

5-1-2005

Racial Profiling: National Legislation Policy Analysis

Latasha Chaffin
Grand Valley State University

Follow this and additional works at: <http://scholarworks.gvsu.edu/spnareview>

Recommended Citation

Chaffin, Latasha (2005) "Racial Profiling: National Legislation Policy Analysis," *SPNA Review*: Vol. 1: Iss. 1, Article 2.
Available at: <http://scholarworks.gvsu.edu/spnareview/vol1/iss1/2>

RACIAL PROFILING: NATIONAL LEGISLATION POLICY ANALYSIS

LATASHA CHAFFIN
Grand Valley State University

Racial profiling was traditionally viewed as an issue that primarily affected African-Americans and Latino Americans. After September 11th the issue of racial profiling has expanded to more directly affect Central and South Asian Americans, Arab Americans, Muslim Americans, members of other communities perceived to originate from the Middle East and immigrants and Americans of foreign descent. These communities are joining with African-American and Latino communities to support national racial profiling legislation on a broader level, not just in traffic stops, but in regulation of all interaction with law enforcement including at airports. The national racial profiling legislation debate presents three important research questions: (1) Is racial profiling by law enforcement a pervasive problem in the United States? (2) What legislation, if any, is required to combat against racial profiling? (3) How can anecdotal evidence of racial profiling be strengthened to provide statistical proof?

INTRODUCTION

The first national racial profiling legislation was sponsored and introduced by U.S. Representative John Conyers Jr. of the 14th Congressional District of Michigan. This national racial profiling legislative policy analysis focuses on the racial profiling legislation that was first introduced by Rep. John Conyers in 1998 and the succession of legislative proposals that has been introduced and sponsored four additional times since 1998 by Rep. John Conyers, D-Michigan in the House and Senator Russ Feingold D-Wisconsin in the Senate addressing the issue of racial profiling. There has been other proposed national racial profiling legislation, yet the legislation that U.S. Rep. John Conyers and Senator Russ Feingold have drafted is the most

comprehensive. The purpose of the proposed national racial profiling legislation by Rep. Conyers and Sen. Feingold is to:

“Enforce the constitutional right to equal protection of the laws, pursuant to the Fifth Amendment and section 5 of the 14th Amendment to the Constitution of the United States; to enforce the constitutional right to protection against unreasonable searches and seizures, pursuant to the Fourth Amendment to the Constitution of the United States; and to enforce the constitutional right to interstate travel, pursuant to section 2 of article IV of the Constitution of the United States; and to regulate interstate commerce, pursuant to clause 3 of section 8 of article I of the Constitution of the United States (ERPA, 2004, p. 4).”

HISTORICAL BACKGROUND OF RACIAL PROFILING

Law enforcement and legal experts trace the origin of racial profiling to the 1980s at the advent of the crack epidemic, when sketches of typical drug traffickers were, according to the American Civil Liberties Union (ACLU), Black and Hispanic males under 30. Hubert Williams, president of the Police Foundation, a law enforcement think tank in Washington D.C. states that these profiles are “skewed because they are based on arrest statistics that don’t include people living in majority-white suburbs (Dade, 1999, p. 6)”. According to the Justice Department, White Americans committed 62% of drug-related crimes in 1998 (Dade, 1999).

Proving that racial profiling is a widespread practice is a challenge because the substantiating evidence is primarily anecdotal. However, in 1999, estimates from the National Association for the Advancement of Colored People (NAACP) and ACLU indicated that African-Americans account for more than 70% of the nation’s traffic stops while comprising less than 20% of its drivers.

“In 1994, Congress gave the Department of Justice its Pattern or Practice Authority to initiate investigations into racial profiling and discrimination occurring with the criminal justice system (McMickle 2003, p. 1).” However the argument has been made that “victims rarely file formal complaints out of fear of police retribution or because they feel powerless to fight the bias, according to civil libertarians and legal experts (Dade, 1999, p. 3).” Hence, the argument has been made by Rep. Conyers and supporters of his Racial Profiling legislation that these are the reasons national legislation needs to be enacted and a national study needs to be conducted. A study would provide the statistical data needed to evaluate current traffic and other stopping practices in order to address the issue of racial profiling nationally.

As of November 15, 2000, the Department of Justice “had 14 publicly noticed, ongoing, pattern or practice investigations involving allegations of racial profiling, and had filed 5 pattern and practice lawsuits involving

allegations of racial profiling, with 4 of those cases resolved through consent decrees (ERPA, 2004, p. 3).”

RACIAL PROFILING LEGISLATION

1998 Proposed Legislation: The Traffic Stops Statistics Act (H.R. 118)

The Traffic Stops Statistics Act, proposed in 1998, was the first national legislation presented before Congress on the civil rights issue of racial profiling. The bill passed with a unanimous vote by the House Judiciary Committee and was referred to the senate judiciary committee. Unfortunately, the bill stalled in the Senate. The committee never voted on the measure, nor did it hold any meetings.

The Act required the collection of several categories of data by law enforcement officers on each traffic stop, including the race of the driver and whether a search was performed. An additional tenant of the bill required that the Attorney General conduct a study analyzing the data, which would be the first nationwide, statistically rigorous study of these practices (Scott, 2000).

The idea of HR 118 as described by the American Civil Liberties Union (2000), “was if the study confirmed what people of color have experienced for decades, it would put to rest the idea that African Americans and other people of color are exaggerating isolated anecdotes into a social problem. Congress and other bodies might then begin to take concrete steps to channel police discretion more appropriately (Scott, 2000 p. 1).”

1999 Proposed Legislation: The Traffic Stops Statistics Act of 1999 (H.R. 1443/S. 821)

One year later, in 1999, Conyers re-introduced the Traffic Stops Statistics Act. The Act was known as the “Driving While Black or Brown” bill. The Traffic Stops Statistics Act was sponsored by Rep. Conyers in the House and Senators Frank Lauterberg D-New Jersey and Russ Feingold D-Wisconsin in the Senate. Introduced in April of 1999, the legislation was similar to Traffic Stops Statistics Act proposed in 1998. However, in addition to officers tracking statistical data of those they stop and the Justice Department conducting a national study, the 1999 Act required officers to list the rationale for any subsequent search and any contraband acquired. The 1999 Traffic Stops Statistics Act legislation met the same fate as the previous 1998 proposal as it did not pass.

In April 1999, President Clinton issued an Executive Order that called for federal law enforcement officials to collect data on race and gender of the people they stop to question or arrest. President Clinton (2000) stated in his Executive Order, “We must stop the morally indefensible, deeply corrosive

practice of racial profiling. We all have an obligation to move beyond anecdotes to find out exactly who is being stopped and why (Scott, 2000 p. 3).”

2001 Legislation: The End Racial Profiling Act (H.R. 2074/S. 989)

President Bush called for an end to racial profiling in a statement on February 27, 2001. Hours after President Bush promised in a joint session of Congress that he would act on the issue of racial profiling President Bush expressed,

“It’s wrong, and we will end it in America. In so doing, we will not hinder the work of our nation’s brave police officers. They protect us every day – often at great risk. But by stopping the abuses of a few, we will add to the public confidence our police officers earn and deserve (Burns, 2001, p. 1).”

