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New Police Policies Aim to Discourage Racial Profiling

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A troubling self-portrait has emerged a year after hundreds of police agencies began investigating the use of racial profiling by their officers, and a growing number of departments are responding with policies to discourage harassment of innocent minority travelers.

In Washington state, the highway patrol plans to use its data to question and discipline individual troopers whose records suggest racial profiling. The former chief also canceled awards for drug arrests, saying they may encourage troopers to use profiles instead of focusing on hazardous drivers, thus rewarding "the wrong kind of behavior."

In San Diego, city police have hired academic consultants and plan to convene focus groups to try to understand why officers stop and search black and Hispanic drivers at rates far higher than white drivers.

And last month, the California

Highway Patrol declared a six-month moratorium on consent searches, the focus of a class-action lawsuit by the American Civil Liberties Union, which says the searches disproportionately target minorities. Troopers must now develop probable cause of criminal activity before searching a vehicle, instead of relying on driver consent.

Some officers think "we're giving up the store" by voluntarily halting consent searches, said CHP Commissioner D.O. "Spike" Helmick. "But it's incumbent upon us to stand back and look at what we're doing."

The U.S. Customs Service appears to be the first agency to significantly reduce the number of minorities searched for contraband. After enacting far-reaching reforms that include requiring supervisory approval for every intrusive search, Customs slashed body searches by nearly 80 percent at the nation's airports from 1998 to 2000 and has increased drug

See RACE, A18, Col. 1

Police Respond To Evidence Of Profiling

RACE, From A1

seizures by 38 percent since 1999. Long accused of inappropriately targeting black and Hispanic air passengers, Customs is providing strong evidence, analysts say, that good police work can spare minority travelers the indignity of criminal suspicion.

Meanwhile, numerous police chiefs across the nation have been genuinely troubled by the portraits their data paint. And many are proving willing to probe deeper.

"Some departments are still saying, 'No, we're not doing it,' even though the numbers show something different. But a fair number of departments are now saying, 'This is something that undercuts our ability to serve all of our clients, and we want to know what's going on and what to do about it,'" said John Lamherth, a psychology professor at Temple University and a leading analyst of racially biased police practices.

Publicized Incidents

Racial profiling emerged as a national concern after widely publicized incidents indicating that police use ethnicity and skin color to make law enforcement decisions. A recent Washington Post survey found that more than half of black men and one in five Hispanic and Asian men say they have been victims of racially biased policing.

In February, President Bush told Congress that racial profiling "is wrong, and we must end it." At least 13 states—including Maryland—have passed laws requiring police to collect traffic-stop data. The Clinton administration ordered a variety of federal agencies to keep similar data.

At least eight agencies are collecting data by order of a federal court or under agreement with the U.S. Justice Department. Among them: the Montgomery County police, Maryland State Police and New Jersey State Police, which brought the profiling debate to a boil when two troopers opened fire on a van carrying four unarmed black and Hispanic men on the New Jersey Turnpike in April 1998.



BY FRANK JOHNSTON—THE WASHINGTON POST

At Dulles International Airport, Customs inspector Bryan Brunner, left, keeps an eye on luggage from Amsterdam and other international locations.

U.S. Customs Service

Since the U.S. Customs Service instituted reforms to combat racial profiling, inspectors have slashed the number of commercial air passengers subjected to body searches upon arrival in the United States while increasing drug seizures. Air passengers today are nearly seven times less likely to be searched by Customs than in 1998.

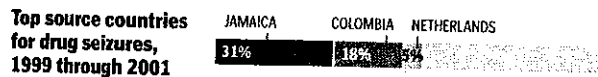
Body searches, by race*

	1998	1999	2000	2001**
Black	6,141	4,256	2,441	1,933
White	11,765	7,246	2,835	1,656
Latin	14,952	6,768	2,736	1,881
Asian	n/a	n/a	816	491
Other	10,745	4,838	192	150
TOTAL SEARCHES	43,603	23,108	9,020	6,111

Percentage of body searches that resulted in contraband found, by race

	1998	1999	2000	2001**
Black	5.9%	8.4%	15.7%	19.4%
White	5.7%	7.5%	16.3%	17.8%
Latin	1.4%	3.1%	13.0%	17.3%
Asian	n/a	n/a	5.7%	13.0%
Other	n/a	n/a	12.0%	19.3%
TOTAL SEARCHES WITH CONTRABAND FOUND	4.2%	5.7%	14.1%	17.8%

Drug seizures†	n/a	533	665	734
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*Includes pat downs, X-rays, body scans and cavity searches. Does not include post-arrest searches.

**First eight months of the fiscal year.

†Includes cocaine, heroin and Ecstasy only.

SOURCE: U.S. Customs Service

In all, about 400 of the nation's 18,000 police agencies are collecting data, according to researchers at Boston's Northeastern University. About half have completed their first reports, said Amy Farrell, of Northeastern's Center for Criminal Justice Policy Research.

Regardless of what the numbers show, the "overwhelming conclusion" has been that "we don't have a problem," Farrell said.

Many police remain deeply wary of data collection, arguing that statistics fuel allegations of racism without offering clear solutions. No one has come up with a satisfactory method for identifying the racial makeup of a patrolled population—drivers on Interstate 95, for example—making it difficult to interpret the data.

Among the skeptics is Maryland State Police Superintendent David B. Mitchell. In 1995, an ACLU lawsuit forced the Maryland police to become the first major department in the nation to collect data on traffic stops.

