



RACIAL PROFILING

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We have three goals for this presentation: 1) to briefly review why racial profiling—specifically driving while black—catalyzed to national attention in the 1990's; 2) to present our research which focuses on the importance of residential segregation or what we call “race and place” to understanding profiling behavior, and; 3) to discuss the implications of our research for the proposed “solutions” to this problem.

Minority motorists, particularly African-Americans, have long complained that the police, especially in suburban areas, stop them for no legitimate reason but solely because they are black. Further, it is reported that during such stops, they are subjected to questioning and searches and provided no explanation, or only a vague explanation, for why they were stopped. The phenomenon has achieved such notoriety among African-Americans that it is referred to as “Driving while Black”—a phrase which has become synonymous with racial profiling.

The shift of America's economy from urban to suburban areas has necessarily brought more African-Americans into traditionally whiter areas to work, shop and spend their leisure time but not, for the most part, to reside there. Although one-in-three African-Americans now lives in suburban areas, American suburbs are still predominantly white. It should come as no surprise then, that African-Americans report that when

driving through suburban communities, they are stopped because they are presumed to be “out of place”.

Racial profiling is typically defined as the police use of race as the *sole* basis for initiating a law enforcement activity such as stopping, searching, and ticketing a person. By this legal definition, the officer’s motivation or intent to discriminate using race must be demonstrable.

However, our research will argue that discussions of racial profiling must move beyond focusing on the intent or motivation of officers in individual cases, which dominates legal thinking about this issue. In our view, racial profiling is more likely the unintended result of institutional forms of discrimination than a result of individual attitudes and prejudices.

While we consider racial profiling a practice embedded within police organizations, we emphasize its relationship to the larger societal context from which discrimination, whether intentional or unintentional, emanates.

We consider profiling to be a *side effect of institutional discrimination* which, as Feagin and Eckberg observe, “involves practices in one institutional or organizational arena that have an adverse impact because they are linked to intentionally discriminatory practices in another.”

Specifically we will argue that profiling is linked to the larger context of the community we studied, which, like many American communities, is residentially segregated and whose citizens fear African-Americans and what “they” symbolize—that is danger, criminality, and property devaluation.

It is commonly acknowledged that America’s War on Drugs with its focus on minorities and urban areas played a significant role in the use of racial profiles. The earliest racial profiling research emerged from lawsuits filed in the late 80’s and early 90’s against agencies whose officers were using race based drug courier profiles on Interstate highways. This research showed that officers were disproportionately stopping, and searching minorities even though the likelihood of find-

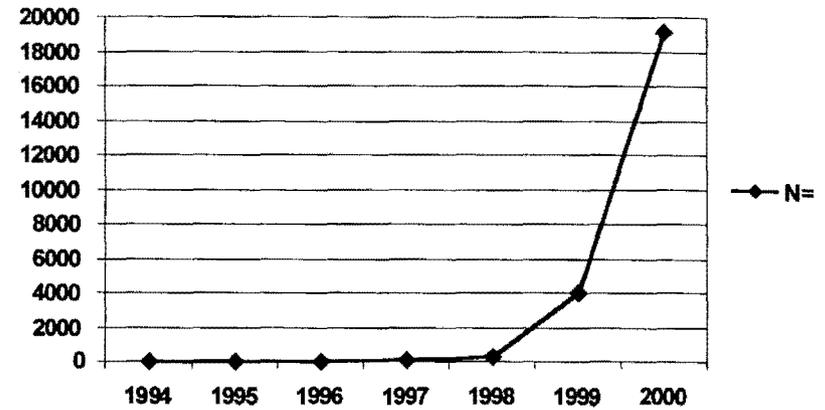


Figure 1.
Articles about “racial profiling” or
“driving while Black” 1994–2000

ing drugs on them was no greater than finding drugs on whites.

Publicity about racial profiling, however, did not emerge until the late nineties when racial profiling became a significant media topic. Figure 1 reports a Lexus-Nexus search we conducted using the terms *driving while black* and *racial profiling*. As you see clearly, beginning in 1998, articles on racial profiling grew exponentially, raising national awareness of the issue. This growth can be attributed, in part, to the 1996 Supreme court decision in *Whren* and the many legal analyses that emerged in its wake—most notably an article titled “Driving while Black” written by Law Prof. David Harris.

