

Essay on racial profiling

Law, Criminal Justice



Introduction

Racial profiling has been a national problem for America for a long time despite claims that the nation has passed that era. Racial profiling occurs every day everywhere across America when people of color are targeted by private security and law enforcement for frightening detentions, searches and interrogations without evidence that they are criminals. The detentions, searches and interrogations are usually based on perceived race, ethnicity, national origin or religion. Race and location are dominant characteristics that authorities look at when engaging in this type of profiling. This paper will give an understanding of racial profiling, the legislations and case laws regarding racial profiling and the cases for and against racial profiling.

Definition and scope of racial profiling

Withrow (2006) describes racial profiling as the use of law enforcement officials of race, or national origin as a basis of criminal suspicion. This definition is consistent with well-established definitions used at the highest levels of American government. Typically, Ramirez et al. (2000) define profiling as an action that is initiated by police that relies on the ethnicity or origin of a person instead of how the person behaves or available information that gives reasonable belief that the person has been involved in activities of crime. This definition represents the pre-theoretical notion that many people have. Racial profiling is patently illegal and it is a violation of the Constitution's core promises of equal protection under the law to all and freedom from unreasonable searches and seizures. Racial profiling drives away communities from police, prevents efforts of community policing and

causes law enforcement to lose credibility and trust among the people they are sworn to protect and serve. America has suffered from racial profiling for years and this tactic is commonly used to harass specific people of a particular race in order to arrest them without any cause. According to West (2001) even though there is great concern in America when it comes to profiling in terms of race, there is little reflection on the subject in a philosophical manner.

When defining racial profiling, it is critical to distinguishing it from two law enforcement practices that bear some resemblance to it but which are legal and when carried out right they are nondiscriminatory. These two law enforcement practices are criminal profiling and use of race in suspect descriptions. Criminal profiling is broad and is a more formal process than racial profiling and can result in agency guidelines. Gross and Livingston (2002) explain that whereas racial profiling involves searching for suspects of crimes that are not yet known to have been committed, criminal profiling involves narrowing the pool of suspects for known crimes. Another distinction is between racial profiling and use of race in suspect descriptions. Although some scholars such as Banks (2004) argue that use of race in describing suspects can sometimes be discriminatory akin to racial profiling but the two concepts must be kept distinct from each other.

According to Gross and Livingston (2002) use of race in suspect descriptions necessarily involves a known crime with specific evidence of a suspect's race while racial profiling involves unknown crimes with no direct basis for inference about a possible criminal's race. The distinction between racial profiling and the two concepts mentioned is important because the concepts

are usually conflated with the effect of confusing the issue and justifying racial profiling. Racial profiling affects several communities of people of color in the United States. According to U. S. Department of Labor, Bureau of Labor Statistics (2009) more than two centuries of being slaves and almost a century of racial discrimination that has been made legal have led to systematic profiling of African Americans in traffic and pedestrian stops and members of Muslim and Arab communities being profiled at the airports and by police. When racial profiling is strongly discussed, its effects are manifested in the form of abuse.

Considerations of Law and Justice

There are cases that are widely cited as cases of racial profiling or rude and demeaning to people of specific races. One example is that of “ driving in the wrong car”. Bonczar (2003) explains that such a case is that of Dr. Elmo Randolph, a dentist, has been questioned by police along highways 50 times and his car searched for drugs and weapons. He has never oversped or ever charged with such kind of offences, but faced all that for being a black American. Another case is that of traveling in the wrong neighborhood. Clayton and Opatow (2003) explain that police tend to wave down African Americans who are passing through white neighborhoods simply because they most unlikely do not live there. Police also seem to believe that they are there to do an unlawful act as in the case of Alvin Penn, the Connecticut State Senate African American deputy president.

Another common case is that of small traffic offence such as deflated tires and not signaling before shifting lanes. Hackney and Glaser (2009) explain that such a case is that of a public defender in DC called Robert Wilkins who

was stopped driving at 60 in a 55 mph zone. He was forced to stand outside on the rain while police searched their car and nothing was found. It is evident that authorities in Penn and Wilkins cases were abusive while Randolph's case is much worse if stops were to be counted. There are several constitutional remedies and case laws concerning racial profiling in America. The Fourth Amendment to the U. S Constitution protects citizens against unreasonable seizures and searches and the fourteenth amendment forbids any state to deny anyone in its area of jurisdiction their rights (Center for Constitutional Rights, 2009).

Many legal cases that seek remedies for those who have allegedly been racially profiled make arguments based on these two amendments. The fourth amendment is referred to because of its mandate for probable cause while the fourteenth amendment is referred to because of its prohibition against any action by the State that discriminates on the basis of race. Many scholars and authors such as Harris (2002) and Withrow (2006) have compellingly described that the most relevant case law rests on two cases that is Terry vs. Ohio (1968) and Whren vs. United States (1996). The first case was a justification for racial profiling because the court ruled that an officer can detain a suspect as long as he has reasonable suspicion that a person is armed and dangerous even if this suspicion is not sufficient to be probable cause for arrest. The latter case is the most significant court case because it leaves the possibility of legal racial profiling.

Cases and Arguments for and against racial profiling

There are cases and arguments for and against racial profiling. The cases for profiling seem utilitarian whereas cases against racial profiling tend to be

non-consequentiality. The utilitarian view on profiling along racial basis take certain unlawful acts are mostly committed by a specific group or race.

Therefore, strong focus on the group is needed. From a utilitarian viewpoint, it is evident that costs such as feelings of resentment and diminished trust among minority groups have to be considered. Bonczar (2003) argues that selection based on race may have such impacts only against a community that perceive minorities as racist. From this view, it is evident that although profiling causes unwanted effects, sometimes the trigger cause of feeling of loss mostly the socio-economic challenges, rather than racial profiling.

Another argument for racial profiling is in the context of investigating crimes and it is that racial profiling can increase the chance of catching criminals. Wakefield and Wildeman (2011) explain this statement by stating that if the speed at which people of a particular race commit a crime is more than that of other races, police will catch more criminals if the police carry on an investigation of the members of that race. In other words, racial profiling is an efficient use of police resources and law enforcement groups always claim that they use racial profiling to arrest many criminals. Another argument for racial profiling is that race characteristics help police to target those more likely to be criminals. According to Weaver and Lerman (2010) by using race as a targeting factor, the police will apprehend more offenders. There have also been arguments against racial profiling. One such explanation is that profiling on racial basis is a violation of moral rights because it amounts to discrimination. Withrow (2006) explains pejorative discrimination as the differential treatment among groups with the intention of establishing and maintaining demeaning relationship among minority

groups. This means that unfair application along racial profiles affects minorities negatively, and therefore discriminatory. If law enforcement pejoratively discriminates against minority groups, or does anything amounting to such, it denies them their rights.

Conclusion

In using race, national origin or ethnicity as a basis of criminal suspicion, law enforcement officials engage in a practice that is especially pernicious because it engenders a false sense of effectiveness in the face of substantial harms that may be readily evident. Profiling is legal and its role is to promote public safety. However, racial profiling contravenes this goal. From the arguments for and against racial profiling, it is evident that it is so objectionable that it is insufficient merely to state that it should not be supported. Rather, affirmative policies to ban its practice, monitor its occurrence and enforce prohibitions against it are warranted. This is necessary since profiling on racial basis happens randomly and unintentionally.

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