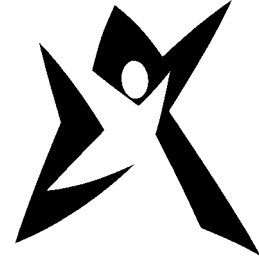




Constitutional Rights Foundation Chicago  
*Engaging Youth in Democracy*



# RACIAL AND ETHNIC PROFILING BEFORE AND AFTER SEPTEMBER 11

## A Module for Democracy/Civic Mission Classrooms

Adapted from: *Criminal Justice in America* and *Safety and Freedom After September 11: 2002 Illinois Youth Summit Resource Guide for Students and Teachers*. Copyright © 2000, 2002, 2006 Constitutional Rights Foundation and Constitutional Rights Foundation Chicago. May be reproduced for educational use only.

# Racial and Ethnic Profiling before and after September 11

## Overview

Throughout the United States, it has been reported that some police officers stop motorists of certain racial or ethnic groups because the officers believe that these groups are more likely than others to commit certain types of crime. After the attacks of September 11, 2001, this controversial practice, often known as “racial profiling,” has been revived as a tactic in the “war on terrorism.”

This unit examines racial profiling—what it is, its various forms, and how it has been used both before and after September 11. It defines and explains public policy, what it is, and how it works. It introduces GRADE, a tool for evaluating this and other public policies. And this unit introduces a deliberation strategy called “civil conversations” that will help people discuss—not debate—fundamental texts and ideas.

## Focus Questions

Should the police be allowed to consider race when deciding whether to stop someone?

Should law enforcement agencies be allowed to consider a person’s ethnic background or national origin as part of a profile to prevent potential terrorist activities?

## Objectives

- < Define the practice of racial profiling and how it is used by law enforcement agencies.
- < Explain how the focus and practice of racial profiling has changed and/or remained the same since September 11.
- < Develop and support a reasoned position about the profiling of persons of Arab, Middle Eastern, or Muslim background and the larger balance of civil liberties and public security.

## Materials

A: Reading: Racial Profiling Before September 11

B: Activity: Comparing Racial Profiling Before and After September 11

C: Source: Is it Profiling? A Letter from the U.S. Attorney’s Office

D: Strategy: Civil Conversations

E: Racial Profiling of Muslims and Persons of Middle Eastern or Arab Descent: Questions to Consider and Suggested Service Projects

Racial Profiling of Muslims and Persons of Middle Eastern or Arab Descent: Selected Community, Print, and Internet Resources

## A: Reading: Racial Profiling Before September 11

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For many years, blacks and other minorities have complained that police often target minority drivers, pulling them over for minor infractions or no reason at all and often subjecting them to humiliating car or body searches. Christopher Darden, an African American and former prosecutor, has been stopped many times by police. He said that “to be pulled over for no good reason is very offensive. But then to be asked for consent to search your vehicle just ratchets things up another notch. And in those situations where you’ve been forced out at gunpoint or you’ve been asked to spread out on the street, to lay out on the pavement, makes you boiling with anger.”

John Lambeth of Temple University conducted a study to determine whether blacks were being targeted on the New Jersey Turnpike. He found that African Americans made up 13.5 percent of highway users and 15 percent of the speeders, but he found that they represented 35 percent of those stopped by police. They were almost five times more likely to be pulled over as other drivers. Similar results were found in studies conducted in Maryland and Florida.

Other minority community members complain that they too are stopped and questioned by authorities for no good reason. Latinos protest that they are targeted at Border Patrol checkpoints within the United States, and Arab-Americans claim that they are often detained for long periods by airport security, especially after some terrorist scares.

Pulling over a car, or stopping a person, solely on the basis of the driver’s race violates the 14th Amendment to the U.S. Constitution, which guarantees equal protection under the law. If proven, it would invalidate an arrest or the use of any evidence seized from the driver. Federal civil rights laws outlaw it and several states have passed laws specifically against this practice.

The more difficult question arises over police officer discretion in deciding who to pull over. In the 1996 case of *Whren v. U.S.*, the U.S. Supreme Court unanimously ruled that police may stop a car for any traffic or equipment violation even if they have a different motivation for making the stop, such as the suspicion of drug trafficking.

