



# Beyond 'Stand Your Ground'

## Florida's Other Racial Profiling Practices

By Sarah Iverson

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While the Trayvon Martin case is receding from the public's memory, the Florida Senate Judiciary Committee held a hearing earlier this week to revisit some of the controversial components of the state's "Stand Your Ground" law. In a rare instance of bipartisanship, the committee merged two bills being considered—the Republican-led S.B. 130 and the Democrat-led S.B. 122<sup>1</sup>—into new joint legislation that would change the law. The joint legislation requires local law enforcement agencies to issue guidelines for neighborhood crime-watch programs and stipulates that anyone who provokes a violent confrontation may not hide behind the Stand Your Ground defense.<sup>2</sup> The compromise bill also includes a controversial provision that would allow third parties to sue someone for injury or death resulting from self-defense.<sup>3</sup> The Florida Senate Judiciary Committee approved the bill on Tuesday, and the bill will now move to the Senate Criminal Justice Committee, but it will likely face much resistance from the more conservative House Criminal Justice Subcommittee.<sup>4</sup>

The Florida Senate Judiciary bills are steps in the right direction, but ultimately we need to get rid of all Stand Your Ground laws and enact common-sense laws that do not allow people to shoot first and ask questions later. The existence of Florida's Stand Your Ground law, as well as the Sanford Police Department's handling of the Trayvon Martin case, speak to a wider pathology in American racial attitudes, one that creates a climate in which racial profiling can continue.<sup>5</sup> George Zimmerman's act is a symptom of a decades-old, ongoing problem of racial profiling in Florida—and across this nation—and is a problem that expresses itself in forms such as the Stand Your Ground law, stop-and-frisk laws, traffic stops, airport security screenings, and other laws that serve to criminalize youth behavior.

Racial profiling by law enforcement officers, justified by the War on Drugs and the War on Terror, makes racial stereotyping by law enforcement, pseudo-law enforcement officers such as Zimmerman, lawmakers, or other private citizens acceptable. In Florida alone, Amnesty International estimates that there were 2,068,792 instances of

racial profiling in 2000.<sup>6</sup> African Americans accounted for 47 percent of all instances of racial profiling in Florida, while Latinos accounted for 23 percent, multiracial individuals accounted for 19 percent, Asian Americans accounted for 11 percent, and whites accounted for 3 percent.<sup>7</sup> This issue brief focuses on current racial profiling practices in Florida—including Stand Your Ground—and looks at several examples of individuals who were deemed suspicious solely because of their skin color.

Although explicit profiling is technically prohibited under Florida law, statistics speak to the fact that certain policies in Florida promote unequal enforcement of the law.

Based on the evidence presented below, there is a strong pattern of law enforcement officers in Florida making assumptions based on racial stereotypes, especially of African Americans and Hispanics. After examining the history and impact of racial profiling practices, this brief provides an overview of current policy proposals that would end racial profiling.

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## 'Stand Your Ground' laws

Florida's Stand Your Ground law allows individuals to use deadly force in matters of self-defense even when less force or no force could diffuse the situation. This law and similar laws that exist in 21 other states, combined with loose concealed carry laws, prove to be deadly for communities of color.<sup>8</sup> Weak gun laws in states such as Florida put guns in the hands of dangerous people—such as Zimmerman, who has a criminal history and record of domestic abuse<sup>9</sup>—and therefore exacerbate the dangers of Stand Your Ground laws.

An analysis of more than 200 cases in Florida that invoked the Stand Your Ground law found that defendants claiming self-defense were more likely to prevail if the victim was African American. Seventy-three percent of those who killed an African American person faced no penalty under the law, compared to 59 percent of those who killed a white individual.<sup>10</sup> Stand Your Ground laws also exacerbate the large racial disparities that exist when homicides are ruled justifiable: When the shooter is white and the victim is African American, the justifiable homicide rate is 34 percent, compared to a rate of 3 percent when the shooter is African American and the victim is white.<sup>11</sup> Overall, homicide rates have increased by 8 percent in states with Stand Your Ground laws—evidence that the laws encourage the escalation of violence in otherwise nondeadly situations.<sup>12</sup>

Unequal treatment under these laws and varying legal interpretations of their purview led U.S. Attorney General Eric Holder to call for their re-examination. This fall, the Florida State Legislature has been holding hearings on Stand Your Ground,<sup>13</sup> and the U.S. Commission on Civil Rights voted to investigate whether the laws have a racial bias.<sup>14</sup> But while Stand Your Ground laws account for a number of instances of racial profiling in Florida, the conversation cannot stop there. Other practices in Florida show a larger trend of policies that tacitly sanction the stereotyping of minorities.