In *Whren*, the court ruled that the police can use the pretext of a traffic violation to stop a vehicle and investigate for possible criminal behavior without meeting the standard of reasonable suspicion or probable cause for that specific offense.

Whren affirmed what was already common police practice—officers are trained to use the traffic stop as an opportunity to find drugs and weapons. After *Whren*, a traffic violation is a legitimate pretext for the officer’s “real” motivation

whether that motivation is trying to find evidence of some crime, conducting a fishing expedition, or worse, harassing the driver. Prof. Harris argued that discretionary enforcement and harassment using the traffic codes already fell disproportionately upon minorities before *Whren* and that this disparity would increase after *Whren*. Thus, by 1998, “driving while black” was receiving considerable national attention from scholars, the media, and legislators. To date, thirty-nine states have now passed legislation related to collecting race and ethnicity data on motorists, although the circumstances and agencies impacted vary.

Obviously, racial profiling occurs in contexts other than driving—while walking, cycling, or boarding a plane. And other groups, most recently Arab-Americans, have been the subjects of profiling. However profiling African Americans in the driving context has the longest history and is the focus of our research.

Traffic stops are important not only because of the essential link between driving and modern life, but also because of their sheer volume. Slightly more than half (Fifty-two percent) of all police-citizen contacts occur in traffic stops. In 1999, there were 19.3 million stops—this translates to about 53, 000 per day or simply put, in the next hour alone, there will be about 2,200 traffic stops.

Furthermore, as Table 1 indicates, the laws regulating drivers, driving behavior, and vehicle condition are numerous and in many instances open to interpretation. For example, how many people come to a complete stop before leaving their driveway?

Traffic enforcement is also selective. For some departments, traffic enforcement is a priority whereas for others it is not. Enforcement waxes and wanes depending upon the season, local incidents that increase public pressure for more enforcement, or crimes that lead police to increase traffic stops. The importance of the traffic stop encounter to police-citizen relations is clear—citizen’s perceptions of fairness, police professionalism and public trust hinge on many factors.

Table 1. Laws regulating drivers & vehicles

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- *Don't* drive too fast or too slow.
 - Signal for lane change.
 - Remain in a lane long enough.
 - *Don't* pass on shoulder or too close on the left.
 - Come to a complete stop at a stop sign.
 - *Don't* turn right or left without safe observation.
 - *Don't* dangle an object from mirror.
 - *Don't* drive with a cracked windshield.
 - Both taillights must be working.
 - Light above your license plate must work.
 - Stop before leaving your driveway.
 - *Don't* unnecessarily use your horn.
-

Nationally, Gallup Poll data indicate that four-in-ten African-Americans report having been “profiled” by the police and even a majority of white Americans believe the problem is widespread. The most comprehensive national survey of police-citizen contacts conducted by the Department of Justice indicates black drivers *are* more likely than white drivers to report having been stopped, having their vehicle searched and being ticketed by the police. Compared to Whites, African Americans report experiencing more problems in traffic stops.

The good news from this survey however, neglected in most media reports, was that the vast majority of stops are perceived as legitimate and police conduct appropriate. 75 percent of African Americans stopped reported the police had a legitimate reason for the stop and 82 percent reported that police behaved properly during the stop.

While the statistics show racial disparity in treatment, what the statistics do *not* capture is the experience of African Americans who feel singled out from other drivers who also speed, or have problems with their vehicles, but who are not stopped. Nor do statistics reflect the pain experienced by African-Americans when they are stopped because they are presumed to be “out of place.”

How the message “you are out of place” is conveyed can be either subtle or very direct—such as being asked the question during a traffic stop for a taillight violation: “what are you doing this far north of eight mile road?”

The validation of such negative experiences does not require statistical proof. In fact, a common frustration expressed by African Americans is that too often whites want definitive, *empirical* proof of the profiling “problem”—a response that questions the validity of the Black experience and is a significant barrier to meaningful dialogue between blacks and whites about this issue.

Attempts to measure profiling statistically have problems of their own. Survey data, while important, only tell us what respondents think, believe or report.