President Bush directed U.S. Attorney General Ashcroft to “review the use by federal law enforcement authorities of race as a factor in conducting stops, searches and other investigative procedures (Burns, 2001 p. 1).” He also ordered Ashcroft to “work with Congress to develop methods or mechanisms to collect any relevant data from federal law enforcement agencies and work in cooperation with state and local law enforcement in order to assess the extent and nature of any such practices (Burns, 2001 p. 1).”

Subsequent to President Bush’s directive, Ashcroft declared the practice of racial profiling as unconstitutional. Ashcroft asked for a national study, and stated that the Department of Justice would be reviewing federal and state laws and agency coordination.

Within a few days of this announcement Attorney General Ashcroft met with members of the Congressional Black Caucus. After the meeting he stated “We’re going to follow the president’s directive but we are going to enforce the laws that are on the books (Burns, 2001, p. 1).

The National Urban League took a “wait and see attitude on Bush’s action (Burns, 2001 p. 2). The National Urban League wanted to see what action was actually going to be taken at state and local levels.

A spokesperson for Rep. Conyers stated that rhetoric provided by President Bush and Attorney General Ashcroft was “nothing new” by the federal government and was consistent with what was done under Clinton, meaning no real action (McConnell 2001, p. 2). A spokesperson for President Bush, Scott Stanzel, stated that Justice officials were “undertaking a review of actually how we can take on racial profiling, an action that went beyond the previous administration (McConnell, 2001, p. 2).”

The End Racial Profiling Act of 2001 was unveiled at a bi-partisan news conference June 6, 2001 by Rep. Conyers. It was unveiled in the Senate by Sen. Russ Feingold. This legislation was more aggressive than the two

earlier proposals in 1998 and 1999. In addition to the requirements cited in the earlier proposals, the legislation nationally prohibited racial profiling. Also, the Act allowed for the Attorney General to provide federal grants to help law enforcements comply with the Act by developing policies on racial profiling, cultural awareness training and equipment such as video cameras or moving surveillance equipment. The act also allowed for an independent process to be instituted whereby citizens can make complaints. Additionally the bill proposed that financial remedies including court fees be accessible through the legal process. The Act further called for the development of discipline procedures for officers found guilty of racial profiling and the potential for government grants to be taken away from law enforcement agencies that are not in compliance with the legislation (ERPA, 2001).

Conyers stated upon introducing the Racial Profiling Act of 2001, “since I first introduced this kind of legislation...the pervasive nature of racial profiling has gone from anecdote and theory to established and documented fact (McConnell 2001, p. 1).”

When the End Racial Profiling Act of 2001 was introduced, Conyers acknowledged that the bill contained language that might be a hurdle to blocking passage. According to the bill, proof of profiling would come if “routine investigatory activities of agencies have had a disparate impact on racial or ethnic minorities, which shall constitute prima facie evidence (McConnell, 2001, p. 2). “This evidence could be interpreted as meaning obvious without proof or reasoning (McConnell, 2001, p. 2)” However, Conyers indicated that he and his co-sponsors spent a lot of time on that part of the bill and that it was based on similar state legislation.

Another criticism of the bill by officials was that the proposed funding for the legislation would come from the Justice Department budget. Officials noted that “a program to hire more officers for neighborhood policing programs, known as the Community-Oriented Policing Services, had money eliminated in Bush’s budget (McConnell, 2001 p. 2).”

In addition some agencies complained of the mandatory requirement, claiming the data could be misinterpreted (McConnell, 2001).

Several state agencies across the country, including the Michigan State Police volunteered to collect statistics. In 2001, The Michigan State Police study reported that Black men received 22,022 of the 255, 954 traffic citations issued in 2000, and “as a result of doing this, we do not believe we have a systemic problem,” said Capt. Jack Shepherdson, commander of the agency’s executive division (Dade, 1999 pp. 7 - 8).”

Farmington Hills, MI Police Chief William Dwyer, stated “Officers already collect racial data on traffic tickets and that racial profiling these days “is extremely rare.” “Some people just use this as a political platform. “Sometimes it’s a cheap shot against law enforcement (Dade , 1999 pp. 7 – 8).” Yet, by 2001, 10 states had passed laws requiring police agencies to collect data

on the race of drivers stopped by police. Three other states banned racial profiling.

September 11, 2001, Racial Profiling & The USA Patriot Act

Racial profiling was traditionally viewed as an issue that primarily affected African-Americans and Latino Americans. After September 11th the issue of racial profiling has expanded to more directly affect Central and South Asian Americans, Arab Americans, Muslim Americans, members of other communities perceived to originate from the Middle East and immigrants and Americans of foreign descent. These communities are joining with African-American and Latino communities to support national racial profiling legislation on a broader level, not just in traffic stops, but in regulation of all interaction with law enforcement including at airports.

Enacted October 26, 2001, The USA Patriot Act has provoked controversy. Many citizens, minority and non-minority and civil libertarians share the view that The Patriot Act is a violation of our civil liberties and of the protections of Fourth Amendment detailed in the U.S. Constitution against unreasonable searches and seizures.

The Patriot Act has expanded the powers of law enforcement through the Foreign Intelligence Surveillance Act and allowed for “sneak and peak” warrants which allow law enforcement officers to enter private residences and search through private property without having to notify the terrorism “suspect” until well after the search.

The Patriot Act also has allowed federal agents to access numerous private records including medical, business, financial, library and internet records without showing probable cause. The Patriot Act forces librarians, internet service providers, health care providers and other keepers of records to disclose information to intelligence agencies.

The law has provided authorization for U.S. immigration officials to detain non-citizens as terrorism suspects. Once the Attorney General certifies that the government “has reasonable ground to believe that an alien is a terrorist or is engaged in other activity that endangers the national security of the United States”, they can be detained indefinitely (Dority, 2004, p. 1).”

Under The Patriot Act surveillance is increased through wire-tapping, search warrants, pen/trap orders, and subpoenas. Trials can also be denied for citizens or non-citizens considered enemy combatants (Rhoads, 2003).

Egyptian human rights activist and sociology professor, Saad Eddin Ibrahim (2004) expressed his outrage at The Patriot Act, “Every dictator is using what the United States has done under The Patriot Act to justify human abuses in the past, as well as a license to continue human rights abuses (Dority 2004, p. 1).

Kwesi Mfume (2002), president and CEO of the NAACP supported The Patriot Act expressing, “I recognize, like everybody else, the need to protect civil liberties.” “But at the same time, in order to be effective, [law enforcement officials] have got to question people, and in some instances, detain people until questions are adequately answered (Harris & Hughes, 2002, p. 1).”

After September 11, 2001 the FBI questioned, detained and deported many Arab, Muslim, and South Asian men. The majority of detainees were not charged with any crimes nor had any involvement with September 11th. The Justice Department (2003) admitted that “at least 766 persons were detained on “special interest” charges after September 11 and held; of these, 511 have been deported. The Justice Department claims that among those deported were some who could have been – but have not been - charged with terrorism offenses (Stein, 2003 p. 2).” This detention of classifications of people based on their national origin has been compared to the internment of Japanese-Americans during World War II (ACLU Sanctioned Bias, 2004).