Some experts point to “profiling” as the major cause of disproportionate traffic stops on minorities. Profiles are systems used by police to predict criminal behavior. Some use scientific methods and statistics to develop a list of factors that make up a profile of a potential suspect. They might include age, location, type of car, time of day, driving patterns, route of travel, and whether the driver is alone. Profiles can also target white citizens. For example, a police officer might be more likely to pull over a late-model car for a minor traffic violation if it were driven by a white youth at night in an inner-city neighborhood where drug dealing occurs. In this case, the driver might fit a profile of someone who is likely trying to buy drugs.

There are two types of racial profiling – full and partial. A **full racial profile** is when race is the only factor that causes an officer to stop someone. As mentioned above, this practice is unconstitutional, illegal, and universally condemned. Even so, many minorities complain that it happens all the time. Police officials disagree and say the practice is not widespread.

In 1999, Connecticut and North Carolina passed laws requiring police to keep track of the race and ethnicity of everyone they stop. The data is forwarded to experts to analyze whether and to what extent officers are targeting people on the basis of race or ethnicity. These laws are widely supported by minority leaders. Walter Wilson, legislative director of the National Association for the Advancement of Colored People, has stated: “The NAACP believes that comprehensive data collection is critical to the process of ending racial profiling. Without data collection, there is no progress on this issue.”

Other states and the federal government are considering such laws. But strong opposition to these laws has come from police groups. They argue that stopping people is already hazardous

and forcing officers to ask people about their race and ethnicity will needlessly lengthen stops and inflame the situation. They also don't think the statistics will prove anything because people stopped will probably reflect the racial makeup of the community they are stopped in. They believe that instead of collecting data, all allegations of officers targeting minorities should be thoroughly investigated.

Another set of issues concerns **partial racial profiling**, where race or ethnicity is one of several factors. Many people support this type of profiling. They argue that it is an effective law-enforcement tool. Bernard Parks, chief of the Los Angeles Police Department, has stated: "We have an issue of violent crime against jewelry salespeople. . . . It's a collection of several hundred Colombians who commit this crime. If you see six in a car in front of the Jewelry Mart, and they're waiting and watching people with briefcases, should we play the percentages and follow them? It's common sense." Parks is an African American. He sees nothing wrong with partial racial profiling.

Randall Kennedy, a law professor at Harvard, opposes using race as a factor in profiles. He doesn't think that police necessarily use this practice because they have racist motives. He thinks they may believe it is an effective law-enforcement tool, and Kennedy believes they may be right. But Kennedy points out that many innocent people get stopped by police using these profiles. And, he says, they often don't just get stopped once, but many times. This, he says, causes great anger and alienation. "Alienation of that sort gives rise to witnesses who fail to cooperate with the police, citizens who view prosecutors as 'the enemy,' . . . and jurors who yearn to 'get even' with a system that has, in their eyes, consistently mistreated them. For the sake of better law enforcement, we need to be mindful of the deep reservoir of anger toward the police that now exists within many racial minority neighborhoods. Racial profiling is a big part of what keeps this pool of accumulated rage filled to the brim."

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**From:** *Criminal Justice in America*, Copyright © 2000 Constitutional Rights Foundation (Los Angeles).

## B: Source: Is It Profiling? A Letter from the U.S. Attorney's Office

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The ability to discuss controversial public issues civilly is a fundamental skill for citizens in a democracy. Learning how to talk about difficult issues takes practice, but such discussions have never been more important.

Below is the text of a letter sent by U.S. Attorney Jeffrey Collins and Assistant U.S. Attorney Robert Cares in November 2001 to more than 500 Middle Eastern men in the eastern half of Michigan as part of federal terrorism investigation.

Working as a class or in small groups, use Handout D, "Civil Conversations," to read this letter carefully and discuss what the letter says and whether it is an example of legitimate or unfair use of someone's background as part of a "profile."

1 "As you know, law enforcement officers and federal agents have been acquiring information  
2 that may be helpful in determining the persons responsible for the September 11<sup>th</sup> attacks  
3 on the World Trade Center and the Pentagon. Furthermore, they are pursuing all leads that  
4 may assist in preventing any further attacks. I am asking that you assist us in this important  
5 investigation.

6 "Your name was brought to our attention because, among other things, you came to  
7 Michigan on a visa from a country where there are groups that support, advocate, or finance  
8 international terrorism. We have no reason to believe that you are, in any way, associated  
9 with terrorist activities. Nevertheless, you may know something that could be helpful in our  
10 efforts. In fact, it is quite possible that you have information that may seem irrelevant to you  
11 but which may help us piece together this puzzle.

