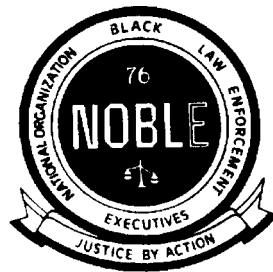


NATIONAL ORGANIZATION OF BLACK LAW ENFORCEMENT EXECUTIVES

**A NOBLE PERSPECTIVE:
RACIAL PROFILING – A SYMPTOM OF
BIAS-BASED POLICING
(Next Steps – Creating Blindfolds of Justice)**



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May 3, 2001



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A NOBLE PERSPECTIVE: RACIAL PROFILING – A SYMPTOM OF BIAS-BASED POLICING (Next Steps – Creating Blindfolds of Justice)

Executive Summary

Introduction

Founded in 1976, the National Organization of Black Law Enforcement Executives (NOBLE) is the nation's leading organization of minority law enforcement executives. NOBLE is an incorporated, non-profit organization. Our membership includes: chief executives, command-level law enforcement officials, and rank and file officers for federal, state, county, and municipal law enforcement agencies as well as criminal justice educators and professionals. Our officers are often uniquely challenged with the responsibility of ensuring integrity in policing by addressing such critical law enforcement and community concerns.

Moreover, when NOBLE members take off their uniforms and return to their private lives they too are faced with the same challenges and indignation as that of many other racial minorities – they are also victims of racial profiling.

Accordingly, NOBLE has long been directing attention and examining solutions to end racial profiling in law enforcement. When NOBLE began addressing the issue, most of the law enforcement community denied that racial profiling existed.

Purpose

Racial profiling is one of the most critical issues facing law enforcement today. Law enforcement's denial and refusal to address this issue has led to the deterioration of public trust and confidence in the criminal justice system, and has strained police and community relations.

The recent civil unrest in Cincinnati and the tragic shootings on the New Jersey Turnpike are extreme examples of racial profiling and its impacts on both the police and the community. Unfortunately, they are not aberrations. There are numerous cities throughout the nation in "crisis" – powder kegs waiting to be ignited by a single incident. We cannot ignore the warning signals. We must respond immediately and develop strategies to eliminate this practice. Before we can identify solutions to a problem, we must first admit that there is a problem and understand its causal factors.

Racial profiling is a national problem, recently placed on the national agenda by President George W. Bush. A national response is therefore needed. The purpose of this report is to provide a comprehensive approach to address the issue of bias-based policing and racial profiling in law enforcement.



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This report is divided into four sections.

Section 1: A NOBLE Perspective: Biased-Based Policing (Originally Published in October 2000)

This section outlines NOBLE's position on racial profiling, its origin and causes, and its impact on the community and law enforcement profession. The paper also identifies the following essential operational strategies, known as "Blindfolds of Justice" to eliminate the racial profiling.

Mission-Vision-Values
Recruitment & Hiring
Training
Promotion

Assignment Rotation
Discipline/Accountability
Leadership
Community

Section 2: Racial Profiling Legislation

This section provides legislators with six key essential elements for effective federal racial profiling legislation. The legislation must:

1. Declare racial profiling illegal.
2. Prescribe criminal, civil and/or administrative sanctions against violators.
3. Mandate racial profiling policies for law enforcement agencies.
4. Mandate data collection and analysis reporting for agencies receiving federal funding.
5. Mandate ongoing racial profiling training for all law enforcement officers.
6. Mandate and appropriate funding for a National Task Force on Racial Profiling

Section 3: Recommendations to the United States Department of Justice

This section is a NOBLE report to Attorney General John Ashcroft recommending a National Task Force on Racial Profiling. The report also outlines the following ten objectives of the task force:

1. Develop a Standard Definition of Racial Profiling
2. Identify the Causes and Impacts of Racial Profiling
3. Develop Standardized Data Collection Models
4. Develop Standardized Data Analysis Models
5. Conduct National Traffic Stop Statistics Study
6. Develop "Model" Racial Profiling Policies
7. Develop Racial Profiling Training
8. Develop Operational Strategies to Eliminate Racial Profiling
9. Develop Multi-Organizational Racial Profiling Mediation & Facilitation Programs
10. Develop Racial Profiling Self-Assessment Guide



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Section 4: Racial Profiling Training

This section outlines the NOBLE training course on racial profiling and describes the following course Objectives:

1. Define Racial Profiling
2. Discuss the History and Origin of Racial Profiling
3. Outline the Impact on the Community
4. Outline the Impact on the Law Enforcement Profession
5. Outline the Impact on Officers
6. Identify Legal Implications
7. Understand the Difference Between Racial Profiling vs. Criminal Profiling
8. Discuss Operational Strategies to Eliminate Racial Profiling
9. Racial Profiling: A Nation in Denial
10. Data Collection and Analysis
11. Developing Racial Profiling Policies

This report represents a comprehensive approach to addressing the issue of bias-based policing and racial profiling. To effectively address solutions to these problems will require a collaborative effort and commitment from the U.S. Department of Justice, law enforcement executives and agencies, federal, state and local legislature and communities.



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Racial Profiling – A Symptom of Bias-Based Policing

Introduction

“Justice is Blind” represents the basic motto and principle of our criminal justice system. It symbolizes equity in the administration of justice and represents our basic right in a free society. For many in the minority community, however, society is not that free and justice is far from blind. Justice in many cases has perfect 20/20 vision that distinguishes people on the basis of race, ethnicity, gender, religious beliefs and social and economic status.

Justice is among other things a system of people influenced by the biases and stereotypes’ brought to and learned at the job. In many cases, biases and stereotypes may be unintentional and applied subconsciously. In some cases, however, biases and stereotypes are intentional and malicious, rising to the level of blatant discrimination. Whether intentional or unintentional, the application of bias in policing tilts the scales of justice and results in unequal treatment under the law.

Bias-based policing may be defined as:

The act (intentional or unintentional) of applying or incorporating personal, societal or organizational biases and/or stereotypes in decision-making, police actions or the administration of justice.

Bias-based policing impacts all aspects of policing and should be considered the most serious problem facing law enforcement today. Racial profiling, also known as – driving while black or brown (DWB), excessive force, police misconduct and the shootings of unarmed minority suspects and undercover officers are in many cases symptoms and manifestations of bias-based policing.