After September 11th, the Immigration and Naturalization Service, now merged with the Office Homeland Security required males over age 16 who are not permanent residents from 25 countries to register, be fingerprinted, photographed and questioned through a new Special Registration Program entitled The National Security Entry Exit Registration System (NSEERS). Males from the following countries were targeted: Afghanistan, Algeria, Bahrain, Eritrea, Iran, Iraq, Lebanon, Libya, Morocco, North Korea, Oman, Qatar, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, Yemen, Pakistan, Saudi Arabia, Bangladesh, Egypt, Indonesia, Jordan and Kuwait. Special Registration was mandated to be completed in February and March of 2001, and all males meeting the status requirements are required to re-register annually and when leaving the United States (Stein, 2003).

A report was issued in April 2003 by the Department of Justice that revealed the Justice Department’s policies, directives, and activities in wake of the Sept. 11th attacks entitled “The September 11 Detainees: A Review of the Treatment of Aliens Held on Immigration Charges in Connection with the Investigation of the September 11 Attacks or known as “The OIG Report” (ACLU Sanctioned Bias, 2004). The report detailed the treatment of non-citizens held on immigration charges after September 11, which included:

“failure to notify detainees of the immigration charges against them in a timely manner, making it difficult for detainees to obtain bonds and meet with attorneys, detaining them in harsh conditions (e.g. leaving lights on in their cells for twenty-four hours), and subjecting detainees to verbal and sometimes physical abuse (Johnson, 2004 p. 4).”

Many states have passed resolutions requesting that local law enforcement refrain from federal investigations that violate citizens’ civil

liberties including California, Colorado, Maryland, Michigan, Pennsylvania, and Washington (Rhoads, 2003).

As a result of Arabs, Muslims, Asians, and other communities being profiled in airports across the country, the familiar phrase “Driving While Black,” or “Driving While Black or Brown,” has been extended and “Flying While Arab” has been added to the vocabulary (Johnson, 2004, p. 4).”

2003 Efforts

The Justice Department issued guidelines in June 2003 approved by President Bush prohibiting federal law enforcement officers from using race or ethnicity in routine activities such as traffic stops, even though such practices might not be prohibited in the Constitution or federal laws. The Department of Justice Guidelines banned racial and ethnic profiling at all 70 federal agencies with law enforcement powers. However, the guidelines allow officers to consider those factors in preventing threats to national security. This exception was challenged by several minority and civil libertarian groups. In addition, the guidelines apply only to federal authorities. The guidelines do not address state and local officials. The Justice Department responded that they do not have the authority to prohibit state and local authorities from racial profiling; only Congress can with legislation (The Associated Press, 2003).

The same day that the Justice Department announced the new guidelines, Conyers (2003) issued a statement urging support for the End Racial Profiling Act stating “The vast majority of racial profiling complaints arise from the activities of state and local law enforcement agencies. He added that “while these (DOJ) guidelines send a signal, they are not a replacement for the enactment of comprehensive federal anti-profiling legislation. Conyers asked for support in his initiative and urged the Justice Department to work with him on the legislation (Frieden, 2003 p. 1).”

Assistant Attorney General Ralph Boyd Jr. stated “Today’s guidance...is the clearest and most comprehensive statement and guidance regarding the consideration of race and ethnicity in law enforcement activities from any administration ever. We’ve done our very best to get it right (Frieden, 2003 p. 1).” Boyd added that the federal guidelines were meant to be a model for state guidelines.

The ACLU disagreed. The director of the ACLU office in Washington, Laura Murphy stated “The guidelines acknowledge racial profiling as a national concern but do nothing to stop it. The new policy guidelines provide no rights or remedies (Frieden, 2003, p. 1).”

In 2003, minority advocacy groups, legal and civil rights groups, along with democratic legislators continued to mount support for national racial profiling legislation. The coalition amongst all minority groups became stronger

leading to a re-birth and re-introduction of The End Racial Profiling Act in 2004.

The End Profiling Act of 2004 (ERPA) – (H.R. 3847 S. 2132)

The End Racial Profiling Act of 2004 was introduced on February 26, 2004 by Sen. Russell Feingold (D-WI) and Sen. Jon Corzine (D-NJ) in the Senate. Rep. John Conyers (D-MI) and Rep. Chris Shays (R-CT) introduced the bill in the House. The bill had 126 co-sponsors, of which 125 were democratic and one was independent.

The proposed End Racial Profiling Act of 2004 legislation defines racial profiling as the “practice of relying on race, ethnicity, religion, or national origin to select which individuals are subject to a law enforcement encounter (ACLU Sanctioned Bias 2004, p. 3).” Religion was added to The End Racial Profiling Act of 2004 since the proposed End Racial Profiling Act of 2001.

The End Racial Profiling Act legislation would make racial profiling practices illegal by banning profiling at all levels of law enforcement, not just the federal level and make compliance a condition of law enforcement agencies receiving federal funding. The bill proposes that grants be awarded to police departments for data collections systems to track and identify discriminatory policing and training to prevent racial profiling. The legislation would introduce a nationally uniform data collection system of routine investigatory activities that would be submitted to the Attorney General (ACLU Sanctioned Bias, 2004, p. 3).

The End Racial Profiling Act would provide victims of racial profiling with legal recourse (right to sue) in order to hold law enforcement agencies accountable and establish independent procedures for receiving, investigating and responding to complaints of racial profiling. Additionally, the bill would require the establishment of procedures to discipline law enforcement agents who engage in racial profiling (ERPA, 2004).

Given the increased support for national racial profiling legislation by numerous minority advocacy and civil rights groups after September 11th and the injustices and civil rights violations alleged to have occurred against minorities based on their national origin and ethnicity, the findings section of the End Racial Profiling Act of 2004 reads:

“In the wake of the September 11, 2001 terrorist attacks, many Arabs, Muslims, Central and South Asians, and Sikhs, as well as other immigrants and Americans of foreign descent, were treated with generalized suspicion and subjected to searches and seizures based upon criminal conduct. Such profiling has failed to produce tangible benefits, yet has created a fear and mistrust of law enforcement agencies in these communities (ERPA, 2004, p. 4).

Rep. John Conyers (2004) commented after the introduction of the End Racial Profiling Act of 2004, “Both the President and the Attorney General have said that we need federal legislation and that the practice of racial profiling should be prohibited.” Rep. Conyers further expressed, “this bill does that and we’re anxious to work with the Administration to make this happen (Weathersby, 2004, p. 1).”

Rep. Conyers (2004) also expressed, “Data collected from New Jersey, Maryland, Texas, Pennsylvania, Florida, Illinois, Ohio, New York, and Massachusetts show beyond a shadow of a doubt that African Americans and Latinos are being stopped for routine traffic violations far in excess of their share of the population or even the rate in which such populations are accused of criminal conduct. A recent Justice Department report found that although African-Americans and Hispanics are more likely to be stopped and searched by law enforcement, they are much less likely to be found in possession of contraband (Weathersby, 2004, p. 1).”

The End Racial Profiling Act of 2004 states in section 2, Findings and Purposes,

“The Department of Justice Guidance [2003], is a useful first step, but does not achieve the President’s stated goal of ending racial profiling in America: it does not apply to State and local law enforcement agencies, does not contain a meaningful enforcement mechanism, does not require data collection, and contains an overbroad exception for immigration and national security matters (ERPA, 2004, pp. 2-3).”

