

Racial Profiling: A Police Manager’s Perspective

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Racial profiling is one of the most complex and controversial issues facing law enforcement professionals today. It is an issue that provokes impassioned debate and extensive division within all segments of the community. Whether racial profiling by police officers is a matter of perception or reality loses significance when considering the widespread public belief in its existence and the subsequent liability for law enforcement agencies that encounter allegations of racial profiling.

The practice of racial profiling has no place in law enforcement. It is an activity that undermines the public trust vital for an effective community policing organization. Police must be perceived as both providers of public safety and deferential to the civil liberties of those they have sworn to protect and serve. While the majority of police officers serve their communities in a professional and ethical manner, the debate over the reality of racial profiling as a practice in law enforcement is loudest on the side of its existence on a national level. In fact, a 1999 Gallup Poll reveals that 60% of Americans polled believe racial profiling exists. To restore public trust and improve community/police relationships, law enforcement agencies must address both the concerns of the community at large that are relevant to discriminatory policing, and the allegations of racial profiling made by ordinary citizens.

What is Racial Profiling?

An agreed upon definition of racial profiling is almost as controversial as the practice itself. For example, S.989, legislation currently being considered by the Senate Judiciary Committee and commonly referred to as the “End Racial Profiling Act of 2001,” defines racial profiling as *the practice of a law enforcement agent relying, to any degree, on race, ethnicity, or national origin in selecting which individuals to subject to routine investigatory activities, or in deciding upon the scope and substance of law enforcement activity following the initial routine investigatory activity, except that racial profiling does not include reliance on such criteria in combination with other identifying factors when the law enforcement agent is seeking to apprehend a specific suspect whose race, ethnicity, or national origin is part of the description of the suspect*. Opponents of this legislation consider this too broad a definition encouraging the idea of profiling by police for malevolent motives and adding more confusion and conflict to this incendiary issue even as police executives attempt to develop policies for the effective management and eradication of this practice.

A more common sense definition subscribed to by many police administrators maintains that racial profiling is *the use of race as the “sole” basis for a stop*. A number of states, including California, have adopted the definition of racial profiling as *the practice of detaining a suspect based on a broad set of criteria that casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped*.

Further complicating any conformity of definition in identifying the activity of racial profiling is the distinction made by some activists, including Heather McDonald, a writer for the Manhattan Institute, between “hard profiling” (use of race as the only factor in determining the likelihood of criminal conduct) and “soft profiling” (use of race as one factor among others in assessing the propensity for criminal behavior). Where there is a consensus of agreement concerning this issue is that the practice of racial profiling not only violates the fundamental principles of a democratic society but also is illegal and morally wrong.

In view of the current social environment and to limit civil liability often associated with allegations of racial profiling, law enforcement agencies must first develop written policies specifically prohibiting bias-based policing and condemning any conduct by an employee that leads to the disparate treatment of any person based on race or ethnicity. In addition, it is essential for police departments to establish a comprehensive policy that includes:

- some form of traffic stop data collection and analysis,
- increased education and training in racial diversity and cultural awareness for all personnel,
- community outreach, and
- a citizen complaint system that is both fair and effective.

Data Collection and Analysis

Some police managers and many activists on both sides of the racial profiling debate agree that data collection and analysis is an important step in the process of determining whether racial profiling exists in law enforcement agencies. Some view the collection of traffic stop data as a management tool that will not only help in the identification of problem police officers and practices but also help in identifying problematic organizational policies and procedures. Without traffic stop data collection, it is difficult to determine with any reliability if a problem actually exists within a jurisdiction and impossible to measure the size of the problem if it does exist. Traffic stop data collection provides agencies with the empirical data they need to respond to the practice of racial profiling. It can also be a beginning toward providing police managers with the means to bring their departments away from the time consuming and unproductive job of defensive policing and back to a more productive agenda, that of providing ethical and impartial public safety.

Some of the apprehension expressed by opponents of data collection and analysis is in an agency’s ability to establish reliable comparison data or a benchmark that will accurately reflect the multifaceted issues surrounding professional policing and the complexities inherent within the social and cultural diversity of a community. The utilization of census only, once considered the standard benchmark for many organizations in the analysis of traffic stop data, resulted in widespread allegations of racial profiling and discrimination against law enforcement agencies. It is now generally considered that the development of a reliable comparative benchmark to determine whether minorities are being stopped in disproportionate numbers should examine data derived utilizing both external and internal methods.

There are societal based variables that can also impact real or perceived allegations of racial profiling by police such as enforcement programs being implemented in response to specific situations or at specific locations, including stops involving people on probation and parole, repeat offender stops, stops based on speed boards, seat belt compliance checks, drunk driving checks, and ancillary conditions that are not police based.

Other factors to be considered when determining baselines and establishing benchmarks that will effectively analyze traffic stop data include area demographics such as: residential population, driving age population, daytime population, location of major roadways, racial and ethnic population density or racial geographic statistics, and police precinct demographics and staffing deployment.

Many states have experienced an increase in civil action lawsuits as a result of racial profiling allegations. This kind of litigation is not only time consuming and costly, but divisive to a department and the community it serves. Police managers should keep in mind that studies on bias based policing have found that a well designed data collection and analysis system (in conjunction with a clearly defined written policy prohibiting discriminatory enforcement tactics) can be a first defense in protecting departments against claims of liability associated with accusations of racial profiling by police.