Administrators often fail to recognize the true problem and respond only to the symptoms. Responses are usually “knee jerk” and largely ineffective. New symptoms appear; new responses are developed. Valuable time and resources are wasted on creating policies in response to symptoms versus eliminating the problem through a comprehensive systematic approach.

Racial Profiling:

What is it?

Over the past few years there have been literally thousands of articles and publications in which racial profiling has been defined. The level in which the consideration of race or ethnicity constitutes racial profiling has been the cause of much controversy and debate.



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Some define the level as the “sole” basis of consideration. Others use such phrases as “primary factors considered.” This point is extremely crucial considering many states have either enacted, or have pending, legislation prohibiting racial profiling. We can not make an act illegal if we can not define the act.

Northeastern University Law Professor Deborah Ramirez has provided, what we believe, is the best definition of racial profiling, which states:

“any police-initiated action that relies on the race, ethnicity or national origin of an individual rather than the behavior of an individual or information that leads the police to a particular individual who has been identified as being, or having been, engaged in criminal activity.”

When did it start?

Racial profiling is a new name for an old phenomenon. It can be traced back to early American society – most notably during the civil rights era. Racial profiling is not necessarily about racism – it is about race in America. To better understand racial profiling we must discuss the role of Law Enforcement in enforcing discriminatory laws (Jim Crow) and its role in the civil rights struggle.

Effect on community

Racial profiling is most commonly associated with driving while black or brown – also known as DWB. This practice, however, is not limited to vehicle stops – it also extends to other aspects of living in the minority community – “walking while black; standing while black; shopping while black.”

A recent article from the Institute on Poverty and Race: racial profiling states:

“The cost associated with race-related police abuses are significant, and include psychological trauma, humiliation and degradation, and a decline in the legitimacy of the criminal justice system. Police brutality lawsuits and institutional racism cost taxpayers tens of millions of dollars.”

“...addressing racial profiling can reduce disparities in incarceration rates and reduce a source of tension between law enforcement and communities of color.”

Effect on the Law Enforcement Profession

Most law enforcement agencies in the United States have embraced community-oriented policing (COP) as the guiding philosophy and problem-solving or problem-oriented policing (POP) as the primary crime reduction strategy. Both require the police and the community to work collaboratively and establish a rapport based on mutual respect and understanding.



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The failure of the police to instill public trust in the criminal justice system can only result in the failure to achieve the basic purpose of the police in a democratic society.

“To Protect and Serve”

Research suggests that racial profiling is an ineffective practice. Increased stops on minorities do not result in decreases in crime – only disparate arrest rates.

Case Study

In 1997, the California Highway Patrol (CHP) conducted “Operation Pipeline,” a drug interdiction program that utilized a profiling provided by the Drug Enforcement Agency. Over 34,000 stops were conducted – only 2 percent resulted in the seizure of narcotics.

On the one hand, some may argue the operation was a success as it netted close to 700 narcotics arrest. On the other hand, most would agree a 2 percent hit rate is extremely inefficient and ineffective. Not to mention, more than 33,000 motorists detained and temporarily deprived of their freedoms based on a bias tainted profile.

Programs of this nature are not strategic; they literally result in what is best described as a “shotgun” approach – the hopes that a pellet will hit something. The inordinate amount of resources required to conduct 34,000 stops would could have been diverted to conducting investigations based on “real” intelligence or diverted to drug rehabilitation and awareness programs.

The American Civil Liberties Union (ACLU) and the National Association for the Advancement of Colored People have filed a class-action suit against the CHP as a result of this program. Was it really successful? Effective crime-reduction strategies focus on root causes of crime and uses problem-solving to develop comprehensive strategies that strategically deploy resources.

Effect on Officer

As stated earlier, racial profiling results in a lack of respect for the criminal justice system. This lack of respect and trust results in tension between officers and many in the minority community. Tension can result in officers working in hostile working environments for extended periods of time.

Tension and hostility also results in higher levels of fear, which results in more frequent confrontations and incidents requiring the use of force. The more the police use force, the more the community resist, which then requires even more uses of force. Sir Robert Peel – the father of law enforcement – best described this cycle of excessive force and violence in 1829.



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Racial profiling and the debate over the collection of traffic stop data are examples of responding to symptoms.

Racial profiling imposes on the basic freedoms granted in a democratic society. For many in the minority community, racial profiling is an old phenomenon with a new name. A common response to racial profiling is the development of policies that declare racial profiling illegal, limit officer discretion in the area of traffic stops, and mandate training in cultural diversity.

These measures are a necessary first step, but alone they cannot reduce bias in an organization. Symptoms will resurface and appear in other areas, such as walking stops, the use of force, police misconduct, minority officer recruitment, retention and promotion. Racial profiling is not the standalone problem; it is a symptom of bias-based policing.

In many ways, bias-based policing is similar to a disease. Cure the disease, the symptoms stop; cure the symptoms, the disease remains and recurring symptoms appear. When the disease (bias) is removed, the symptoms (racial profiling) should dissipate.

Should agencies collect traffic stop data?

Many administrators believe traffic stop data collection is essential in eliminating racial profiling. Others believe data collection is not effective and will prove too expensive and time consuming:

Data collection has symbolic as well as practical value. The willingness to collect data can instill public trust and confidence. The courage to mandate data collection can improve accountability systems, fortify organizational values, and help “operationalize” the Law Enforcement Code of Ethics. Data analysis can be crucial in diagnosing types and levels of bias within an organization, as well as developing systems to remove bias.

The value of data collection clearly outweighs the associated time or costs, but it is also true that data collection poorly done or poorly analyzed can lead to misunderstandings at best and mistaken policies at worst. It is important to do the data collection right-and then to analyze and present it in useful forms to a variety of audiences and stakeholders.

It is time to end the debate over whether traffic stop data should be collected and move to more practical questions. Which data? Collected how, analyzed how, presented how? These questions do not occur in isolation-the answers depend on how the information can be used in the development and implementation of bias-reduction strategies.

A word of caution...the decision and public announcement to collect data must be part of an overall strategy to reduce bias-based policing. This will establish reasonable expectations for the community and prevent panic and forced political reactions if the statistics are not a “perfect match” with the demographics of the city.