The International Association of Chiefs of Police, the world’s oldest and largest nonprofit membership organization of police executives, has adopted a resolution condemning racial profiling:

“We must ensure that racial and ethnic profiling is not substituted for reasonable suspicion in traffic stops and other law enforcement activities. The best way to ensure the trust of citizens and the courts, and to protect our officers from unfair criticism, is to develop an anti-profiling policy that delineates approved techniques for professional traffic stops, and makes a clear statement that profiling is not one of those techniques (ACLU Sanctioned Bias, 2004. p. 2).”

The End Racial Profiling Act of 2004 was referred to the House subcommittee on crime, terrorism, and homeland security on April 2, 2004 in the current 108th session of Congress. However, a decision regarding the passage of the bill has not been made. If the legislation stalls in the House and is not passed before the end of 2004, then The End Racial Profiling Act will

have to be re-introduced in 2005 in the 109th session of Congress to be considered once again for passage.

RESEARCH QUESTIONS

The national racial profiling legislation debate presents three important research questions:

1. Is racial profiling by law enforcement a pervasive problem in the United States?
2. What legislation, if any, is required to combat against racial profiling?
3. How can anecdotal evidence of racial profiling be strengthened to provide statistical proof?

METHODOLOGY

As of 2004, a number of state legislatures have passed legislation requiring mandatory data collection by law enforcement officials, among other remedies such as racial profiling policies, training, etc. More than 15 states have passed legislation and hundreds of police agencies have instituted racial profiling policies and implemented mandatory data collection programs. Additionally, many police officers publish the stop and search data collected on their websites. Hundreds of police departments have implemented voluntary data collection programs including San Francisco, California; Dearborn, Michigan; and Richmond, Virginia. Statewide data collection systems have begun to be implemented in Michigan and Washington (Harris, 2003).

In June 2001, the Bureau of Justice Assistance, a component of the Office of Justice Programs, awarded the Northeastern University Institute on Race, research team a grant to create a web based Racial Profiling Data Collection Resource Center. The site is designed to be a central clearinghouse for police agencies, legislators, community leaders, social scientists, legal researchers, and journalists to access information about current data collection efforts, legislation and model policies, police-community initiatives, and methodological tools that can be used to collect and analyze data (Racial Profiling (NEU), 2004).

The problem with many of the state legislatively mandated studies and the voluntary studies according to David Harris (2003), Professor of Law and Values at the University of Toledo College of Law, is that they are using “improper benchmarks (p.7).” Many of the police departments that are

collecting traffic stop data are using census data or population percentages to compare to their collected data in order to determine whether the police are using racial profiling practices by stopping and/or searching a particular group(s) more than they are stopping and/or searching particular other group(s) based on race, ethnicity, national origin or religion. A population percentage could be for example, the population of a county, existing of registered drivers age 16 and up. The problem with using census data or population percentages is that the driving population in a particular area, highway or “hot spot” of a city will most likely yield a totally different racial/ethnic makeup than the census population, or population percentage will provide for that respective area (Harris, 2003).

According to David Harris the appropriate benchmark or denominator, if you will, to utilize when analyzing collected traffic stop and search data is the driving population of the respective area studied. David Harris (2003) explains the rationale of using the appropriate benchmark in a traffic study,

“If the study looks at who gets stopped while driving, the relevant comparison population is the driving population of the jurisdiction under study. If that population is ten percent black, but blacks are thirty percent of all drivers stopped and searched, we might legitimately wonder whether racial targeting was taking place. But without the benchmark of the racial composition of the driving population, the numbers on the stops and searches alone would not have much meaning (p. 7).”

In the 1990’s, John Lamberth of Temple University was the first social scientist to attempt to measure the racial distribution of driving populations in Maryland and New Jersey, where he was an expert witness in their respective cases. John stationed observers on each side of the respective highway and turnpike and observers driving in cars. The observers randomly collected racial composition data. The observers also counted traffic law “violators” and determined that no one race or ethnic group violated traffic laws more than another. As a result in both the Maryland and New Jersey cases it was proven that African-American and Latino drivers were disproportionately targeted for traffic stops and searches. John Lamberth is applying his technique in more mixed traffic law enforcement “hot spots” across the country (Harris, 2003).

Data on searches is just as crucial as data on stops. All drivers commit traffic violations and the police use discretion of whom they will stop whether it is in traffic, on the street, in airports or elsewhere. According the US Supreme Court, observation of any traffic offense can warrant a stop and detainment to issue a citation. However, unless there is suspicious evidence of a crime taking place such as the police officer smelling alcohol on the suspect’s breath, or observing drug paraphernalia, or an existing warrant, the law enforcement officer can not search your car, or your person without permission. If there is no

suspicion of a crime taking place then the law enforcement officer must seek consent to search an individual, their possessions, or vehicle. However they are not required to notify the individual that permission is required. Data collection on searches would provide insight into how many searches are involuntary or consensual and with consent searches, who law enforcement officials are determining to be more or less suspicious and whom they are using their discretion to request a search (Harris, 2003).

FINDINGS

A court-ordered study in Maryland found that more than 70 percent of the drivers stopped on I-95 were African American though they made up to only 17.5 percent of drivers. A racial profiling victim in Maryland won \$95,000 from the Maryland State Police Department, along with an agreement for them to provide data on highway stops.

Another study in New Jersey found that “minorities were nearly five times as likely as non-minorities to be stopped for traffic violations along the turnpike (Scott, 2000 p. 2).” A New Jersey judge in 1996 tossed out a number of drug possession cases because New Jersey troopers illegally targeted motorists. New Jersey settled the first racial profiling case brought by the Justice Department under 42 U.S.C.A 14141 in 2000. In New Jersey the issue was so bad that nearby African-American and Latino communities had taken to calling the turnpike “White Man’s Pass (Elder, 2001, p. 1).” The consent decree in the New Jersey case appoints an independent monitor, requires the state to collect traffic stop data and to create new citizen complaint, training and early warning procedures for state police (Conyers, 2001).

In response to criticism and allegations of racial profiling, New Jersey state officials commissioned their own study. The study showed that blacks are twice as likely as whites to speed down their state’s highways. Civil rights leaders denounced the study and Justice Department officials called the study “faulty, flawed, and poorly designed (Hutchinson, 2002, p. 1).”

On March 14, 2003, New Jersey Governor James E. McGreevey signed the New Jersey Racial Profiling Statute into law. New Jersey became the first state to make racial profiling through race-based arrests and police searches illegal. New Jersey’s law enforcement officers are “barred from using racial characteristics or color as foundation for triggering an investigative stop (Swan, 2003 p. 3).” Racial profiling legislation advocates including civil rights organizations welcomed the legislation yet State Troopers Fraternal Association officials did not embrace the legislation (Swan, 2003).