Education and Training

Once a written policy prohibiting racial profiling has been distributed throughout the department and a data collection and analysis system has been implemented, all personnel should be required to attend a racial profiling training program certified by the Peace Officer Standards and Training Commission (P.O.S.T.).

In addition, law enforcement agencies need to develop supplemental training programs that will address the specific needs of their departments and communities. The development of these programs should be a collaborative effort of police personnel, community activists, educators, and advocacy groups. To effectively reduce the incidents of real or perceived bias-biased policing within an agency, efforts must also be made to integrate topics related to this practice into other educational and training opportunities.

When deciding on which training programs best suit the needs of your department or when leading the development of supplemental training programs, police managers should ask themselves the following questions:

- Does the program thoroughly present the multidimensional and complex nature of the racial profiling issue?
- Does the program address the specific needs and concerns of the community?
- Does the program provide education on existing federal, state, and local laws that apply to the practice of racial profiling?
- Does the program reinforce departmental policies and procedures that were developed to guide officer conduct?

- Does the program examine the risk of civil liability should allegations of racial profiling occur, and review current litigation relative to the issue?
- Does the program utilize interactive teaching techniques to further personal exploration and stimulate alternative strategy discussions?
- Does the program review the history of racial profiling and present an overview of lessons learned from past incidents?

Although education and training in the areas of cultural awareness and racial diversity will not change an individual's basic belief system, participation in training sessions provides a forum for information sharing and teaches interpersonal skills that can significantly impact a person's attitude and modify behavior. A bias-based policing training program can also offer important perspective that will encourage real problem solving efforts.

Professional organizations such as the Police Executive Research Forum (PERF, www.policeforum.org), the International Association of Chiefs of Police (IACP, www.theiacp.org), and the Community Policing Consortium (CPC, www.communitypolicing.org) have recently undertaken research studies examining the issue of racial profiling and can be useful resources for law enforcement and risk managers to identify topics pertinent to their education and training needs.

Community Outreach and Implementation of a Citizen Complaint System

Racially biased policing is a serious issue in law enforcement and the real or perceived practice of racial profiling by police can destroy public trust and confidence in the police department. Including community members in discussions and decisions related to their concerns is fundamental to rebuilding trust and eradicating unfair police practices.

What kind of community outreach is most effective in addressing community perceptions associated with bias based policing? Some of the options available are:

- ***Citizen Advisory Group*** -- A group of community members that meets monthly with the Chief of Police to offer advice on policy development and implementation.
- ***Focus Group*** -- A group of citizens who work together to discuss specific community concerns such as barriers to the citizen complaint process and police accountability.
- ***Community Forum*** -- A meeting that is open to the public where citizens can voice and hear concerns relating to matters of public safety.
- ***Task Force*** -- A group of citizens selected to develop action plans that can strengthen the relationship between the public and the police.
- ***Community Policing Programs*** -- Programs available to the public that promote a sense of ownership and mutual accountability between the police and the public.

Citizen Complaint Policy

The purpose of the complaint policy is to establish a sound procedure to investigate complaints of misconduct against members of the police department. The investigation must be thorough and impartial in order to protect the rights of the citizens and the employee and to

maintain the department's commitment to integrity and efficiency. Proper use of this process should allow for the discovery of facts, clarification of issues, and identification of procedural deficiencies.

Elements necessary for an effective citizen complaint process:

- Patrol car videotapes of all citizen stops shall be recorded.
- A preprinted card containing instructions on the citizen complaint process, including a contact phone number, should be handed out any time an officer makes a stop.
- Citizens should have the right to file a complaint with the Internal Affairs Division or directly with the Citizen's Panel Review Commission.
- When a citizen wishes to file a complaint, he or she should be given a complaint form to fill out and deliver in person or mail in later.
- The supervisor should forward the complaint to the Internal Affairs Division.
- The Internal Affairs Division should be located off-site and officers assigned to this division should not be dressed in uniform.
- Internal affairs should acknowledge receipt of the complaint in writing and forward a copy of the complaint to the Citizen's Panel Review Commission.
- A thorough investigation of the complaint should be conducted immediately.
- Citizens should be advised of the results of the review in a timely manner.
- Supervisors shall conduct random audits of profiling complaints, traffic stop videos, early warning system tracking data, and relevant reports to uncover police misconduct.
- The Office of the Chief of Police should review a quarterly statistical summary report of all racial profiling complaints.
- An annual summary of all racial profiling complaints for the year and supervisor rulings on these claims should be made available to the public for their information.
- Internal and external random reviews of this process should be conducted to keep the system effective and to determine if any changes in practice or policy need to occur.

Conclusion

It is the responsibility of the police manager to train, hire, retain, supervise, and direct police personnel in a manner consistent with the impartial and ethical delivery of police services.

Integrating policy, data collection and analysis, community outreach, an accountability based management system that holds officers responsible for their conduct, and a citizen complaint process are all necessary tools that a police manager must use to effectively reduce incidents and limit civil liability associated with the practice of racial profiling.

About the Author

Russ Leach was appointed Chief of Police for the City of Riverside, California in September 2000. He is a 20-year veteran of the Los Angeles Police Department and the former Chief of Police in El Paso, Texas. In March 2001, the City of Riverside and the Attorney General of the State of California entered into a five-year Stipulation for Entry of Judgment. Leach views the objectives outlined in the Stipulated Judgment as an opportunity for each member of the department to become their personal best and for the Riverside Police Department to be known and respected as a best practices organization. E-mail: rleach@ci.riverside.ca.us

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