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The importance of the data collection will be viewed as part of an overall strategy to reduce bias and not viewed as the sole indicator or solution.

Are there standards in data collection and analysis?

There are no current standards in data collection or analysis. It is likely that most agencies are not collecting sufficient data to provide comprehensive analysis. Professional, collaborative research is required to identify what data beyond traffic stop statistics are required to ensure statistics are not skewed. Law enforcement must now call upon statistical experts in academia for assistance.

NOBLE has partnered with organizations such as the ACLU and the RAND Graduate School to research and identify what data should be collected, and identify how data analysis can be used to reduce bias-based policing.

Another symptom of bias-based policing is the use of excessive force.

The recent “accidental” shootings of off-duty and undercover minority officers in New York and Rhode Island, as well as the tragic shootings of Amadou Diallo in New York and Tyisha Miller in Riverside, California, appear to be the result of bias-based policing. Many administrators, however, have focused on the shootings as the standalone problem and turned to firearm simulation training as the response.

The pervasive belief that the nature of the problem is the inability of officers to react to deadly encounters rapidly and effectively. Simulators increase reaction time and decision-making skills through shoot-don’t-shoot scenarios. It therefore stands to reason that the use of simulators will decrease incidents of this nature.

This response would be effective if the “nature” of the problem were shooting skills. The nature of the problem is bias. Otherwise, these types of shootings would not affect predominately minority officers and suspects. Non-minority officers carry off-duty weapons, work undercover and encounter on-duty officers, yet very few are mistaken for suspects and shot.

The current use of firearm simulation training does not assess or compare levels of force relative to bias. The training assesses shoot-don’t shoot in terms of legality, reaction time, and shooting skills under pressure. In most cases, neither the simulator nor the firearm instructor are equipped or qualified to determine whether the officer’s decision to use deadly force is influenced by stereotypes or bias.

Even after extensive training with the simulator, officers may still possess biases that result in higher levels of fear for minorities, which can taint the decision to use deadly force. In the end, the only change the simulator has affected is improved shooting skills – which could result in faster and more deadly uses of force against minorities.



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Stereotypes and biases result in higher levels of fear for minorities – which result in higher levels of force- applied in faster periods of time.

The two scenarios listed below may provide an example of how bias increases fear for minorities. Please review the scenarios and note your immediate assessment of each situation(s).

You are on routine patrol in a predominately minority neighborhood that is low income and high crime when you see:

1. A black male, 25 years old, wearing blue jeans and a sweatshirt standing on a corner known for high narcotics activity. He is holding a pistol and pointing it at another black male.
2. A white male, 25 years old, wearing blue jeans and a sweatshirt standing on a corner known for high narcotics activity. He is holding a pistol and pointing it at a black male.

The use of deadly force in each scenario would most likely be deemed legal, as it is reasonable for an officer to be in “fear of his or her life or the life of another.” If your assessment of scenario number one differed from scenario number two, however, the likelihood of varying and increasing levels of force in each scenario is extremely high.

The scenarios have been presented to numerous officers of different races and ethnicity. In almost every case, the officer stated their initial assessment of scenario number one was that the black male pointing the gun was probably robbing the other black male. Conversely, the white male pointing the gun at the black male in scenario number two was an undercover or off-duty police officer. The assessment did not change between minority or non-minority officers.

Clearly, the black male holding the gun in scenario number one is more likely to be shot by responding officers than the white male in scenario number two. Does this mean the officers are racist or ‘bad’ officers? Of course not, the majority of officers in this country are truly America’s finest. The problem is bias and its impact on law enforcement and society as a whole.

Bias-based policing is not limited to “white” officers nor is it as simple as racism or discrimination. Bias-based policing is a systemic problem in our profession and society. Bias is created by the core values instilled by our families and shaped by our life experiences. In many instances, experience serves as the greatest creator of bias.

Justice is not blind

The symbol of justice is a woman holding a scale – blindfolded. The symbol does not suggest the woman is free of bias or that justice is blind. The symbol represents the need to blindfold those empowered to administer justice from personal and societal prejudices when exerting the authority and power of office.



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It is impossible to completely remove bias from people – it is possible, however, to create systems that “blindfold” people from bias. To create blindfolds, agencies must analyze formal and informal operating systems and identify more efficient and equitable practices in each of the following domains.

- Mission Statement
- Recruitment and Hiring
- Training
- Assignment Rotation
- Promotion
- Discipline/Accountability
- Community Relations
- Leadership

Blindfold #1 – Mission Statement

Most agencies have mission-vision-value statements that are posted throughout their offices. In some cases, the only value they provide to the agency is wall decoration. Mission-vision-value statements must be “operationalized” to change the culture of the organization.

The mission statement should identify the following: Who are our customers? What service(s) do we provide? How do we provide them? The vision statement should also identify the future goals of the agency. The value statement should identify how to treat our customers and our employees, and serve as the organizational “Bill of Rights,” which should never be violated.

The mission-vision-value statement must be incorporated into all aspects of operation. Each level of the organization must identify what role they play in achieving the overall mission. If the mission, vision, and values are not understood, the direction of the agency is left to the officers in the field. Consequently, the focus and direction of staff as well as the deployment of resources may be based on officer preference instead of community needs or priorities.

Administrators must be creative and relentless in marketing the mission-vision-value statement throughout the agency and the community. Mission-vision-value statements should be posted in every division, precinct and substation, and printed on the back of business cards and all reports. Promotional examinations must evaluate a candidate’s ability to “operationalize” the mission, vision and values of the organization.

All awards and citations should be based on actions that reinforce organizational values and contribute to the overall mission of the agency. Written commendations should cite wording from the mission-vision-value statement and describe how the actions of the officer positively contribute to mission. Discipline should be based on the inability to accomplish the mission or the violation of an organizational value.

Disciplinary letters or notices should not only cite the regulation or law violated, it should also cite which value was violated and describe how the violation detracts from the overall mission of the agency.



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In short the mission-vision-value statement must become one of the most important documents in the agency ... every officer should be able to cite and explain them.

The mission statement must focus on service, not crime reduction

Agencies that establish a culture primarily focused on crime reduction are more likely to experience bias-based policing and increases in officer misconduct: The end result is an attitude to reduce crime “by any means necessary”, and in many cases targets people based on race, biases and stereotypes.

