) assess that negative attitudes toward police prior to an encounter such as being profiled help in shaping the assessment of the encounter itself.

Although the practice of racial profiling can sometimes be difficult to prove, the use of cell phone cameras and social media have helped in highlighting situations of perceived racial disparities. Warren and Tomaskovic-Devey (2009) found that in North Carolina, there had been a reduction in racial disparity searches due to media coverage along with legislation. However, as Steven (n.d.) points out, often times, the way information is presented by the media and personal videos presents citizens with conflicting images of police and taints the legitimacy of policing, leaving the public wondering if the police are ineffective and incompetent.

Exploration of this subject is important to improve and restore the relationships and reestablish trust between police officers and communities. There are gaps in some of the data explored, which need to be filled, because there are many cities and states that do not offer enough data to the Stanford Open Policing Project to be reported as they do not feel reporting this information is a priority (Ortiz, 2019).

Analysis

One common theme found in every source used was that racial profiling is not only unconstitutional; it is ineffective, wrong, and causes distrust and hostility between the community and the police. Evidence from various articles supports the claim that people of color are stopped at disproportionate rates (20% more) over Whites. Evidence was presented which states that although Whites are found with more illegal guns, drugs, and contraband, they are stopped and searched at a lower rate than Blacks and Latinos. Evidence states that with the legalization of marijuana in Colorado and Washington State, the number of overall stops has reduced, but the search rate for minorities is still two times higher than that of Whites. There was information provided which shows that Whites acknowledge the difference in how Blacks are treated by the police, but they suggest that the reason for Blacks being stopped and searched at higher rates is because Blacks have more involvement in street crime; a claim which is not supported by data. Strong data was found which shows that across the United States, it is acknowledged that racial profiling is a persistent problem. There have been multiple efforts put forth to try to end it, along with stop and frisk, which still remains lawful and widely used in many areas of the United States.

A legislation that has been introduced on four different occasions since 2001 is the End Racial Profiling Act or ERPA. The legislation is intended to prevent law enforcement officials from profiling individuals based on their race, ethnicity, religion, and national origin.

ERPA states the following: ERPA addresses the problem of racial profiling in several ways. First, it would explicitly prohibit racial profiling, which would be enforceable by declaratory and injunctive relief. Second, the Department of Justice would be authorized to provide grants to law enforcement agencies to develop and implement best practices. Third, as a condition of receiving federal funds, law enforcement agencies will have to collect data on all routine and

spontaneous investigatory activities that must be submitted to the Department of Justice. Finally, the Attorney General would be required to issue periodic reports to Congress assessing the current state of discriminatory racial profiling (End Racial Profiling Act Introduced in the House and Senate, 2013, para. 3).

Conclusion

In 2016, due to the gun violence in Chicago, Donald Trump encouraged the Chicago Police Department to “stop and frisk” anyone who they perceived as a danger or whoever they thought may have committed a crime. He stated that New York used the tactic in the 1990’s to early 2000’s and it proved effective. However, the practice was ruled unconstitutional in 2013. New York stopped the policy in 2014, and the crime and murder rates in the city dropped. Without the use of stop and frisk, the crime and murder rates in Chicago dropped in 2018 for the second year straight (Rucker, 2018).

Profiling someone based on their race or ethnicity is wrong and the consequences could be dangerous or fatal. There have been instances of police arresting the wrong individuals based solely on their race or ethnicity, and extreme cases such as Walter Scott in South Carolina, Samuel DuBose in Cincinnati, and Philando Castile in Minneapolis who were all Black men who were profiled, shot and killed.

Police are not the only ones who racially profile people of color. There have been situations where people entering their own homes have been arrested, a young Harvard woman fell asleep in the library and the police were called on her, and Trayvon Martin was profiled and killed by someone who assumed he was a danger because of the color of his skin.

The topic of racial profiling may be one which is uncomfortable, and while all police officers do not profile, or are unaware that they are profiling, the key to preventing racial profiling is training and ongoing training. As stated by Ortiz (2019), training is detrimental for officers and supervisors and it is imperative for police departments to recruit against it and to promote against it. According to the International Association of Chiefs of Police (IACP), there is one good reason not to profile- because it is wrong (Barber & Marsh, 2000).

References

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