



Oregon

John A. Kitzhaber, Governor

Oregon Commission on Black Affairs
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Senate Judiciary Committee
Informational hearing for SB 560
June 18, 2013, 1:15 pm, Rm 343, Capitol

Chair Prozanski, Vice Chair Close, and Senators Dingfelder, Kruse, and Roblan:

For the Record, my name is Robin Morris Collin. I am the Norma J. Paulus Professor of Law at Willamette University College of Law in Salem, Oregon and am an appointed Commissioner on the Oregon Commission on Black Affairs.

Thank you for holding this informational hearing on SB 560. This is my testimony against racial profiling. It is based on my experiences in my current position and also during my service as Maricopa County Attorney, and 29 years as a Professor of Law teaching Criminal Procedure for most of that time.

1. Race is a social Construct, not a genetic or biological fact. A social construct is created and developed by society. In the case of race as a social construct, the perception of a group is 'constructed' through cultural or social practice. There is no genetic marker for race as the Human Genome Project proved. Additionally, in an increasingly heterogeneous population, this construct will have an increasing attenuation from any meaningful constellation of features.

2. Profiling based upon data that is not factual produces unreliable outcomes. Racial profiling leads to over inclusivity and under inclusivity. It does not assist efficiently in factual identification.

Profiling based on racial identifications leads to two problems that greatly reduce reliability of the data. First, the data are vastly over-inclusive by indicating persons far more numerous than can be usefully singled out for further investigation. This is described as "trying to get a drink of water from a fire hose". Secondly, the data may incorrectly single out persons leaving other probable suspects out of the investigation adding to poor outcomes for victims, and communities. This second problem is a problem of under inclusiveness.

3. Because race is a social construct, it lends itself to conscious bias and unconscious bias. A concept manufactured by a society's history and culture is inescapably modeled by the cultural perceptions surrounding that concept. Race has had a uniquely discriminatory role to play in the

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social ordering of our society. For that reason, bias is likely to be reflected in these identifications, both conscious bias and more problematically unconscious bias. The problem of bias affects eyewitnesses, as well as officers investigating crime. This has led to legislative reform.

In conclusion, racial profiling is an ineffective tool of crime control and should be abandoned. As the legislature considers ways to monitor and end this practice we look forward to supporting your efforts in future sessions.

Robin Morris Collin, OCBA Commissioner