Phrases such as the “War on Drugs – War on Crime – Scorched Earth – Zero Tolerance” may contribute to a culture of community intolerance and “we versus them” mentality. The message of service may be replaced with a message of war. Administrators must recognize that their words, phrases and actions can either reinforce or contradict the mission statement. Agencies must take advantage of every opportunity to reinforce the mission and the message of service ... especially when implementing and promoting pro-active enforcement programs.

Law enforcement agencies must establish a culture that values quality and effective service over quantitative measures and/or arrests. Performance evaluations, awards and promotions must be based on the ability to accomplish the mission within the guidelines of organizational values, not solely on arrest or statistics. Officers must clearly understand that the agency and its management values service over enforcement ... enforcement must be accepted as a tool of the police, not the mission of the police.

Blindfold #2 – Recruitment & Hiring

Agencies must be forthright in their recruitment efforts. Marketing strategies must provide prospective candidates with a clear understanding of the duties and responsibilities of the job. Agencies should avoid using the image of television “cops” to attract candidates and provide candidates a true picture of law enforcement.

A recent recruiting commercial in Northern California displayed officers in gas masks, pointing firearms and making high-risk entries. The commercial focused on excitement and failed to display the basic nature of the job, which is service. The commercial appeared to target “thrill seekers” versus service-oriented candidates. Marketing strategies must reinforce the mission, vision and values of the agency.

Law enforcement agencies across the nation have initiated accelerated hiring programs, which in many cases, equates to the accelerated hiring of unqualified candidates. Administrators must avoid the temptation to recruit and hire candidates with clear warning signals in their backgrounds, and closely evaluate candidates with no experience in dealing with diverse community or candidates without any work or life experience. It is better to have staff shortages than hire the wrong officer(s).



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Administrators must recognize the true value of diversity in an organization.

The race or gender of an officer does not make a better officer – diversity, however, does make for a better organization.

Agencies must strive to diversify all levels-of the organization to reflect the demographics of the city or jurisdiction represented. Diversity can establish trust in the community and reinforce organizational values. A diverse agency has diverse views that provide administrators with varying perspectives in the development of policies, procedures and crime-reduction strategies. Administrators must manage diversity to accomplish the mission.

Blindfold #3 – Training

Most states have established commissions governing peace officer standards and training that require police candidates to attend professional academies. The quality of training provided to new recruits, for the most part, is excellent; it is the focus of training that is in need of change.

Many police academies devote more than a third of the curriculum to the use of force. This sounds reasonable, especially considering the impact of the inappropriate use of force on the agency and community. The training, however, is often focused on “how” to use force instead of “why” to use force.

Administrators are led to believe that extensive training on “how” to use force is required to avoid liability. Clearly, administrators must ensure officers receive sufficient firearm and self-defense training to obtain and maintain a high level of competency. It appears, however, that most criminal and civil actions against officers and agencies are based on the decision to use force or the level of force, not necessarily the manner in which it was applied.

It is therefore crucial that we balance the number of training hours provided in those areas that impact the decisions to use force, such as police ethics, cultural diversity, community-oriented policing, conflict resolution, handling the mentally-ill, and tactical communication.

Academy testing processes must ensure candidates are not overly influenced by bias.

Administrators must remove candidates who can not be “blindfolded” from their personal or societal biases. Police trainees should be considered “at will” employees to provide administrators with the ability to remove trainees without lengthy disciplinary processes. It is better to remove a trainee for the inability to blindfold bias, then terminate a trainee after he/she becomes a police officer that violates the Code of Ethics. The obligation to provide police services in a constitutional manner outweighs the potential release of a trainee.

Agencies must provide training in ethics, conflict resolution and decision-making with the same regularity as those on firearms and self-defense.



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Police ethics must be incorporated into all facets of training and trainers must be cross-trained in police ethics and bias identification. Training must become the responsibility of supervisors, managers and administrators, not just the academy staff.

Blindfold #4 – Discipline & Accountability Systems

Two levels of the organization are usually held accountable for officer misconduct; the officers who commits the offense, and the Chief of Police. First line supervisors and managers are rarely disciplined or held accountable for the conduct of their officers or for the “tone” of their units.

Accountability systems must hold every level of the organization accountable for misconduct. Supervisors and managers must be held accountable for the conduct of their subordinates when it is reasonable for them to have known about the misconduct and no corrective action is taken.

Supervisors and managers must also be accountable for establishing a culture or “tone” within the agency that embraces the organizational values and the Law Enforcement Code of Ethics.

Supervisors and managers who “overlook” incidents of misconduct, protect officers from accountability, or fail to take immediate corrective action must be removed from positions of responsibility.

Disciplining supervisors and managers for the actions of their subordinates is riot common and is often met with great opposition. The most notable case was in the aftermath of the tragic shooting of Tyisha Miller in Riverside, California. The Riverside Police Chief, not only fired the officers who shot and killed Ms. Miller, he also fired the sergeant that supervised the shooting scene...citing the sergeant’s failure to provide leadership contributed to the death of Ms. Miller.

The chief’s decision was met with extreme opposition. The opposition was so fierce that officers in the police association shaved their heads in protest and spent thousands of dollars to initiate a door-to-door marketing campaign against the chief. In the end, the police association lost the campaign and the community demanded change. The Riverside Police Department is under investigation by the United States Department of Justice, Civil Rights Division for possible patterns or practices of police misconduct and is undergoing major reform.

Establishing managerial accountability is somewhat risky and requires courage and conviction, but the long-term benefits to the department and the community outweigh any opposition.

Supervisors and managers must have the tools to prevent misconduct.

An important tool for supervisors and managers is the ability to identify officers with track records that would indicate the inability to blindfold bias. Early Warning Systems (EWS) must, at minimum, identify officers who display indicators such as:



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1. High numbers of citizen complaints
2. High numbers of use of force incidents
3. High numbers of Resisting an Officer arrests
4. Large numbers of arrests that are not charged due to improper detentions and/or searches
5. Negative attitudes toward programs that increase or enhance police-community relations

An effective EWS will also track areas such as vehicle accidents, sick leave abuse and other indicators that would reflect a decline in performance. Increased supervision, as well as additional training and/or counseling must be provided to officers identified by EWS.