Now that an influx of data is being collected and studies performed to statistically prove the existence of racial profiling practices by law enforcement, law enforcement officers and police agencies have switched gears from out an out and out denial of racial profiling practices to the arguing that minorities

commit the majority of crimes and therefore rationalize that profiling minorities based on race is appropriate. Many law enforcement officials share this widespread belief. For example, it is factual that African-Americans are over-represented among those arrested and imprisoned in this country. However according to David Harris (2003), Professor of Law and Values at the University of Toledo College of Law,

“Arrest rates are not, as many seem to believe, measurements of crime. The same goes for statistics on incarceration. Arrest rates and imprisonment rates may have some relationship to actual rates of offending, but how close a relationship, whether it varies by the type of crime, and how greatly it varies are all questions that at best remain unanswered by simply citing arrest and imprisonment statistics (p. 5).”

The answer according to David Harris (2003), lies in the “hit rate (p. 5).” According to the ACLU, “studies consistently show that “hit rates” - the discovery of contraband or evidence of other illegal conduct among minorities stopped and searched by the police are lower than “hit rates” for whites who are stopped and searched. Indeed, the findings of numerous studies throughout the country have been so consistent that police officials are starting to recognize that racial profiling, while still practiced broadly, is ineffective and should be rejected (ACLU Sanctioned Bias, 2004, p. 2).”

The Department of Justice, in a 2001 national study they conducted based on citizen-police contacts in 1999 found that “blacks account for 70 percent of all routine traffic stops. The Department of Justice also found that although African-Americans and Hispanics were more likely to be stopped and searched, they were less likely to be in possession of contraband (Hutchinson, 2002, p. 1).” “On average, searches and seizures of African-American drivers yielded evidence only 8 percent of the time, searches and seizures of Hispanic drivers yielded evidence only 10 percent of the time, and searches and seizures of white drivers yielded evidence 17 percent of the time (ERPA, 2004, p. 3).”

An Ohio study conducted by David A. Harris found that “blacks driving in the Ohio metropolitan areas of Toledo, Akron, Dayton and Columbus were twice as likely to receive tickets as non-blacks (whites, Hispanics, and other ethnic groups) (Ward, 2004, p. 2).”

“Similarly, a study conducted by the Orlando Sentinel observed a drug interdiction program in 1992 along a stretch of Interstate 95 in Florida. Some of the deputies’ cars involved in traffic-related stops were equipped with video cameras. Video tapes from almost 1,100 stops were viewed by the newspaper. The tapes showed that about 70 percent of the drivers who were stopped on a stretch of highway were African-American, whereas only 5 percent of the drivers were black (Ward, 2004 p. 2).

The San Diego Police Department in collecting and analyzing police reported traffic stop data found that “San Diego police searched vehicles driven

by Hispanic drivers more often than white drivers (51.6% versus 24.5%). However, searches of vehicles driven by whites yielded hits twice as often as vehicles driven by Hispanics (11.7% versus 5.0%). There was no difference in vehicle search rates or hit rates between vehicles driven by African Americans and whites (Lundman 3, 2004).”

The Oakland Police Department in partnership with the RAND Corporation, an independent non-profit research organization conducted a study of data collected by the Oakland Police Department that consisted of 7, 067 recorded vehicle stops between June 15, 2003 and December 30, 2003. In a report released in 2004, they “found mixed evidence of whether racial bias was involved in the initial decision by police to stop particular motorists.” However, “evidence of racial bias [existed] in certain traffic enforcement actions by police, including weapons searches of motorists stopped by officers (Racial Profiling (NEU - Oakland), 2004, p. 1).”

Researchers at the University of Minnesota Law School’s Institute on Race and Poverty analyzed data provided by sixty-five Minnesota police departments in 2002 and found disturbing results. They reported that police “searched Blacks, Latinos, and American Indians at greater rates than White drivers, and found contraband as a result of searches of Blacks, Latinos, and American Indians at lower rates than in searches of White drivers (Lundman, 2004, p. 3).”

Rep. John Conyers commented regarding the mounting evidence of racial profiling being collected nationwide:

“Media coverage of the phenomenon of racial profiling has produced an abundance of anecdotal evidence concerning abusive practices. In addition, statistical evidence gathered in the course of litigation shows a clear pattern of racially discriminatory traffic stops and searches. Although African-Americans make up only 14% of the population, they account for 72 percent of all routine traffic stops. Latinos are similarly targeted for a disproportionate law enforcement focus. One ACLU analysis indicated that Latinos comprised approximately 30 percent of the motorists stopped by one state’s police drug interdiction officers, even though they only accounted for eight percent of the personal vehicle trips (Conyers, 2001).”

Rep. Conyers also expressed “When we speak of the problem of police misconduct incurred in our nation, our concerns are greatly aggravated by the fact that all of the high profile cases involve persons of color (Scott 2000, p. 1).

CONCLUSIONS & DIRECTIONS FOR FURTHER RESEARCH

Policy Debate

The key government agency that would be essential in the implementation and administration of national racial profiling legislation is the U.S. Department of Justice. The Department of Justice currently reviews civil rights complaints and has its Pattern or Practice authority to initiate investigations into racial profiling and discrimination occurring within the criminal justice system. The Department of Justice also issued federal guidelines in 2003 prohibiting the practice of racial profiling by federal law enforcement agencies. It would be appropriate for the Department of Justice to oversee and accept complaints of racial profiling as a civil rights violation. Rep. Conyers has publicly acknowledged that the financial and technical support of the Department of Justice in administering the logistics of the bill is essential.

The Attorney General in Justice Department and their office are assigned the responsibility in the End Racial Profiling Act of 2004, of administering the legislation. The Attorney General would have the authority to add to the legislation before passage, authorizes compliance grants, and enforces the legislation by using their authority to reduce or suspend appropriations of funding to law enforcement agencies if there are violations of the act. The office of the Attorney General would additionally be responsible for receiving the nationwide data collection, analyzing the data, and submitting a report to Congress on their findings annually.

Early proponents of racial profiling legislation are the American Civil Liberties Union (ACLU), The Congressional Black Caucus (CBC), the National Association for the Advancement of Colored People (NAACP), and the National Action Network (NAN). Additional early supporters of the legislation include The National Organization of Black Law Enforcement Executives (NOBLE), the American Bar Association, Advocates and Leaders for Police and Community Trust (ALPACT), professors of law, investigative journalists and numerous minority advocacy groups.

Many proponents added their support to the national racial profiling legislation after the tragedy of September 11, 2001 and the advent of the Patriot Act including The Lawyers Committee for Human Rights, Amnesty International, The American Psychological Association (APA), The National Conference for Community and Justice, The International Association of Chiefs of Police, the National Asian Pacific American Legal Consortium and the Leadership Conference on Civil Rights.

Racial profiling used to be viewed as primarily an African-American and Latino American issue. Yet, after many Arab, Muslim, and Asian citizens and non-citizens were racially profiled and subjected to detainment, searches, questioning, and deportation by law enforcement, sanctioned by the Justice

Department after September 11th, the issue of racial profiling became a broader issue. The End Racial Profiling Act of 2004 specifically addresses the treatment of these groups within the legislative proposal. Protections against racial profiling against persons based on their religious affiliations was an “add in” to the End Racial Profiling Act as well. The coalition that formerly existed of primarily African-American and Latino advocacy groups has expanded to include multiple minority advocacy groups and international civil/human rights organizations. The result of the strengthened coalition supporting national profiling legislation was evident in the support of The End Racial Profiling Act of 2004 which had 126 co-sponsors.