Data about actual police behavior is another matter. Official police records reflect only recorded stops or tickets written, not the stops, warnings or harassment that are not recorded. While experts agree that racial profiling is a problem, there is also widespread consensus that the extent of racial profiling is essentially unknown and difficult to measure.

Our research attempts to design measures of police and citizen behavior that will allow us to pinpoint the nature and extent of the problem.

Our research site is a predominantly white community bordering a predominantly black community. Like most American suburbs, it is residentially segregated, but contains work, entertainment and shopping venues both within and outside its borders which bring African-Americans into (or through) the community.

To our knowledge, no study of racial profiling has focused on a *whole* suburban department. Driving while black research has mostly concentrated on specialized units, such as drug enforcement teams, traffic units, or police behavior in large cities such as Philadelphia and New York.

But this research, focused as it is on interstate highways, special units, and urban locations, cannot address the suburban racial profiling experience of being “out of place.”

If racial profiling is a significant and consistent experience of African-Americans traveling in suburban areas, that experience could only be found by studying a whole suburban department.

During seven days spanning two weeks in April 2000, we conducted a Roadway Composition study in a suburban community. We then obtained a variety of police records for those same days from the police department whose cooperation has been extraordinary. Our research design is unique in two important respects: First, our police data measures officer’s surveillance behavior in addition to stops. Second, we collected roadway composition data during the same time period to compare with our police data.

Our police data: Most profiling research focuses on the stops recorded by officers in written patrol logs or traffic tickets issued. However, measuring the extent of stops, let alone *whom* the police stop, using log entries and tickets is problematic because officers do not record a significant portion of patrol activity. We estimate that between 25% and 50% of all police stops are not recorded.

Furthermore, solely focusing on stops overlooks a crucial part of the decision-making process: that is—the police use in-car computers to survey the driving population. In car-computers provide officers immediate access to national, state and local databases.

These databases provide information about a vehicle—for example if a car is stolen or properly registered—or a stopped driver’s criminal and traffic violation history. Officers commonly run license plate queries which may or may not lead to a traffic stop.

Most important, the computer leaves an electronic trail of an officer’s query behavior. Thus, we do not have to rely upon the officer recording information. The computer automatically does it.

We created a data set consisting of all in-car computer queries made by over one hundred patrol officers working during the study period. This represents approximately two

thirds of the patrol force. We linked these queries with other police records such as patrol logs and dispatch records.

Our specific focus is the 3716 queries officers *chose* to initiate during time on patrol when they were not assigned work—we call these proactive time windows. That is, we excluded all queries where the officer was either required, or was more likely, to run a license plate or a name—for example—at a traffic accident. We analyze those queries in *proactive* time windows during which officers have more discretion whether to query the computer. In this way, we study the surveillance behavior of officers in addition to their stops.

Our Roadway data: While state legislatures are increasingly requiring law enforcement to collect traffic stop data, virtually no attention has been paid to establishing an independent baseline measure of the racial composition of the drivers on the roadways. Typically, proxy measures for roadway composition, for example, residential population, has been used when analyzing police data on racial profiling. In all seven states where the collection of traffic stop data is statutorily mandated, legislation does not require including a measure of roadway composition. This is extremely important.

Claims of disparate treatment require evidence that the police disproportionately single out persons on the basis of their race or ethnicity. Police data alone contain no evidence of proportionality. They show the number of black and white drivers stopped or ticketed but provide no information about the universe of drivers on the road from whom someone is selected for enforcement action. Without Roadway data one cannot meaningfully interpret stop, ticket, or surveillance data.

Our research addresses this issue. Utilizing a rolling observational technique that mimics police patrol, our team systematically drove the major roadways of our research community

A driver and observer randomly selected target vehicles at thirty second intervals and recorded the driver's race (either black or not black) and gender, noting the time and place of each observation and the license plate number.

Teams were randomly assigned one of eight designated

routes (called *sorties*) which they drove for three-hour time windows spanning 24 hours a day. Each sortie entailed city-wide observation coverage.

An observation team was fielded each study day from Midnight to 3 AM. and during other time windows reflecting the morning and evening rush hours, lunch traffic, and late evening traffic. We conducted thirty-five sorties, spanning 105 hours, which yielded 6269 observations.