Transfers from high-profile assignments, and discipline or removal from office must also be considered for officers continually identified as “high-risk.” Chief Executive Officers (CEO) must retain the authority to discipline employees. The power to discipline should not be delegated to lower levels of the organization, higher levels within city government or external review boards or commissions. The inability to discipline officers removes the ability to set the “tone” of the organization or establish accountability systems.

This is not to suggest that employees should not have due process or even an appeals process. Nor does it suggest that agencies should not support external review boards that serve as audit or appeal forums for the community. It simply means the CEO makes the final decision. After all, the CEO is selected by their ability to make tough decisions in a fair and effective manner.

Blindfold #5 – Assignment Rotation

Too much of a good thing can be bad. This can also apply to officer assignments. Vice, narcotics, specialized street enforcement and gang units place officers in negative environments for extended periods of time. Officers spend the majority of their time interacting with a negative element of the community that represent less than ten percent of the population. Officers left in this environment may become involuntarily conditioned to judge an entire community based on their limited contact.

Officers can also become malice, callous and even apathetic. This is especially true in minority communities with high crime. Officers must be routinely rotated to increase interaction with all segments of the community. Officers must be conditioned to recognize that the negative segment of the population is not the standard to evaluate an entire ethnic group or community.

Blindfold #6 – Promotion

Selecting future leaders of an agency is one of the most critical tasks of an administrator. Civil service rules, labor contracts and political pressures often limit appointment authority. Most agencies are required to use promotional testing process to create eligibility lists. The most common process is the assessment center, which usually includes multiple-choice tests, written essays, oral interviews, role-play and in-basket exercises. These processes are generally effective, but they do include areas that contribute to bias-based policing.



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In most assessment centers, assessors are recruited from outside agencies based on their rank. Captains are sought to evaluate lieutenants; lieutenants evaluate sergeants ... and so on. In many cases, the agency does not know the background of the assessor or the guiding philosophy or values of the organization. Promotions are consequently left to the judgement of the consultant delivering the exam and assessors from other agencies. Under this system, top candidates may have a “bad day” and unqualified candidates can “tap dance” their way to the top of the list.

Some agencies use assessment centers that select assessors from within the agency. This too may pose a problem. The candidates’ reputation or past interactions (positive and negative) with supervisors and managers may taint the objectivity of the assessors and compromise the integrity of the examination. If the agency lacks diversity at supervisory and command levels, it may also contribute to a perception that the process is biased against minorities. Whether true or not, promotions under this system may appear to be based on popularity or the “good old boys” system.

Who truly selects the future leaders of law enforcement?

A NOBLE executive recently participated as an assessor in a captain’s promotion assessment center for a mid-size agency in the south. The agency was undergoing major reform and adopting community-oriented policing. The chief of police was very progressive with a clear vision ... community policing and the most professional department in the nation. A private consulting firm presented the test with assistance from the city’s personnel department. Prior to the start of the examination the assessors received training on candidate rating and evaluation.

The assessors were asked to review examples of each exercise, which included an in-basket exercise, oral presentation and an employee subordinate meeting. Included in the in-basket exercise was a letter from a pastor representing twelve churches in the minority community.

The group was concerned about police relations in the minority community and felt officers were “racially profiling” young black men. The church wanted to conduct training in regard to driving while black (DWB) and “what to do when stopped by the police.” The group was asking for a representative of the police department to attend the meeting and assist with the training.

The letter was sent to the candidate who is the new precinct captain. The consultant stated the successful candidate should recognize that the minority community often has hidden agendas. He further stated that even when relationship between police and the minority community is good, leaders in the minority community would have personal agendas during high-profile incidents such as a white officer shooting a black suspect.

The consultant stated the successful candidate would not attend the meeting. The candidate would instead send a reply letter asking for a meeting in the near future. It appeared the consultant believed the minority community is only an ally as long as they unconditionally support the police.



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The NOBLE executive became concerned and stressed the need for every community to question the use of deadly force by the police. The executive stated that the meeting with church pastors provided the new precinct captain with an opportunity to meet with key leaders in the minority community and listen to their concerns. The meeting also provided a forum to reinforce the organization's mission, vision and values. Most importantly, the new precinct captain must recognize that the people sharing their concerns at the meeting are the same people needed to improve police and community relations.

Also included in the exercise were letters from a business group and college administrator outlining their concerns. The consultant, without hesitation, suggested the successful candidate would attend these meetings. There was no mention of personal agendas or apprehensions. Why? Once again the key word is bias. Clearly, bias and stereotypes tainted the consultant's view of the minority community.

The consultant's view of the minority community does not necessarily suggest he is a racist. It does reflect an attitude that not only is it permissible for the police to provide a lesser level of service to the minority community, it is actually expected.

What would have happened if the NOBLE executive had not mentioned his concerns to the consultant? What type of candidate would have passed – what type would have failed? Too often the answers to these questions appear on promotion eligibility list. Administrators are then forced to live with the results.

Fortunately for the chief of this agency, his message of service was strong enough to “blindfold” the bias and prevent it from negatively impacting the testing process. All but one candidate recognized the value of the meeting and stated not only would they attend, they would also instruct all of their lieutenants to attend.

The future of law enforcement is shaped by the decisions of today.

Promotions are too critical to the future of the profession to be left to the judgement of personnel consultants. CEO's must take a personal interest in the process, and to the extent permissible, review, audit and approve all materials and assessors prior to the examination process.

CEO's must ensure that promotional examinations are fair, impartial and designed to measure competency based on objective behaviors. Examinations must also utilize a diverse pool of assessors who share the mission, vision and values of the organization, as well as the demonstrated ability not to be influenced by bias.

Examination results should not surprise a CEO. To the contrary, examination results should reinforce the knowledge, skills, and abilities required for the position and reinforce the agency's mission, vision and values. Promotions are not rewards – they are responsibilities. The baton of leadership must be passed to those who are prepared to provide leadership, not simply to those who can take a test.