Since then, Mitchell has enacted reforms that have cut searches of minority drivers. But he has refused to address lingering questions about why cars driven by minorities still make up more than 60 percent of vehicle searches on I-95, dismissing the numbers as a reflection of the broader reality that minorities are more often arrested for crimes.

"The issue of race is easy to raise and frankly hard to defend against," Mitchell said. "This is not a perfect world. Our numbers are never going to be perfect."

That attitude is still common in the law enforcement community. What's different now is that a vanguard of "smart departments" are taking action to improve their statistics, Farrell and others said.

'Doing a Better Job'

The U.S. Customs Service is leading the pack.

"There's no doubt about it: They're doing a better job," said Ed Fox, a lawyer who represents 90 black women who sued Customs after being frisked or worse in 1997 and 1998 at Chicago's O'Hare International Airport. "They've stopped picking on the people who don't carry drugs."

The transformation began in the late 1990s, after a spate of lawsuits accused Customs inspectors of singling out minority air passengers, particularly women, for strip-searches. The most notorious case involved Amanda Buritica, a Hispanic school crossing guard from Port Chester, N.Y., who was stopped in San Francisco on her way home from Hong Kong.

Buritica was handcuffed, transferred to a hospital and forced to

swallow powerful laxatives that caused her to move her bowels 28 times. No drugs were found. After 25 hours, Buritica was released without so much as an apology.

Customs has broad constitutional authority to defend the nation's borders, including the power to search anyone and anything entering the country. Top officials were largely unconcerned by cases like Buritica's, said Raymond W. Kelly, Customs commissioner at the time.

"Their feeling was: 'Hey, it's a legal deal. We're winning the lawsuits,'" Kelly said in an interview. But Kelly was appalled. "My response was: 'Yes, you're winning the lawsuits, but you're abusing U.S. citizens. Just because you have the power to do something doesn't mean you should do it.'"

Kelly ordered inspectors to begin keeping detailed records on passenger searches, which were delivered to him each morning. Then he used the threat of a congressional inquiry into allegations of racial profiling, looming in May 1999, to persuade officials to adopt far-reaching reforms.

No longer could inspectors touch anyone without a supervisor's approval. If there was reason to believe a passenger had swallowed drugs, only the port director could authorize removal to a medical facility.

Port directors were ordered to consult a lawyer before approving X-rays or monitored bowel movements and to reassess detentions every few hours.

Kelly also made it more difficult to justify searches. He banned a list of 80 triggers that branded virtually anyone a potential drug courier, including passengers who were uncooperative or too cooperative, nervous or too calm, wearing sunglasses or bulky clothing.

"If you're stopping a disproportionate number of minorities, there may be good reasons for it. But they have to be articulated," Kelly said. "People should not be searched just because of a vague notion in some inspector's head."

Finally, Kelly acted to make searches less intimidating. Inspectors must now tell passengers the reasons for the search, offer to call relatives if detention lasts more than two hours, pay for hotels and missed flights and give searched passengers a comment card pre-addressed to Customs headquarters.

At first, inspectors were wary. Searches plummeted, along with drug seizures. "There was a feeling that we'll never make another seizure out here again," said Robert Meekins, deputy port director at John F. Kennedy International Airport.

But inspectors soon realized Kelly was not trying to identify scapegoats, Meekins said. The result: Pat downs, X-rays and other body

searches dropped from more than 40,000 in 1998 to fewer than 10,000 last year. Seizures of drugs and contraband rose from 4 percent of searches in 1998 to nearly 18 percent so far this year.

Minorities still account for more than two-thirds of searches, a fact that may never change, Kelly said. Flights from Jamaica, Colombia, Africa and the Caribbean produce the vast majority of drug seizures, and those flights tend to be packed with black and Hispanic travelers, Customs officials said.

But compared with 1998, nearly 16,000 fewer black and Hispanic travelers were physically accosted last year, according to Customs data. The case of a recent arrival to JFK from Ecuador illustrates how the new system works.

Questioning a Passenger

The man said he flew to New York to see the sights. But when pressed by a Customs inspector, he couldn't name a single sight, not even the Statue of Liberty. He claimed to be a professional photographer but knew nothing about lenses or light. He said his ticket was purchased in Chile, but records showed it came from Uruguay. And he had no idea what the ticket cost or whether it was paid for by credit or with cash.

After extensive questioning, a supervisor approved a pat down. Nothing. So at 12:30 a.m., the beeper dangling from a scrunchie on Susan T. Mitchell's bedpost began to bleat. Mitchell, the Customs port director at JFK, consulted an equally groggy lawyer and authorized an internal search.

"You don't disturb the port director unless you have a really good feeling, especially if it's 2 a.m.," said Mitchell, who gave the go-ahead to X-ray the ersatz photographer, who passed balloons containing nearly a kilo of heroin just before dawn. "Inspectors go to great lengths to verify your story so they can say goodbye."

Kelly, a former New York City police officer, believes Customs offers a model for other police agencies. A growing number of officers share his belief that police cannot ignore the allegations of racial profiling.

"When the issue of profiling first came up, I went into police seminars where there was a lot of denial in the room. People were saying, 'This is not happening. This is a witch hunt,'" said former Washington State Patrol chief Annette Sandberg, who ordered the agency to begin collecting data in 1999.

"Given racial tensions across America," Sandberg said, "you have to be responsive to the community. We have to have the data to prove we deal with the bad cops and stand behind the good ones. And most people can live with that."