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# Bloom Tackles Issue of Racial Profiling in Recent Talk

Boston College Law School

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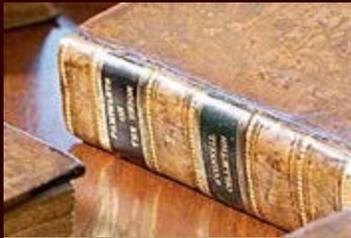
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## Bloom Tackles Issue of Racial Profiling in Recent Talk

1/30/02-Boston College Law School professor and criminal procedure expert Robert Bloom tackled the difficult and controversial subject of racial profiling in a recent discussion highlighting the acts of terrorism on September 11. The talk was sponsored by the Boston College Law School student group Civil Rights Project, and was held at the Law School on January 28.

Many of us have been reluctant to fly and those of us who have flown have shown a greater interest in our fellow passengers, said Bloom, a former assistant district attorney and co-author of the book *Constitutional Criminal Procedure* (with BC Law professor Mark Brodin). We have done our own racial profiling, he said, as we have surveyed those waiting to get on the plane with us.

"The fourth amendment protects us against unreasonable seizures," Bloom said. "What makes a seizure or stop reasonable is some sort of justification for the police action. The justification found in the fourth amendment is probable cause to believe that a particular individual committed a crime. What about someone just acting suspiciously?"

In 1968 the Supreme Court dealt with this issue. When no crime has been committed yet it looked like one was about to be committed, probable cause did not work. So the court created a new justification called reasonable suspicion to believe criminal activity was afoot. What they wanted were specific articulable facts, not mere hunches. One's race by itself would not be enough to provide the justification for a stop. To arrive at this new justification the court balanced the need to search with the scope of the intrusion.

Then in 1996 Supreme Court dealt with the issue of racial profiling. In this case a vice squad detective saw two African-American males looking suspicious. He stopped them for a minor traffic violation. A search ensued and he found drugs. The Supreme Court refused to consider the motivation of the detective. As long as the officer had probable cause the motivation is unimportant. So motivation is not considered and it certainly is very easy to find a violation of the traffic laws.

With the Court refusing to look at the motivation of the police officer and the flexibility associated with the balancing approach it might be difficult to control the actions of the police with regard to racial profiling, Bloom said. "This is the challenge that we face as a free society--how much to sacrifice in terms of constitutional freedoms in the name of security from terrorism. Keep in mind the very bedrock of our constitutional principles is to treat all citizens equally, and the terror associated with oppressive government tactics is really quite close to the terrorism of 9/11."

The precedent is there to allow for extensive racial profiling, Bloom said. "The hope is that the courts will not lose sight of the protections that we in this country afford the individual."