12 "Please contact my office to set up an interview at a location, date and time that is  
13 convenient for you. During this interview, you will be asked questions that could reasonably  
14 assist in the efforts to learn about those who support, commit, or associate with persons  
15 who commit terrorism.

16 "While this interview is voluntary, it is crucial that the investigation be broad-based and  
17 thorough, and the interview is important to achieve that goal. We need to hear from you as  
18 soon as possible – by December 4. Please call my office...between 9:00 a.m. to 5:00 p.m.  
19 any day, including Saturday and Sunday. We will work with you to accommodate your  
20 schedule."

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From: *Chicago Tribune*, November 27, 2001

## C: Strategy: Civil Conversations

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### Rules for Civil Conversations

- (1) Read the text as if it were written by someone you really respected.
- (2) Everyone in the conversation group should participate in the conversation.
- (3) Listen carefully to what others are saying.
- (4) Ask clarifying questions if you do not understand a point raised.
- (5) Be respectful of what others are saying.
- (6) Refer to the text to support your ideas.
- (7) Focus on ideas, not personalities.

### Civil Conversation Reading Guide

Reading: \_\_\_\_\_

Read through the entire selection without stopping to think about any particular section. Pay attention to your first impression as to what the reading is about. Look for the main points, and then go back and re-read it. Briefly answer the following questions.

- 1) This selection is about \_\_\_\_\_
- 2) The main points are:
  - a) \_\_\_\_\_
  - b) \_\_\_\_\_
  - c) \_\_\_\_\_
- 3) In the reading, I agree with \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 4) I disagree with \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 5) What are two questions about this reading that you think need to be discussed? (The best questions are ones that have no simple answers and are based on materials in the text.)

*The next two questions should be answered after you hold your civil conversation.*

- 6) What did you learn from the civil conversation? \_\_\_\_\_  
\_\_\_\_\_
- 7) What common ground did you find with other members of the group? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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From: *The Challenge of Information*, © 1998, Constitutional Rights Foundation

## D: Activity: Comparing Racial Profiling Before and After September 11

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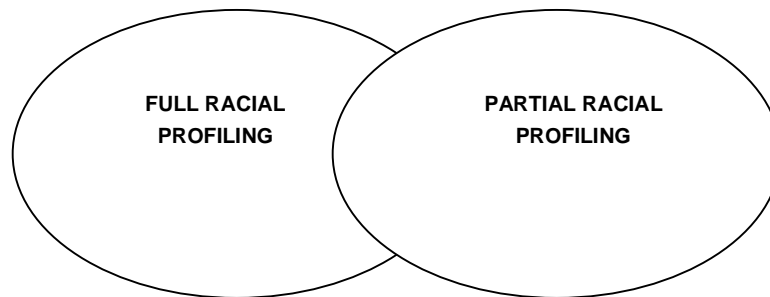
### Part 1

In large group, ask the class to answer the following questions based on Reading A, “Racial Profiling Before September 11”:

- § A bank is robbed and the suspect is described as an Asian woman driving a red sports car. Police start looking for such a suspect. Is this racial profiling?
- § Police learn that a group of Latino men are transporting cocaine between major cities by driving at the speed limit on the interstate highway. Is this racial profiling?
- § A child is kidnapped and the suspects are described as a white man in a business suit. Police start looking for the suspect. Is this racial profiling?
- § Airline security agents receive a tip that during the next week a dark-skinned woman with an accent plans to board a domestic flight at a U.S. airport with an explosive device. Agents start looking for the suspect. Is this racial profiling?

### Part 2

Using the blackboard or a flipchart, create a Venn diagram to list which characteristics are **specific** to **full** and **partial** racial profiling, and which they believe are **common to both**:



### Part 3

Have the class count off by two's. Ask students in group one to focus on all the ways in which they think the issues surrounding racial profiling have *changed* after September 11. (In addition to **Source B**, you may want to have students read about post-September 11 examples of ethnic profiling. See the **Resources** at the end of this unit.) Ask students in group two to think of all the ways in which the issues around racial profiling are *the same* since September 11.

Have the class combine into pairs, one student from each group. With students in pairs, allow three minutes to each student from group one to share what their group discussed. Switch and give three minutes to each student from group two to share what their group discussed.