Opponents of racial profiling legislation who lobbied against its passage include the Grand Lodge Fraternal Order of Police and the National Association of Police Organizations (NAPO) and the International Association of Chiefs of Police. Also many government officials, law enforcement agencies, police administrators and officers nationwide opposed the legislation.

The major interest groups are the ACLU, Amnesty International, the NAACP, NAPO and the Grand Lodge Fraternal Order of Police. Law enforcement agencies in general and national leaders have also played an important role in organizing politically against national racial profiling legislation and contributed to the non-passage of the bills. The NAPO organization represents more than 220,000 law enforcement officers nationwide. When the Traffic Stops Statistics Act was introduced in 1998, NAPO lobbied actively against its passage and credits its organization with stalling the bill in the Senate (NAPO, 1999). Robert T. Scully the executive director of NAPO, stated in a press release in 1999 after Conyers re-introduced the Traffic Stops Statistics Act,

“What I think needs to be made clear to the American public is that there is no need for new legislation on this issue. The Attorney General of this country already has the authority to collect this data in any area of the country where she sees a problem of alleged racial profiling by police officers during traffic stops (NAPO, 1999, p. 1).” He added in response to the new 1999 legislation, “The newly proposed bill would make the data readily available to the cottage industry of lawyers who make their living suing police officers across the country (NAPO, 1999, p. 1).”

The ACLU described racial profiling “as the leading civil rights issue of the 1990s (Scott, 2000, p. 3). The ACLU filed a class-action lawsuit on behalf of the Maryland NAACP. The suit charged that the Maryland Police use discriminatory racial-profiling techniques in stopping drivers. The NAACP and 11 plaintiffs sought damages on behalf of themselves and hundreds of minority motorists who have been arbitrarily stopped and searched by officers for drugs.

The ACLU filed a suit earlier against the California Highway Patrol and the Bureau of Narcotics Enforcement, accusing both of racial profiling. Later that year in September 1999, California Gov. Gray Davis vetoed a bill by state Senator Kevin Murray, D-Culver City that would have required the California Highway Patrol and major police and sheriff's departments to record detailed information on their enforcement activities including total stops, the number of arrests, warnings and citations, and the reason for the stops (Scott, 2000).

The reason's Gray supplied for vetoing the bill were that the "bill could cost too much and place a heavy burden on police (Scott, 2000, p. 3)". Gray stated that there was "no evidence that this practice is taking place statewide requiring sweeping legislation that mandates state scrutiny of every local law enforcement agency in California (Scott, 2000, p. 3).

There was further opposition from law enforcement officials in California. The Los Angeles Police Chief, Bernard Parks opposed a traffic stops study, as he stated "my agency does not engage in racial profiling and need not study the issue (Scott, 2000, p. 4)."

Sheriff Lee Baca of the Los Angeles Police stated he would not require his department to participate in a racial profiling study despite a formal request by the board in November of 1999.

It is interesting to note that when legislation was first introduced in 1998 and 1999 most law enforcement agencies denied the existence of racial profiling. Yet, as the issue came to the forefront of the media and pressure was placed on certain states and local law enforcement agencies to actually collect data on traffic stops the defense tactics changed. As more and more statistical proof emerged and investigations by the Department of Justice confirmed the existence of racial profiling practices, the defense became that minorities are arrested and incarcerated at a higher rate, so therefore they commit more crimes and that racial profiling is appropriate.

The political landscape also changed since the conversion from Democratic leadership to Republican Leadership in January 2001. Since this conversion only two new Pattern or Practice Investigations have been initiated by the Department of Justice (McMickle, 2003). Additionally, if national racial profiling legislation could not be passed with Democratic leadership, it has a slim chance of being passed in a Republican controlled House and Senate. The End Racial Profiling Act of 2004 had no republican sponsors. Republican legislators do not support this legislation. Additionally, even when issuing guidelines for federal law enforcement and speaking out against the practice of racial profiling, both President Bush and U.S. Attorney General John Ashcroft, publicly expressed their support for law enforcement and have made no attempts to support national racial profiling legislation. Although especially after September 11th racial profiling has affected most minorities in the country, national racial profiling legislation is not part of the Republican agenda.

Evaluation of Advocacy Efforts

There were a few minority and civil liberties groups lobbying for the passage of the Traffic Stops Statistics Act of 1998. Support was building for the legislation in 1999 and that interest grew tremendously after September 11, 2001. At this point the legislation took on broad mass appeal because of the country's focus on national security and the allegations of Arabic, Muslim and Asian citizens and non-citizens being harassed and detained unnecessarily.

The advocacy efforts on the part of the sponsors of the bill could have stronger had they taken a broader approach in the beginning, forming a coalition with other minority groups. The protection of Americans' constitutional rights and civil liberties affects all Americans. Profiling based on race (any race) is discriminatory and a violation of civil rights whether an individual is stopped on the street, in their car, at the airport, or elsewhere.

However, I wonder would other minority groups would have been interested in the issue of racial profiling prior to September 11th? Did other minority groups feel insulated from racial profiling prior to that tragic day that made Americans question their freedom, national and personal security? My impression is that due to the racial tension between African-Americans and White Americans in the United States, most minority groups felt that racial harassment and discrimination issues were somehow "owned" by African-Americans and possibly Latino Americans.

There were many small local groups within the states supporting state racial profiling legislation, yet only the NAACP and the ACLU were making national statements early on supporting the proposed Traffic Stops Statistics Act of 1998 and 1999. If Rep. Conyers, Sen. Feingold and other co-sponsors of the bill would have garnered support from a number of national agencies to form a national alliance supporting this legislation in the beginning I believe it would have made a difference.

The importance of a national coalition of grassroots organizers, human rights organizations, law enforcement officers and civil libertarians was apparent. After September 11th, many advocacy and civil rights groups jumped on the bandwagon and began making national statements denouncing racial profiling by law enforcement officials and publicly supporting The End Racial Profiling Act such as Amnesty International a human rights activist organization with 1.5 million members, The Lawyers Committee for Human Rights and The American Psychological Association. If an effort would have been made to build a larger coalition earlier it would have made an impact.

NAPO represents 220,000 members and the Grand Lodge Fraternal Order of Police 310,000 members. These numbers represent power. Even President Bush when calling for federal law enforcement agencies to investigate the use of profiling on a federal level, made sure to mention the dedication of

police officers and not wanting legislation to interfere with law enforcement officers protecting the country. Ashcroft also stated that he would follow the President's directive yet would "follow the laws on the books." The influence of law enforcement and their advocacy efforts has been very powerful in the non-passage of the national racial profiling legislation.

The ACLU made strong statements with lawsuits and in the media. Following the release of each racial profiling bill, the ACLU sent out press releases with their support. The ACLU set up a hotline for citizens to call if they felt they had been racially profiled and tracked the numbers, races and states complaints were received from. The ACLU tracked all of the national and state level studies, conducted their own gallop polls and set up action alerts for citizens to write members of Congress supporting the legislation. The ACLU has invested time and resources in the issue and they are current with their facts. The support of the ACLU has been critical; yet by itself, it wasn't enough.