In this way, we estimate the racial composition of the roadways in this community by time and place. Thus, our roadway design captures variations in roadway usage that occur because few African-Americans reside in this community, but many more use its roadways.

Our analysis compares the racial composition of drivers on the roadway with the rates at which black and white drivers are the objects of officers' proactive queries. Our goal is to answer the question: Do police officers proactively survey and stop black drivers at a rate that is significantly higher than their proportion of the population of drivers on the road?

Our findings. Overall, our roadway data show that African-Americans constitute 13 percent of drivers on the roadways even though they comprise less than three percent of the residential population (Figure 2).

Clearly, more African-Americans are employed in, or pass through this city than reside there. These data alone demonstrate how residential population would be an inadequate proxy measure for black drivers on the road. Furthermore, the distribution of black drivers on these roadways is not a uniform 13 percent.

Sectors which border the Black City contain the highest percentage of African-American drivers—an overall average of 24 percent (Figure 3.). As one moves to the middle sectors and sectors farthest from Black City, there are significantly fewer African-Americans driving these roads.

On the border road between this city and Black City about one-half of the drivers are African-American, whereas on other city border roads, the percentage of African-Ameri-

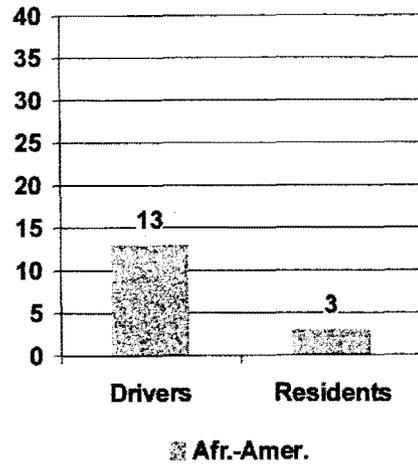


Figure 2.

Percent African-American residents & drivers

cans is much lower. For example, black drivers constitute only three percent of the drivers on the road farthest from the Black City border.

Comparing our roadway data to the police data, we found that 13 percent of the drivers were black, but 27 percent of the police queries were about black drivers. This means that, overall, black drivers are twice as likely as white drivers to be proactively queried.

Race and Place Matter

In general, blacks traveling in the sectors bordering the Black city, have query rates that are only slightly higher than their numbers in the driver population.

However, as black drivers move to the middle, and farthest, sectors of this community, the proportion of black drivers to the proportion of black queries changes dramatically. Blacks traveling in areas which contain the largest pockets of wealthier white residential neighborhoods, have query rates

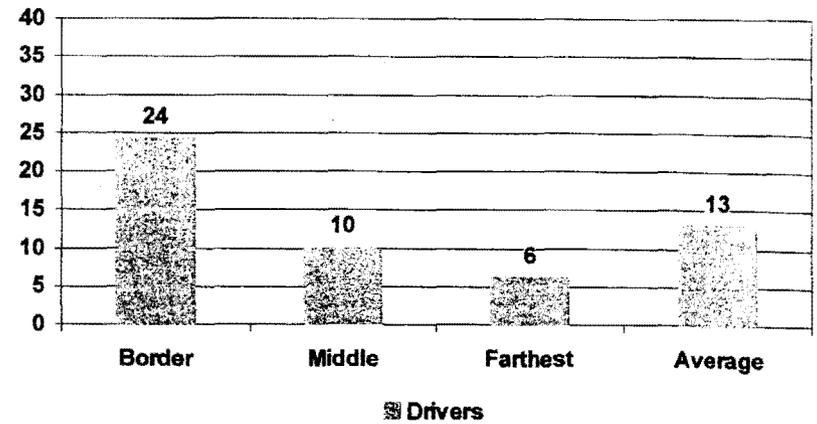


Figure 3.

Percent African-American drivers by sector areas

that are two to three times greater than their numbers in the driver population as Figure 4 indicates

To put this in perspective, to achieve such high query rates on these particular roadways, where there are fewer African-American drivers, officers are clearly noticing black drivers in these sectors. By comparison, whites have about the same chance of being the subject of a query in all sectors of the city.