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Blindfold #7 – Community

Is there a conflict between safe streets and civil liberties? Drastic crime reductions over the past few years and the promise of even greater reductions have resulted in the increase of overly aggressive police tactics and enforcement programs. Communities are forced to choose between safe streets or civil liberties. In many urban settings the minority community is the greatest consumer of police services. Yet, the greatest consumer is often the most violated.

The minority community is often led to believe that overly aggressive police tactics are needed to reduce crime. As mentioned earlier a “we versus them” mentality is created and bias-based policing is reinforced. Minorities are in many cases forced to stereotype within their race and accept police misconduct against other minorities labeled or profiled as crime suspects.

Many in the minority community support officers found guilty of misconduct or criminal behavior.

An alarming phenomenon occurred in the aftermath of recent officer misconduct cases in the cities of New York, Los Angeles and Oakland. Officers were accused of egregious ethics and criminal violations ranging from excessive force and torture to the planting of narcotics on suspected drug dealers. Some in the minority community, however, made public comments in support of the officers ... citing a need to be tough on crime. This belief clearly displays a willingness in the community to accept officer misconduct in hopes of crime reduction.

When a community is led to believe that their safety and quality of life is primarily dependent on overly aggressive police tactics, it may result in an attitude of acceptance of civil rights violations against persons identified or profiled as “suspects.”

Law enforcement must accept responsibility for the community’s belief that crime reduction outweighs civil liberties.

The message of service must not only be conveyed within the organization, it must also reach the community. Many administrators continue to embrace enforcement and arrest(s) as the sole answer to crime. This mentality has sustained the “war on crime” and resulted in the disproportionate arrest and conviction rates of minorities.

Statistics suggest that the most notable crime reductions occurred during the recent community-policing era of policing, not necessarily the enforcement era of the 80’s. It does not appear that we won the “war on drugs.” We have an obligation to move forward and use police and community relations to develop comprehensive crime-reduction strategies that attack all facets of crime, not just incarceration.

President Bill Clinton recently stated “...we can do both.” The president was referring to safe streets and the protection of civil liberties, pointing out that the police cannot reduce crime alone.



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To reduce crime and maintain safe neighborhoods, the police and the community must enter into a partnership that uses problem solving as its basic principle. After all, the police are part of the community as well. In 1829, Sir Robert Peel of London, England – most widely known as the father of modern law enforcement and founder of the first law enforcement agency – described the basic principle of policing as:

“The police are the public and the public are the police.”

Blindfold #8 – Leadership

Administrators must have the courage to manage by principle-based leadership and serve as the driving force for change. Administrators cannot fear change – they must change fear. We must make the commitment to do the right thing – not necessarily the popular thing.

“The popular decision is not always right, and the right decision is not always popular.”

The CEO of today must survive politically charged environments, strong labor unions and laws, and extremely demanding communities. The true challenge is not to get so focused on keeping your job, that you forget to do your job. Crime reduction, and even community satisfaction, at the cost of violating the constitutional rights of one person is never acceptable.

The ends never justify the means.

More than three decades ago, Professor Jerome H. Skolnick published “Justice Without Trial.” Professor Skolnick stated, “law and order can be misleading because it draws attention away from the incompatibilities between the two ideas. Order achieved through democratic policing is concerned not only with the ends of crime control, but also with the means used to achieve those ends.”

Conclusion

This report is not intended to provide a quick fix program or panacea to reduce racial profiling or bias-based policing. It demonstrates the need to focus on bias-based policing as one of the most critical problems in law enforcement, and reinforces the importance of establishing effective operating and accountability systems.

The elimination of bias-based policing requires a comprehensive program that establishes effective systems in all aspects of policing. These systems must be driven by principle-based leaders with the courage to make change and to demand the best quality of service for our communities.

The NOBLE motto best describes how to ensure safe streets while preserving civil liberties.

“Justice by Action”



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RECOMMENDATIONS TO LOCAL, STATE AND FEDERAL LEGISLATURES

Racial Profiling Legislation

Introduction

In October 2000, the National Organization of Black Law Enforcement Executives published the article, *A NOBLE Perspective: Bias-based Policing*. In this article, racial profiling is described as a symptom of bias-based policing, which is defined as:

The act (intentional or unintentional) of applying or incorporating personal, societal, or organizational biases and/or stereotypes considered in decision-making, police actions or the administration of justice.

Next Steps

To eliminate racial profiling, we must prevent bias from influencing decisions in law enforcement, not only in traffic stops, but any activity that imposes on the basic freedoms granted in a democratic society. The symbol of justice is a woman holding a scale – blindfolded. The symbol does not suggest the woman is free of bias; it does reflect the need to “blindfold” those empowered to administer justice.

It is impossible to completely remove bias from people – we can create systems that “blindfold” people from bias. To create the “Blindfolds of Justice,” law enforcement must change formal and informal operating systems and establish more efficient and equitable practices in each of the following areas.

- Mission Statement
- Recruitment and Hiring
- Training
- Assignment Rotation
- Promotion
- Discipline/Accountability
- Community Relations
- Leadership

Racial profiling legislation is a critical thread in the “blindfold.” Legislation will not only establish standards and accountability; it will set the national “tone” and chart the course toward solutions.

Racial profiling legislation must:

1. Declare racial profiling illegal.
2. Prescribe criminal, civil and/or administrative sanctions against violators.
3. Mandate policies prohibiting racial profiling by law enforcement agencies.
4. Mandate data collection and analysis reporting for agencies receiving federal funding.
5. Mandate racial profiling training for all law enforcement officers and ongoing refresher training.
6. Mandate and appropriate funding for a National Task Force on Racial Profiling.



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1. Declare Racial Profiling Illegal

Most agree racial profiling is illegal. There are many, however, that believe racial profiling is not only legal, it's necessary to reduce crime. Ambiguity leads to confusion, which can lead to violations. It is necessary to enact legislation that clearly defines racial profiling and declares it illegal, immoral and unconstitutional.

a) Defining racial profiling

Racial profile is best defined as:

“any police-initiated action that relies on the race, ethnicity or national origin of an individual rather than the behavior of an individual or information that leads the police to a particular individual who has been identified as being, or having been, engaged in criminal activity.”¹

2. Prescribe Civil, Criminal and Administrative Sanctions

The legislation must attach criminal, civil and/or administrative sanctions against any person and/or law enforcement agency deemed in violation.