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## Traffic-stop and stop-and-frisk laws

In 1985, President Ronald Reagan created the South Florida Task Force, a federal anti-crime task force focused primarily on drug-related offenses, planting the seeds of racial profiling among traffic enforcement officers. Established as part of the War on Drugs, the Florida Department of Highway Safety and Motor Vehicles created guidelines for traffic stops called “The Common Characteristics of Drug Couriers.” According to the American Civil Liberties Union, law enforcement officials were instructed to be suspicious of drivers wearing “lots of gold” who did not “fit the vehicle,” as well as “ethnic groups associated with the drug trade.”<sup>15</sup>

These guidelines resulted in Florida traffic stops that disproportionately affected minority drivers. According to one study, African Americans and Latinos accounted for 70 percent of those stopped by members of the highway patrol—a disproportionate figure, since those groups comprised only 5 percent of drivers. Minority drivers were also detained for longer periods of time per stop than white drivers and comprised 80 percent of those whose cars were pulled over and searched, thus becoming victims of stop-and-frisk stops. These stops were ineffective in preventing drug crimes or even traffic crimes. Only 9 of the 1,100 people stopped during the study were arrested for possession of illegal contraband or ticketed for a violation.<sup>16</sup>

Racial profiling through traffic stops became so commonplace that sheriff’s deputies in Florida victimized one of their own. In 1997, a major in the Metro-Dade Police Department, Aaron Campbell, was driving on the Florida Turnpike when he was pulled over by Orange County sheriff’s deputies, who wrestled him to the ground, hit him with pepper spray, and arrested him. Of his experience, Campbell said, “The majority of people they are searching and humiliating are black people. That’s why I was so angry. I went from being an ordinary citizen and decorated officer to a criminal in a matter of minutes.”<sup>17</sup>

By 1999, highway patrol officers in Florida were prohibited from profiling of any kind, but the practice was fully embedded into the ethos of many on the force, and it continues today.<sup>18</sup> In 2009, for example, a 48-year-old African American man from Florida named Jeffrey Dowling filed a lawsuit that accused Florida police of false arrest and violating his civil rights.<sup>19</sup> A federal judge ruled that Dowling was wrongly handcuffed and frisked and awarded him \$62,500. Most recently, in May 2013, a Florida field-training officer was charged with official misconduct for instructing trainees to target “Bravo vehicles” during traffic stops. The officer explained that “Bravo” referred to black people.<sup>20</sup>

Beyond traffic stops, the stop-and-frisk laws in Florida have led to disproportionate and unfounded frisking of people of color as pedestrians. Florida Statute 901.151—the Florida Stop and Frisk Law—enables a law enforcement officer to temporarily detain an individual whom the officer has reasonable suspicion to believe has committed, is committing, or is about to commit a crime.<sup>21</sup> Detainment includes ascertaining the individual’s identity and gathering information as to why the individual is at the location. If the officer suspects the individual of having a weapon, the individual may be searched, and if the officer determines probable cause, the individual may be arrested under this law.<sup>22</sup>

One particularly egregious example of this is the case of 14-year-old Florida boy Tremaine McMillian. McMillian, who is African American, was playing with a friend and holding a puppy when a police officer chased him, threw him to the ground, and choked him. Law enforcement officials supported the officer, saying he was justified because McMillian displayed body language that could be interpreted as a threat. McMillian was booked on a felony charge of resisting arrest, and his case is still pending, following a Juvenile Justice Center judge’s denial to reconsider the charges.<sup>23</sup>

The continuing use of racial profiling as a means of law enforcement in Florida matches national trends. According to a report by Amnesty International, at least 32 million—or one out of nine—people in the United States report that they have been racially profiled; no legislation addressing this problem has been comprehensive or effective.<sup>24</sup> Despite a 2004 Gallup poll that said 67 percent of all Americans disapprove of racial profiling when motorists are stopped on roads or highways, racial minorities are still disproportionately subjected to both traffic stops and searches and stop-and-frisk practices. A more recent Gallup poll from July 2013 reported that perceptions of the American justice system fall along racial lines: 68 percent of African Americans think that the system is biased against black people, compared to 25 percent of whites.<sup>25</sup>

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## Airport ‘security’

Controversy over racial profiling by airport employees, including the Transportation Security Administration, or TSA, has largely centered on the targeting of Middle Eastern or Arab fliers. But in Florida, those with a Hispanic appearance or Hispanic-sounding last name—as well as African Americans—have been targets of racial profiling under a Behavior Pattern Recognition training program.

In 2006, Miami International Airport began implementing the program, which trains nonsecurity workers in “observational skills” in order to “increase surveillance throughout the airport without incurring equipment costs.”<sup>26</sup> Despite the airport’s Community Relations Board finding that the program does not promote racial profiling, federal officers in the program allege that it “has become a magnet for racial profiling” and targets individuals who fit certain profiles.<sup>27</sup> These profiles include Latinos traveling to Florida and African Americans wearing baseball caps.<sup>28</sup>

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## Policing youth behavior

Florida also displays an ethos of racial profiling in its laws that police the behavior of minority youths. In 2006, after a broad outcry in which people accused guards at Florida's five juvenile boot camps of racially motivated murder, the state legislature voted to close the camps. That January, 14-year-old Martin Lee Anderson, who was incarcerated at one such detention center, complained of fatigue while performing required physical training. The center's guards coerced Anderson into continuing his run, and shortly thereafter, he collapsed on the track and died.<sup>29</sup>