One of key components that was absent from the advocacy debate were testimonials of incidents where minorities were racially profiled. Civil Rights advocacy groups have been collecting this information, yet testimonials of various minority groups may make an impact by giving racial profiling a personal face. Although statistical evidence is essential to the proving the existence of racial profiling practices, testimonials would help in transferring anecdotal evidence to stronger evidence and eventually the strength of anecdotal evidence would be hard to dispute as well.

Conyers implied that the public denouncing of Racial Profiling by the Clinton and Bush administrations was just rhetoric. Although the bill was not passed, President Clinton did at least support the Traffic Stops Statistics Act in 1999 before Congress. However, President Clinton was motivated to sustain his minority support. President Bush's motivation I believe, as suggested by critics of his actions, was to make a token statement denouncing the act of Racial Profiling in order to gain minority support. Yet, he did not publicly support racial profiling legislation on a state and local level. The federal guidelines were not enacted until after Sept. 11th as the issue garnered greater interest group support and media attention.

Rep. Conyers held a press conference after the DOJ announcement of guidelines issued in 2003. This was effective because although minority groups, the ACLU and other civil liberty and human rights groups were speaking out against the guidelines, Rep. Conyers the author of the national racial profiling legislation, needed to let the public know his stance on the new guidelines. In his press release, Conyers remained positive as he stated that the guidelines were not enough on a federal level yet encouraged the DOJ to work with him to pass legislation on a state and local level.

The tone of Rep. Conyers and Sen. Feingold has remained firm yet positive. Both Rep. Conyers and Sen. Feingold provided press releases after the introduction of The End Racial Profiling Act of 2004, stating that President

Bush pledged to end racial profiling in a Joint Session of Congress in 2001 and asked President Bush and Congress to uphold his promise by supporting and passing this legislation ending racial profiling on the federal, state and local levels. Rep. Conyers and Sen. Feingold indicated how the anecdotal evidence was supported all over the country through statistical studies, that indicated proof of a pervasive problem of profiling minorities based on race, ethnicity, religion and national origin. Both Feingold and Conyers expressed the expansiveness of the problem since September 11th. It was important for both Rep. Conyers and Sen. Feingold to publicly hold President Bush to his word, express the solidarity of all minority groups supporting the legislation and to indicate the data collection studies and their results around the country.

Evaluation of Proposed Racial Profiling Legislation

The 1998 & 1999 Traffic Stops Statistics Acts focused on the Attorney General requiring state and local law enforcement agencies to collect data in order to establish a national study. The intent of the study was to determine the magnitude and severity of racial profiling on a national level. This was realistic for a modest start to the legislation. Rep. Conyers vision was that because more and more anecdotal evidence was emerging, a study would be worthwhile to determine how pervasive the practice of racial profiling is and to analyze the issue. However, when the Traffic Stops Statistics Act of 1998 passed unanimously in the House, and was widely publicized in the press, law enforcement agencies and associations quickly lobbied against the bill's passage and the bill stalled in the Senate.

The End Racial Profiling Act of 2001 was more aggressive than the Traffic Stops Statistics Acts. ERPA of 2001 called for policies on racial profiling to be implemented, the potential for grants to be withheld if policies were not in place, an established complaint procedure, a discipline procedure and monetary remedies for victims of racial profiling.

Although The End Racial Profiling Act was more comprehensive than the previous attempts the question emerges, if Congress would not pass a bill authorizing a national study, why would they authorize a bill defining racial profiling misconduct and agree to discipline officers and pay monetary damages to victims? Rep. Conyers and his co-sponsors were trying to make the point that anecdotal evidence had advanced to proof. They wanted real regulations in place, however the Congressional support was just not there for national legislation to be passed. If the legislation could not be passed under the Clinton Administration, the Bush Administration definitely was not posed to pass the legislation. One of the weaknesses with the End Racial Profiling Act of 2001 legislation was that the "how" of how law enforcement agencies and the Attorney General would determine evidence of racial profiling was unclear. Conyers admitted that this

may be a hurdle to blocking the passage of the bill. The bill relied on whether there was disparate impact on minorities. This is why legislation for the study should have been pushed for passage first. With the data collected, an idea of the impact could be assessed and guidelines could be established based on the “proof” obtained. Rep. Conyers also admitted that the defining racial profiling and establishing legal ramifications for the practice was a complex task. Conyers noted,

“While the catch phrase “driving while black” captures the perception of the minority community, the definition of racial profiling embraces the widespread police practice of using race as a factor in deciding whom to target for law enforcement. Properly understood, racial profiling occurs whenever police routinely use race as a negative signal that, along with an accumulation of other signals, causes an officer to react with suspicion (Conyers, 2001, p. 1).”

However, The End Racial Profiling Act of 2004 contained a clear definition of racial profiling indicating that racial profiling is “the practice of relying on race, ethnicity, religion or national origin to select which individuals are subject to a law enforcement encounter (ACLU Sanctioned Bias 2004, p. 3).”

Another issue with the racial profiling legislation in general is how do you streamline and regulate data collection so that is consistent across all law enforcement agencies, and represent reliable sources of data. Also how do you prevent law enforcement officers from skewing the data? If the legislation passes, law enforcement officers would be instructed to collect data. It has already been alleged in some of the state legislatively mandated studies and the voluntary studies that law enforcement officers have underreported findings. The Department of Justice would be key in establishing the guidelines and strictly regulating the process. However, how do they limit abuses?

The End Racial Profiling Act of 2001 and 2004 called for grants to be made to law enforcement agencies that needed technical assistance creating policies and for equipment etc. Possibly the use of video cameras and moving surveillance equipment would serve as a checkpoint to ensure the accuracy of the data. However if data is disputed, does the DOJ have the resource time to investigate video tapes?

The End Racial Profiling Act of 2004 was written well, and strengthened with all of the data collections and statistical evidence of racial profiling found by law enforcement agencies, the Department of Justice, social scientists, non-profits and research institutions who have conducted studies across the country. However it is absolutely critical to have a national “reliable” commissioned study with standardized methods for collecting data and the appropriate “benchmarks” to be used to compare the collected data. This data should be collected in traffic stops, yet possibly in airports as well.

Nonprofit research institutions could continue to work in collaboration with law enforcement agencies and The Department of Justice should be responsible for ensuring the validity and reliability of the studies. The Attorney General would then be responsible under the act of presenting a report of the analyzed collected data to Congress. It may be helpful for the Department of Justice to analyze the data on state, local, regional and national levels.

Another issue law enforcement officials brought up regarding racial profiling legislation was where would the funding come from? Before introducing the legislation in 2001, the sponsors of the bill should have investigated Department of Justice budget cuts. They were suggesting that the funding for the bill come from the Department of Justice yet with national support of law enforcement, how would the DOJ approve funding a program to police the police when Community Policing Programs were being cut? Law enforcement agencies emphasize that they are in place to protect the public and if their community policing programs can be cut, then racial profiling funding should not be a priority. Some alternative funding sources should have been identified by the sponsors of the End Racial Profiling Act of 2001.

However, the End Racial Profiling Act of 2004 did specifically indicate that funding for the act would come from multiple sources; the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs and the Cops on the Beat Program, both outlined in the Omnibus Crime Control and Safe Streets Act of 1968 and The Local Law Enforcement Block Grant program of the Department of Justice (ERPA, 2004). This diversification of funding for The End Racial Profiling Act of 2004 is a strong addition to the legislation.