3. Racial Profiling Policy

Legislation must require all local, state and federal law enforcement agencies to institute a policy that prohibits racial profiling. The racial profiling policy must:

a) Provide the legal definition of racial profiling

The policy can not deviate from the definition outlined in the legislation. This is necessary to ensure national consistency.

b) Prohibit racial profiling and any activity that results in racial profiling

Racial profiling is not limited to officers or individual behavior; it includes supervisors and/or managers. Racial profiling is not limited to incidents; it includes managerial practices and/or departmental programs that are designed in a manner invariably resulting in racial profiling.

c) Outline administrative and punitive actions for violations

¹Professor Deborah Ramirez, Northeastern University



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The Policy must prescribe administrative sanctions, remedial training, and/or discipline for any officer, including all ranks, in violation of departmental policy.

4. Mandate Data Collection and Analysis Reporting For Agencies Receiving Federal Funding

You can't manage what you don't measure. Data collection has both practical and symbolic value. It displays an agency's willingness to address public concerns, both real and perceived. Data provides agencies with information to evaluate operational practices, determine levels of profiling, and identify areas where profiling exists.

Legislation must require all states and law enforcement agencies – local, state and federal – receiving federal funds to collect traffic stop statistics and report their findings to a designated state and/or federal agency on an annual basis. Federally funded programs including, but not limited to the following:

- Law Enforcement Block Grants
- Community Oriented Policing Grants
- Traffic Safety (NHTSA) Grants
- Federal Drug Interdiction Programs
- Asset Seizure
- Weed & Seed

a) What data should be collected?

The following data should be captured:

- Race/Ethnicity
- Gender
- Age
- Location of the stop (beat/area)
- Time of the stop
- Duration of the stop
- Type of stop (dispatch, on-view, special enforcement)
- Purpose of stop (traffic – criminal)
- Disposition of stop (citation, arrest, warning)
- Whether a search was conducted
- What was the basis of the search?
- What evidence, if any, was recovered?

Although it may be useful to collect additional information, legislation should mandate the basic information needed. Data collection must be practical.

5. Mandate Racial Profiling Training

Legislation should require all peace officers and federal agents receive specific training in racial profiling and ongoing refresher training. The training curriculum must be developed in collaboration with civil rights and community-based organizations.



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6. Mandate and Appropriate Funding for National Task Force on Racial Profiling.

It is time to end the debate and move toward achieving President Bush's mandate to "...to end racial profiling." The National Organization of Black Law Enforcement Executives (NOBLE) recommends the formation of a National Task Force on Racial Profiling. The task force will be comprised of representatives from the following areas:

- Law Enforcement
- Civil Rights
- Community
- Government
- Political – Legislative
- Professional Research
- Faith-based

a) Subcommittees

Subcommittees will be formed to conduct research, hosts meetings, conferences and symposiums, and to establish focus groups and "blue ribbon panels" in order to accomplish the goals outlined by the task force.

The task force will, based on information from the subcommittees, hearings and other reliable sources, prepare a comprehensive report within a year months outlining lessons learned, best practices, and recommendations – with action steps and timelier – that can be implemented to end racial profiling.

Conclusion

There is no quick fix or panacea to end racial profiling. It is a complex problem that requires a comprehensive, multi-faceted response. Racial profiling legislation is a necessary step, but not the only step.

The National Task Force on Racial Profiling is crucial in developing a national plan of action; it provides a forum to tap into the collective knowledge of the top experts and organizations to collaboratively develop solutions to end racial profiling.

As we move forward, we must never forget that law enforcement is comprised of highly ethical and dedicated, professional men and women who risk their lives everyday to make our society safe. Racial profiling only diminishes their efforts and tarnishes their honor. Ending racial profiling not only benefits the community; but also benefits officers and the law enforcement profession.

The NOBLE motto best describes the next steps in racial profiling.

“Justice by Action”



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RECOMMENDATIONS TO THE UNITED STATES DEPARTMENT OF JUSTICE NATIONAL TASK FORCE ON RACIAL PROFILING

Introduction

Over the past two years, thousands of articles about racial profiling and traffic stop data collection have been published. Most experts agree on one point – there is no agreement. Racial profiling positions range from all cops are racists, to it does not exist or is merely a perception in the minority community.

Many believe data collection is a necessary step in addressing racial profiling. Others believe data collection will prove ineffective and inefficient. The lack of a clear direction has resulted in confusion and the inability to address one of the most critical issues in law enforcement.

The National Organization of Black Law Enforcement Executives (NOBLE) recommends the United States Attorney General form a National Task Force on Racial Profiling. The task force will be responsible for accomplishing the following goals.

GOALS

1. Develop a Standard Definition of Racial Profiling.
2. Identify the Causes and Impacts of Racial Profiling.
3. Develop Standardized Data Collection Models.
4. Develop Standardized Data Analysis Models.
5. Conduct National Traffic Stop Statistics Study.
6. Develop “Model” Racial Profiling Policies.
7. Develop Racial Profiling Training
8. Develop Operational Strategies to Eliminate Racial Profiling.
9. Develop Multi-Organizational Racial Profiling Mediation & Facilitation Programs.
10. Develop Racial Profiling Self-Assessment Guide.

1. Develop a Standard Definition of Racial Profiling

What is racial profiling? As we move to eliminate racial profiling we are caught in a debate on its actual definition. Several key areas must be addressed:

- At what level, if any, can race or ethnicity be considered.
- Should the definition attempt to identify a level and restrict law enforcement, or focus on the behavior individuals rather than their ethnicity.



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2. Identify Causes and Impact of Racial Profiling

- Identify the origin of racial profiling.
- Identify its causes – in both law enforcement and society.
- Identify its impact on the community.
- Identify its impact on the law enforcement profession.

3. Develop National Data Collection Models

- Identify what data should be collected.
- Identify how the data should be collected.
- Identify technology for data collection.
- Develop a model collection process.

4. Develop National Data Analysis Models

- Identify how the data should be analyzed.
- Identify what the data means (each field and the aggregate).
- Identify comparison baseline data.
- Identify if the data can identify racial profiling.
- Identify how the data can be used to eliminate racial profiling.
- Identify how the data can improve police and community relations.