Racial profiling is sometimes justified by the claim that officers stop blacks—or, in our data, query more black vehicles—because African-Americans have higher rates of criminality. This view argues that officers will query the license plates of black drivers more often because they will receive a “hit”—that is, a legal problem with the vehicle or driver. However, the overall “hit” rate for officer’s initial license plate queries was very low: a mere 1% of all initial plate queries returned a hit and the difference between the black hit rate and white hit rate was not statistically significant (Figure 5.).

Furthermore, in the non-border sectors, where officers query a *higher* proportion of black drivers, the hit rates for African Americans are *lower* than in border sectors. As a matter of fact, in non-border sectors, the hit rate for whites is

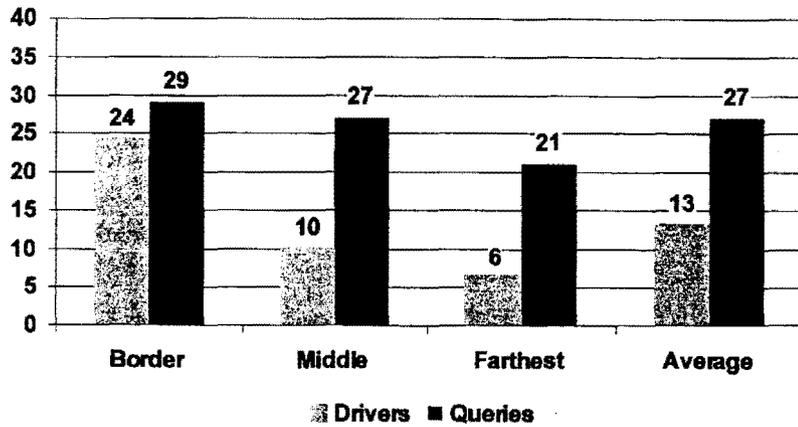


Figure 4.
Percent African-American drivers & percent queries
of African-Americans by sector areas

higher. Thus a higher level of African American criminality is not confirmed in those non-border sectors where the most profiling occurs.

We asked the police to run the plates of randomly selected black and white drivers we observed on the roads to determine the rate at which plates observed at random generated a hit. Our "hit" rate, produced by a random selection of plates was 0.6 percent hit which is nearly the same as the officer's 1.0 percent hit rate.

If it were the case that the police selected plates at random as they report, then we would expect the rate of black drivers queried should be approximately 13 percent, rather than the 27 percent we found. Therefore, some officers are not randomly selecting plates, but rather, are selectively identifying plates—and race and place are important factors in that selection process.

When we compared the roadway data with recorded police stops, once again the race and place effect was evident (Figure 6.). Officers stop black drivers in the non-border sectors at a rate three times greater than the percentage of black

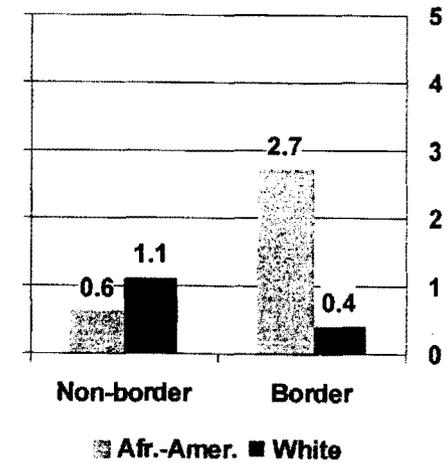


Figure 5.
Hit rate for initial license plate queries (Mean = 1%)

drivers on these roads. Officers in the Middle sectors have a slightly higher stop rate than officers in the farthest sectors.

By contrast, border sector officers stop black drivers at rates that are equal to their numbers on those roadways. Black drivers are not only surveyed when they are "out of place" (i.e., in whiter areas), but are also more likely to be stopped in these areas (Figure 7.).

Border sector officers, for the most part, treat the presence of African-Americans in their sectors as "normal" for those areas. Indeed, more African-Americans travel these roads. However, as African-Americans travel into whiter areas, non-border officers treat their presence quite differently. This suggests that profiling is inextricably tied not only to race, but also to the police officer's conceptions of "place," "who belongs" and "where they belong."