Overall, it is my assessment that the mounting anecdotal reports of racial profiling and statistical studies conducted are evidence of actual proof of racial profiling in the United States. After Sept. 11th the issue of racial profiling has developed into a broader issue. What I question is how widespread is the problem? Is the problem greater depending on regional characteristics? Although there have been several local and state studies, a national study will provide solidified statistical proof of a pervasive problem of racial profiling by law enforcement in the United States and will add needed credibility to The End Racial Profiling Act legislation. The national racial profiling legislation already has the support of civil libertarians, human rights organizations, democratic legislators, and minority groups that it needs. The study needs to be conducted to establish proof of racial profiling practices across the country and if the data discovers that an overwhelming number of minorities are profiled in traffic or other stops, inconsistent with the minority "population" being considered or with the number of White Americans profiled, then the proof will be evident. Based on proof, guidelines can be established to end the practice of racial profiling and to enforce citizens' constitutional rights to equal protection of the laws and their right to protection against unreasonable searches and seizures.

All citizens of the United States recognize the need for increased security after September 11th. However, there has to be a balance between creating safe and efficient security measures and protecting the citizen's of the United States civil liberties and protections under U.S. Constitutional law. Racial profiling creates fear and erodes trust that minority communities have in law enforcement and discourages needed cooperation from these communities. Racial profiling is a threat to all of our security because if police are concentrating on race and not using good policing methods and stopping suspects based on suspicious criminal behavior then we are all less safe. Many fear that the liberties given to law enforcement to combat the so-called "war on terror" and other discretionary powers will extend to greater liberties under the law in giving law enforcement broader powers to abuse the civil rights of minority American citizens and non-citizens.

REFERENCES

- (ACLU) Sanctioned Bias: Racial Profiling Since 9/11 (2004). *ACLU.org*. www.aclu.org, 1 – 18.
- Amnesty International – Big Tymers (2004). Public Speakers Bloq for Group 1. <http://bigtymers1.bloqspot.com>, 4 – 6.
- Burns, J. (2001). Top Democrat Praises Bush, Ashcroft for Tackling Racial Profiling. *CNSNEWS.COM*. <http://www.cnsnews.com/ViewPolitics.asp?Page=\Politics\archive\200103\POL20010302b.html>, 1 – 4.
- Conyers, J. (2001). Major Issues – Racial Profiling. http://www.house.gov/conyers/news_racial_profiling.htm, 1.
- Civil Rights.org staff. (2004). Revised End Racial Profiling Act Reaches Capitol Hill. *Civil Rights.org*. www.civilrights.org/issues/cj/details.cfm?id=18767, 1– 2.
- Dade, C. (1999). Racial Profiling Gets State Notice. *Detroit Free Press*. <http://www.freep.com/news/metro/qprof27.htm>, 1 – 9.
- Dority, B. (2004). Your Every Move. *The Humanist*. 64 (January/February), 14-19.
- Elder, L. (2001). Is Racial Profiling a Fact. *WorldNetDaily.com*. http://www.wnd.com/news/printer-friendly.asp?ARTICLE_ID=22486_1.
- (ERPA) End Racial Profiling Act of 2001. (2001). *S. 989*. www.aele.org/s989.html, 1 – 7.
- (ERPA) End Racial Profiling Act of 2004. (2004). *S 2132*. www.theorator.com/bills108/S2132.html
- Frieden, T. (2003). New Federal Guidelines Ban Racial Profiling. *CNN.com/Law Center*. <http://www.cnn.com/2003/LAW/06/17/doj.racial.profiling/>, 1 – 3.

- Harris, D. (2003). The Reality of Racial Disparity in Criminal Justice: The Significance of Data Collection. *Law and Contemporary Problems*. 66 (summer), 71-98.
- Harris, H. & Hughes, A. (2002). The Price of Privacy. *Black Enterprise*. 32 (January/February), 1.
- Hutchinson, E.O. (2002). Racial Profiling or Reckless Driving? *AlterNet.org*. <http://www.alternet.org/story/12712>, 1 – 3.
- Johnson, K. (2004). Racial Profiling after September 11: The Department of Justice's 2003 Guidelines. *Loyola Law Review*. 50 (Spring), 67 – 87.
- Lundman, R.J. (2004). Driver Race, Ethnicity, and Gender and Citizen reports of Vehicle Search Hits: Toward a Triangulated Scholarly Understanding. *The Journal of Criminal Law & Criminology*. 94 (Winter), 304 – 349.
- McConnell, D. (2001). Conyers Seeks Law Barring Police Stops Based Solely on Race. *The Detroit News Washington Bureau*. <http://www.house.gov/conyers/nc060701.htm>, 1 – 3.
- McMickle, H. J. (2003). Letting DOJ Lead the Way: Why DOJ's Pattern or Practice Authority is the Most Effective Tool to Control Racial Profiling. *George Mason University Civil Rights Law Journal*. 13 (Spring), 311 – 344.
- (NAPO) The National Association of Police Organizations (1999). National Police Group Alarmed With Bill That Would Require the Collection of Data During Traffic Stops. *NAPO.org*. http://www.napo.org/press_alarmed_apr99.htm, 1.
- Racial Profiling Data Collection Resource Center at Northeastern University (2004). About the Data Collection Resource Center. www.racialprofilinganalysis.neu.edu/about_us.php
- Racial Profiling Data Collection Resource Center at Northeastern University (2004). Oakland Police Department's 2004 Final Report Released. http://www.racialprofilinganalysis.neu.edu/article.php?article_type=spotlights&articleid=848
- Rhoads, A. (2003). *Americans Against the Patriot Act*. <http://www.anairhoads.org/politics/aclu042003.shtml>, 1 – 3.
- Scott, J.H. (2000). Why Racial Profiling Must be Brought to an End. *WAVE Newspapers*. <http://www.csun.edu/~hcpas003/PAS300nomw4.html>, 1 – 4.
- Stein, E. (2003). Construction of the Enemy. *Monthly Review (New York, N.Y.)*. 55 (August), 125 – 129.
- Swan, G. (2003). The Law and Economics of Racial Profiling: New Jersey's Racial Profiling Statute of 2003. *North Carolina Central Law Journal*. 26 (Fall), 1 – 20.
- The Associated Press (2003). Minorities Nix Racial Profiling Policy. *CBSNEWS.com*. <http://www.cbsnews.com/stories/2003/06/18/politics/main559244.shtml>, 1 – 3.

- Ward, J.D. Race, Ethnicity, and Law Enforcement Profiling: Implications for Public Policy. *Public Administration Review (Washington, D.C.)*. 62, 726 – 735.
- Weathersby, R. (2004). End Racial Profiling Act goes to Congress. *TennesseeTribune*. <http://www.thetennesseetribune.com/news/Article/Article.asp?newsid=39818&sid=4>, 1 – 2.
- Weich, R. (2001). Racial Profiling and the September 11 Attacks. *Civil Rights.org*. <http://www.civilrights.org/issues/cj/details.cfm?id=5679>, 1 – 3.

LaTasha Chaffin received her MPA in December, 2004. She is employed as a human resources coordinator for USF Holland Inc.