

Backgrounder: What are Criminalization and Racial Profiling?

What is criminalization?

Criminalization means, quite literally, to make an activity illegal or to treat someone as a criminal.

In the context of civil rights and racial justice, researchers, advocates and justice system leaders have described both the criminalization of poverty and the criminalization of people of color as interactive dynamics that perpetuate negative societal stereotypes and perceptions such that being Black, or being poor, is itself viewed as criminal. Criminalization is at the root of the simultaneous and sustained over-policing of targeted individuals and communities and under-policing of others, as well as the disparate outcomes that result from that policing, such as harassment, expulsion from school, use of force, asset forfeiture, questionable searches and seizures, fines, detention, and incarceration.

What is racial profiling?

Racial profiling is the systemic targeting, surveillance, policing, and harassment of people of color that begins with the assumption that people of color are more likely to be criminals. It occurs when government actors – such as police officers, court and corrections officials, border patrol agents, immigration and customs agents, and school personnel – rely on race, ethnicity, religion, national origin, immigration status, and even gender when choosing which individuals should be subjected to stops, searches, seizures, and frisks on the streets, during routine traffic stops, at national borders and in airports. Racial profiling is “based on the erroneous assumption that a person of one race or ethnicity is more likely to commit a crime than a person of another race or ethnicity.”¹ Racial profiling can occur in a range of contexts, such as traffic stops, increased surveillance at airports and retail establishments, and the imposition of suspensions, expulsions, and other discipline in schools.

Who experiences racial profiling and criminalization?

As detailed more fully in [End Racial Profiling and the Criminalization of Communities of Color](#) we know that:

- People of color—particularly Black individuals, Latinxs, Asians (particularly South and Southeast Asians), and those of Middle Eastern descent—routinely experience unfair

¹ U.S. Customs and Border Protection. What is Racial Profiling? Retrieved 20 March 2017 from <https://www.cbp.gov/faqs/what-racial-profiling>.

targeting, racial profiling, and criminalization when interacting with justice, education, immigration, and other systems of authority.

- The intersection of race, gender, and violence is often unexplored in discussions of criminalization and racial profiling. While recent high profile incidents focus on Black males, women of color are also at risk.
- Youth of color also experience heightened levels of surveillance and policing in their schools and neighborhoods. Over-policing in schools and the criminalization of adolescent behaviors pushes students of color out of school and into interactions with the juvenile and criminal justice systems.

People of color experience racial profiling and criminalization in many settings, including neighborhoods, schools, and border areas. They also experience racial profiling and criminalization in a variety of contexts, from traffic stops to airport security lines, and from border checkpoints to school classrooms.

What happens when people of color are profiled and criminalized?

Criminalization and racial profiling are manifestations of the institutional discrimination and systemic racism that are deeply embedded in the laws, policies, and practices of law enforcement, immigration, school, and other governmental entities. They operate as rules and guidelines that shape and influence the interactions police, immigration officers, and school officials have with people of color. We know that racial profiling and criminalization influence choices about:

- Which communities to police. This increases both the surveillance of communities of color and the identification of criminal activity.
- Where to deploy uniformed officers, school resource officers, metal detectors, and other police presence in schools, which students to discipline for non-violent behavior like “willful disobedience” or talking back, and which non-violent behaviors to categorize as disciplinary violations (e.g., tardiness, uniform requirements, etc.).
- When and where to send immigration agents and how to enforce immigration policies.

Racial profiling and criminalization fuel a repetitive cycle of heightened surveillance and punishment, unnecessary and excessive use of force, and the escalation of violence by law enforcement agents within communities of color. They also contribute to racial and ethnic disparities in school discipline policies and practices, and to the targeted application of immigration policies.

The implications for people of color are profound. A suspension from school or an arrest by law enforcement makes completing school, finding a job, and providing for one’s family all the more challenging. Targeted implementation of immigration policies tears families and communities apart.

The use of excessive force makes communities less safe and exacerbates distrust of law enforcement by communities of color.

The lifelong collateral consequences of criminalization make even the basics of life, like securing student loans to finance higher education, accessing safe and affordable housing, and finding stable employment all the more challenging. This is particularly true for people of color, who often find themselves excluded from traditional economies. Some may then turn to nontraditional and street-based economies like entrepreneurship, side hustles, and sex work, for financial support. These activities are, in turn, criminalized, further perpetuating the cycle of heightened surveillance and arrest that people of color experience. This also reinforces the stereotypes and biases that many use to justify increased policing of communities of color without recognizing the discrimination and bias that are embedded in the laws, policies, and practices that underlie the repetitive cycle.

Are criminalization and racial profiling necessary for effective law enforcement and community safety?

The short answer is no.

In addition to their profound dehumanizing impact on people of color, racial profiling and criminalization are also ineffective strategies for achieving safety and security in school, immigration, and law enforcement settings. By focusing on race and ethnicity to determine who to stop and search, law enforcement attention and limited resources are diverted away from actual, observable signs of suspicious behavior. Racial profiling erodes trust, alienates communities, undermines law enforcement credibility, and hinders community policing efforts. When communities lose trust in law enforcement, they are less likely to report or to provide information to police. And in school settings, the disparate use of exclusionary discipline pushes students of color out of school and into the justice system while simultaneously undermining student achievement and school climate.

What can police, schools, and immigration agents do instead?

Rather than rely on ineffective strategies like racial profiling that harm people and communities of color, law enforcement and immigration agencies should prohibit the use of racial profiling and instead utilize [community policing](#) approaches that build relationships and trust with the communities they serve. In school settings, the use of [restorative justice](#), [mindfulness](#), and [trauma-informed practices](#) have been shown to better support the needs of students while addressing racial disparities and improving school climate. Moreover, it is important that policymakers examine the many ways in which people and communities of color have been criminalized in law enforcement, school, and immigration contexts. Concrete steps to counter these biases through training, data collection, and the adoption and implementation of non-discriminatory policies are essential.