What accounts for this race and place effect? No doubt, the occupational training of police professionals plays an important role. It is well documented that police officers develop and use an intricate knowledge of "place". Officers are trained to observe the "normal" appearances of persons, objects and behaviors within their sectors. Anything incongruous with

what is normal for that place and time is noticed and elicits scrutiny.

However, police conceptions of place do not exist in a social vacuum. That officers consider the presence of African-Americans in whiter areas incongruous reflects the residential

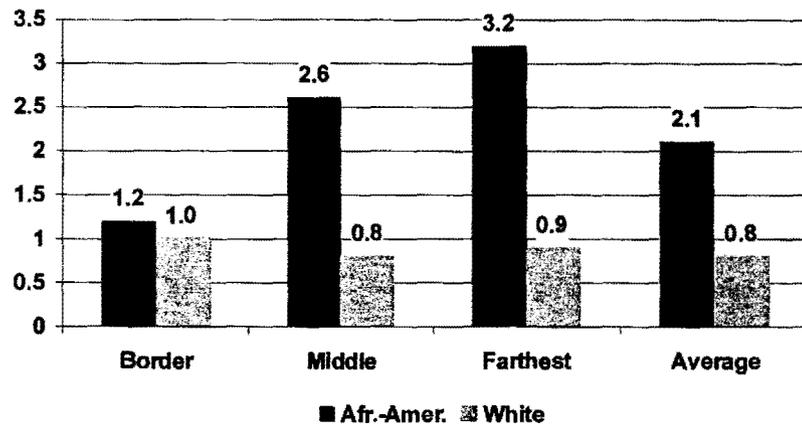


Figure 6.
Ratio of drivers to queries for African-Americans and whites by sector areas (Drivers = 1.0)

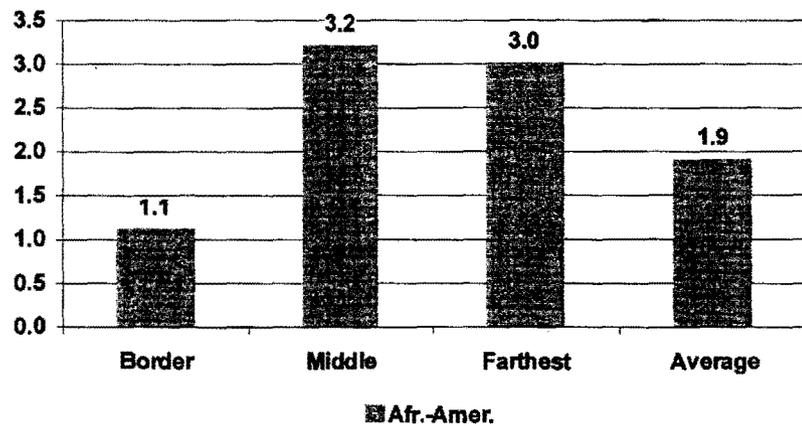


Figure 7.
Ratio of African-American drivers to traffic stops by sector areas (Drivers = 1.0)

demographics of the community itself and the expectations of community members.

This linkage of race and place does not evolve within police departments without tacit or explicit community support. For example, other research has shown that communities respond to an increase of minority residents by increasing police expenditures.

Community influence is also reflected in gatekeeping practices that have produced patterns of residential segregation of African-Americans throughout the United States. Community groups, real estate agents and lending institutions are important community gatekeepers at strategic points in maintaining or changing the racial composition of a community. The consequence of residential segregation for police officers who monitor the community every day cannot be emphasized enough.

In short, we propose that underlying the police practice of racial profiling is the contested preservation of *place*-specifically white suburban spaces.

The forces that produce racial profiling are far more complex than police behavior alone and the community must share responsibility for it.

Solutions

Let us now turn to discussing some solutions. Solutions to the profiling problem generally focus on the police and not the community. I will briefly discuss several of these in light of our research.

1) Prohibiting profiling

Passing legislation specifically prohibiting racial profiling, and requiring departments to articulate policies, while important, is more symbolic than substantive. In the aftermath of *Whren*, it is extremely difficult to demonstrate intent or motivation in cases alleging racial profiling. Moreover, vari-

ous court rulings have supported the legal justification of using race as a proxy for criminality and dangerousness. According to Harvard Law professor Randall Kennedy: “the courts have broadly defended police use of racial proxies by asserting, among other things, that such strategies are realistic” Many legal scholars conclude that the net effect of court rulings has been to systematically reduce the ability of defendants to challenge racial profiling in the courts. For example, a recent Supreme Court ruling places emphasis on the officer’s interpretation of what is normal behavior in a particular context.