5. Conduct National Traffic Stop Statistics Study

- Conduct a national study of traffic stop statistics.
- Analyze the data to identify levels of racial profiling.

6. Develop Racial Profiling Model Policies

- Defines racial profiling.
- Prohibits racial profiling.
- Outlines data collection procedures.
- Prescribes administrative sanctions and discipline for violators.
- Identifies audit and inspection processes.

7. Develop Racial Profiling Training

- History and origin of racial profiling.
- Understanding racial profiling.
- Racial profiling vs. criminal profiling.
- Impact on community.
- Impact on law enforcement.



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- Data Collection and analysis.
- Developing Strategies to eliminate racial profiling.

8. Develop Operational Strategies to Eliminate Racial Profiling

- Mission-Vision-Values of Law Enforcement.
- Recruitment and hiring.
- Training: Academy, in-service and field training.
- Assignment rotation and career development.
- Promotional standards.
- Discipline systems.
- Awards and rewards.
- Accountability systems.
- Leadership development & training.
- Community relations.

9. Develop Multi-Organizational Racial Profiling Mediation & Facilitation Programs

- Mediators will bring police, community and civil rights organizations together to identify problems and solutions.
- Mediators will facilitate a mutual agreement between all groups outlining solutions and next steps.
- Mediators will provide training and resources.
- Respond to cities or departments in “crisis.”
- Address issues before reaching “patterns and practices” of misconduct.
- Provides alternative to civil rights investigations.
- Allows local agencies and communities to collaboratively solve problems.
- Improve police and community relations.

10. Develop Racial Profiling Self-Assessment Guide

- Guides agencies in assessing levels of bias and racial profiling.
- Provides model data collection and analysis programs.
- Outlines police and community mediation processes.
- Provides processes to evaluate operational systems.
- Provides racial profiling training curriculum.



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NATIONAL TASK FORCE ON RACIAL PROFILING

The task force will be comprised of representatives from the following areas of expertise:

- Law Enforcement
- Civil Rights
- Community
- Government
- Political – Legislative
- Professional Research
- Faith-based

Subcommittees

The task force will establish goals and objectives and form subcommittees to conduct research, hosts meetings, conferences and symposiums, and establish focus groups to accomplish the goals outlined by the commission. The task force will; based on information from the subcommittees, hearings and other reliable sources, prepare a comprehensive report within a year outlining lessons learned and best practices, as well as recommendations with action steps and timelier, to end racial profiling.



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Racial Profiling Training

NOBLE is one of the world's leading providers of training to law enforcement. NOBLE provides training to all levels of law enforcement including special commissions, task forces, and legislators. NOBLE's training on diversity and racial profiling is perhaps, the most comprehensive training ever offered.

MODULE 1 – UNDERSTANDING RACIAL PROFILING

Purpose

The purpose of this course is to provide students a thorough knowledge of racial profiling, including its definition, causes and origin, impact to the community and law enforcement professions, and legal implications.

Objectives

- A. Define Racial Profiling
- B. Discuss the History & Origin of Racial Profiling
- C. Outline the Impact on the Community
- D. Outline the Impact on the Law Enforcement Profession
- E. Outline the Impact on Officers
- F. Identify Legal Implications
- G. Understand the Difference Between Racial Profiling vs. Criminal Profiling
- H. Discuss Operational Strategies to Eliminate Racial Profiling
- I. Racial Profiling: A Nation in Denial

MODULE 2 – DATA COLLECTION & ANALYSIS

Purpose

This module will discuss traffic stop data collection and analysis programs and provide students a better understanding of the process and tools to develop effective programs. Objectives:

- The participant will be familiar with routine data collection procedures;



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- The participant will examine case studies of existing data collection programs;

In response to racial profiling, over 400 of the nations 19,000 law enforcement agencies are collecting traffic stop data. Most agencies are collecting data voluntarily.

The New Jersey Highway Patrol, Los Angeles Police Department, Highland Park and ²Riverside Police Departments collect data under federal or state consent decree. The number continually increases.³

As of February 2001, eleven states have enacted legislation addressing racial profiling:

California	Oklahoma
Connecticut	Rhode Island
Massachusetts	Tennessee
Missouri	Washington
North Carolina	

Racial profiling legislation has been introduced in additional thirteen states.

Alabama	Kentucky	Nebraska
Georgia	Maryland	New York
Illinois	Mississippi	Texas
Indiana	Montana	Virginia

²The Riverside, California, Police Department has entered into voluntary consent decree with the California Attorney General. The first such decree in the nation.

³Racial Profiling – Summary of Research to date: 2.13.01, Institute on Race and Poverty.



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Data Collection

This module will review and discuss each of the data fields listed below.

- Race/Ethnicity
- Gender
- Age
- Location of the stop (beat/area)
- Time of the stop
- Name of the officer
- Type of stop (dispatch, on-view, special enforcement)
- Purpose of stop (traffic – criminal)
- Disposition (citation, arrest, warning)
- Search conducted (yes/no)
- Evidence recovered (yes/no)

The module will also the benefits, if any, of controversial areas such as:

- Name or badge number of the officer
- The length of vehicle stop
- Why the search was conducted
- Vehicle information

Data Interpretation

The module will review reports from several agencies and discuss how to interpret the data. Private corporations will provide demonstrations on data analysis software.

Case Studies

This section of the module will review data collection systems and analysis reporting of three law enforcement agencies.

- New Jersey Highway Patrol
- San Jose, California, Police Department
- San Diego, California, Police Department
- Montgomery County, Maryland, Police Department



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MODULE 3 – DEVELOPING RACIAL PROFILING POLICIES

Law Enforcement agencies must set the “tone” by establishing clear rules and regulations that prohibit racial profiling and all discriminatory practices.

The racial profiling policy must:

- a. Define racial profiling
- b. Prohibit racial profiling or any activity that results in racial profiling
- c. Outline administrative and/or punitive actions for violations



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NOBLE Resolution

It is our belief that data collection offers both practical and symbolic value. In 1999, NOBLE passed a resolution supporting the “Traffic Stop Statistics Act” by Congressman John Conyers. **You cannot manage what you do not measure.** Proper data collection will provide administrators with useful information to measure operational effectiveness and officer productivity. It will also assist in identifying the discriminatory practices.