Debrief as a large group using the following questions:

- § Under what circumstances, if any, is the use of partial racial profiling justified?
- § What might be some of the benefits of using racial profiling? What might be some of the costs?
- § What lessons can be learned from the practice of racial profiling *before* September 11 that are important for assessing this practice *after* September 11?

## E: Racial Profiling of Muslims and Persons of Middle Eastern or Arab Descent: Questions to Consider and Suggested Service Projects

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### Questions to Consider

- § Should Muslims and others of Arab descent living in the U.S. be summoned to speak with U.S. government officials about terrorist activity, even if they have not committed any acts that make them suspect?
- § Should airport security officials have the right to extensively question and/or search passengers because they appear to be Muslim or of Arab descent?
- § What safeguards should the government adopt to protect innocent persons from discrimination and harassment?
- § Can you imagine circumstances in the U.S. where a group of people are so dangerous to society it would be justifiable to jail them without due process? What are arguments against arresting them without due process?
- § How was profiling used by the U.S. government during the First World War? during World War II? What can be learned from these experiences?
- § Some believe profiling is necessary in order to fight terrorism. Do you? Why or why not?
- § If you disagree with the practice of profiling, what other steps should the government take to promote public safety?

### Suggested Service Projects

- § Contact local law enforcement agencies in your community and invite them to speak about the role of racial and ethnic profiling in fighting crime and promoting public safety. Prepare and submit questions in advance to help representatives address student concerns directly. Discuss how to appropriately handle your own responses to law enforcement in different situations.
- § Contact local representatives from the Muslim and/or Arab communities and invite them to speak about the stereotypes they experience. Prepare and submit questions in advance to help representatives address student concerns directly. Discuss how to appropriately handle your own stereotypes against others or prejudice that you endure in different situations.
- § Create a school website devoted to tolerance. Write articles and information about different cultures, and allow students in your school to submit poems, stories, advice and facts that are relevant.
- § Arrange for cultural clubs from different area schools to convene a “summit” in order to brainstorm ideas and plan ways to promote tolerance in local schools and communities. Share your ideas with the media and/or public officials.
- § Conduct research about the cultural and religious values, beliefs and practices of al Qaeda. Find out how their views and behaviors compare to the majority of Muslims and Arabs. Consider whether it is ever appropriate to make cultural assumptions or associations. Use the information you gather to create a newsletter or pamphlet to educate others on the practice of Islam, and the practices and beliefs of the majority of Muslims.

## Racial and Ethnic Profiling before and after September 11: Selected Community, Print, and Internet Resources

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### Community

American Civil Liberties Union  
312/201-9740

Chicago Police Department  
312/746-6000

Chicago Lawyers' Committee for Civil Rights Under the Law  
312/630-9744

Federal Airline Administration  
800/322-7873

Federal Bureau of Investigation  
312/431-1333

The Institute of Islamic Information and Education  
773/777-7443

### Print

Ian Johnson. "Another Autumn: A Top German Cop Won Fame and Blame for Profiling in the 1970s," *The Wall Street Journal*, December 10, 2001.

Fox Butterfield. "Police in Portland, Ore., Reject F.B.I. Request to Interview Men for Mideast," *The New York Times*, November 21, 2001.

Stuart Taylor. "The Case for Using Racial Profiling at Airports," *The Atlantic Online*, Sept. 25, 2001.

Sam Howe Verhovek. "Once Appalled by Race Profiling, Many Find Themselves Doing It," *The New York Times Teacher Connection*, September 24, 2001.

Sherry F. Colb. "The New Face of Racial Profiling: How Terrorism Affects the Debate," *FindLaw's Writ*, October 10, 2001.

### Internet

"America Responds to Terrorism," Constitutional Rights Foundation  
<http://www.crf-usa.org/> <http://crf-usa.org/terror/America%20Responds%20to%20Terrorism.htm>

American Civil Liberties Union  
<http://www.aclu.org>

Arab American Anti-Discrimination Committee  
<http://www.adc.org/>

Initiative to Combat the Post-9/11 Discriminatory Backlash  
Civil Rights Division National Origin Working Group, United States Department of Justice  
<http://www.usdoj.gov/crt/nordwg.html>

Council on American-Islamic Relations  
<http://www.cair-net.org/>

Institute of Islamic Information and Education  
<http://www.iiie.net>