In 2011, the Florida legislature passed a bill banning saggy pants in school, and the National Association for the Advancement of Colored People, or NAACP, criticized the bill, calling it a form of racial profiling. Sponsored by two black Democrats, the bill allows for the suspension or other punishment of public school students who show their underwear. The NAACP argued that the bill could increase the dropout rate for young African American males and reinforces the school-to-prison pipeline.<sup>30</sup>

Among the 50 states, Florida's juvenile justice system stands out as deleterious to the future of its youth. The state leads the nation in school-based arrests as a byproduct of its zero-tolerance policy for disciplinary infractions.<sup>31</sup> These arrests are not distributed equally; African American students make up 46 percent of all school-related referrals to law enforcement, despite making up just 21 percent of Florida youth.<sup>32</sup> The most common charges against students are misdemeanor assault and battery and disorderly conduct—offenses highly susceptible to the subjective perceptions of school and law enforcement officials.<sup>33</sup>

Commitment to the Department of Juvenile Justice, or DJJ, takes Florida youth out of schools and jeopardizes their futures on a number of levels. A Southern Poverty Law Center analysis of DJJ admissions data found that African American children are four times more likely than white children to be committed to DJJ facilities.<sup>34</sup> Even if they are not convicted, young people must answer affirmatively when asked on job applications if they have ever been arrested, thus subjecting them to a hiring stigma.<sup>35</sup> If convicted, the costs are even higher. In Florida, convicted felons are not allowed to vote and are barred from accessing benefits such as housing and higher-education grants.<sup>36</sup>

In April 2013, Florida's House passed H.B. 353, a bill protecting its locked-up youth, as a response to instances of staff abuse of teens in the juvenile justice system.<sup>37</sup> While this bill seeks to protect incarcerated youth, it does not address the school-arrest policies that put youths in the justice system in the first place. H.B. 353 passed in the House, but it did not make it through the Senate Criminal Justice Committee.

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## Conclusion

There is more to Florida's racial profiling practices than its Stand Your Ground law. Policies such as stop-and-frisk and the anti-saggy-pants law promote a culture that permits racial profiling to exist unencumbered, disproportionately affecting African Americans and Hispanics. These practices make it easier for the police to stop people of color and for individuals to get away with the "justifiable" killings of minorities. This is a reality that contributes to the mass incarceration of African Americans and Latinos across this nation; today, there are more African American adults under correctional control than there were enslaved in 1850.<sup>38</sup>

To press back against racial profiling, Rep. John Conyers (D-MI) and Sen. Ben Cardin (D-MD) recently introduced the End Racial Profiling Act of 2013, which will address all forms of racial profiling, not just Stand Your Ground laws.<sup>39</sup> And thanks in large part to the efforts of 50 young "Dream Defenders" who have slept on the stone floor of Florida's state capitol for the past few weeks, as well as the NAACP and other advocates, the Florida Senate Judiciary Committee has finally held a hearing to make changes to the state's Stand Your Ground law.<sup>40</sup>

The compromise Stand Your Ground bill addresses some of the NAACP's recommendations, which were developed to prevent another tragedy like Trayvon Martin's. The policies are known as Trayvon's Law, and they include:

- Ending racial profiling
- Repealing Stand Your Ground-type laws
- Creating law enforcement accountability through effective police oversight
- Improving training and best practices for community watch groups
- Mandating law enforcement data collection on homicide cases involving people of color
- Dismantling the school-to-prison pipeline<sup>41</sup>

Because of the complex intersection of policing standards, gun laws, and racial profiling, components of Trayvon's Law must be advocated for at the local, state, and federal levels across the nation, but especially in states such as Florida that have a history of racial discrimination and tragedy—and laws that tolerate both.

Other tangible measures to impede racial profiling include working with local officials to train law enforcement agents on preventing racial bias, using tools such as the racial profiling legislation in Illinois that President Barack Obama mentioned in his July 19 speech about the Zimmerman verdict. The Illinois bill also implemented data collection on traffic stops, including the race of the stopped drivers. Furthermore, President Obama called for a review of state and local laws that may encourage racially motivated altercations.<sup>42</sup>

In 2001, the Florida State Legislature enacted Statutes 943.1715, 943.1716, 943.1755, 943.1757, and 943.1758 to prevent racial profiling. These provisions called for the incorporation of required, standardized, ongoing training programs for criminal justice and law enforcement officials that would integrate instructions on interpersonal skills relating to diverse populations into criminal justice standards.<sup>43</sup> Additionally, the statutes mandated similar anti-discriminatory-profiling training programs for criminal justice executives and established the Florida Criminal Justice Executive Institute, which performs research projects on how relations between law enforcement officials and diverse populations are improving and provides reports and recommendations for further improvement.<sup>44</sup>

While these anti-racial-profiling policies are a step in the right direction, they are not comprehensive—and as the evidence presented here shows, they are not enforced enough to end the practice in Florida. Stronger, more comprehensive bans on racial profiling—which include components such as mandatory data collection for all stops and searches and penalties for officers who repeatedly engage in racial profiling—are necessary.<sup>45</sup>

Taking these steps will contribute to making Florida and the rest of the country a more just and equitable place—a place where a man who looks like Zimmerman is less likely to kill a boy who looks like Trayvon Martin and walk free.

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