2) Mandatory Traffic Stop Reporting:

Police executives have cautiously approached the issue of *if, how, and in what form*, traffic stop data should be collected and analyzed, as well as *who* should analyze it, knowing that traffic stop statistics, like crime statistics, can be easily misinterpreted.

Mandatory reporting of traffic stop data has two goals: 1) to document the extent of profiling and 2) to reduce profiling by making the police more accountable to the written record.

The problem is—between a quarter and one half of police stops already go unrecorded—a practice which contradicts organizational policy in police departments already. Making the recording of stops mandatory and increasing the consequences for non-compliance is not likely to decrease the percentage of unrecorded stops. It will make officers more acutely aware of the need to carefully construct their stop records—but will not likely decrease the number of unrecorded stops.

3) In Car Cameras

Contrary to the dramatic portrayals of police work on television shows that use in-car video cameras to entertain audiences, in-car cameras generate thousands of hours of boring, routine patrol. To really make a difference, someone would have to look at all that tape.

Furthermore, in departments, there is often selective assignment of camera cars, discretionary use of the equipment—particularly the microphones—and organizational policies and personnel factors that make full implementation costly and ensuring compliance problematic.

The idea that cameras in police cars will help stop racial profiling is not well thought out and reflects a misplaced belief in technology as the solution to a social problem.

4) Cultural Diversity Training

Because racial profiling is a product of pervasive and institutionalized patterns of racial segregation, it is not helpful to treat racial profiling as an effect of individual officers, consciously or unconsciously, taking advantage of their occupational positions to act upon individual prejudices.

Sensitivity training for officers is designed to increase cultural awareness of the historical and contemporary plight of minorities in the United States, as well as sensitizing officers to their own covert, or even overt, forms of prejudice and discrimination. However, our findings suggest a focus on individual attitudes and behavior misses the underlying societal and occupational *structural* problems that produce racial profiling. Racial profiling in our study was a department-wide phenomenon—responsive to place. We would propose that even the most racially sensitive officers engaged in it. They are accountable to the community for the preservation of place.

I am quite certain if you asked the Houston police and its citizens six months ago where the criminals in Houston could be found, not one would have pointed to the office buildings of Enron or Arthur Andersen.

Despite the fact that white-collar offenses cost this country an estimated 200 billion dollars a year, our perceptions of criminality and dangerousness are still strongly tied to poor minorities. Could we even imagine a show like COPS where the cameras would show the police locating the usual corporate suspects, busting down the boardroom doors, handcuffing and parading paper shredding employees out of the build-

ing? Indeed, could we imagine, even in the aftermath of Enron, the police profiling and stopping well-dressed business executives and accountants? Of course not, no one could justify or tolerate such treatment.

Profiling as a practice needs to be understood as embedded within the organizational context of the police, which is related to the larger societal context from which discrimination, emanates. If racial profiling reflects society-wide patterns of segregation and a generalized attitude about who are threats to the community, and who belongs where, focusing on police “attitudes” or “recordkeeping” alone will not solve the problem.

Given that states are moving in this direction, however, the police and the community should insist that adequate research and funding be provided for the roadway composition research needed to meaningfully interpret any form of traffic stop data. In addition, roadway research must try to accurately estimate the violation rates for the population of all drivers on the road—not just those the police stop and ticket. Without roadway composition data, the question “do we profile by race” will be difficult to answer with any degree of certainty.

Thank You's

Many people have contributed to the success of our research—we owe many debts of gratitude. First, we thank this, and other, police departments who have provided us research access. Their cooperation has been extensive and invaluable, and we share with them the hope and goal of eliminating racial profiling.

We thank Oakland's Research Committee, Vice Provost Randy Hansen, and our Dean of the College of Arts and Sciences, Dave Downing for providing funds supporting this research. Our colleagues in the Department of Sociology and Anthropology have been a continual source of support and as-

sistance. In particular, we thank Jim Dow and Dan Smith for their time and assistance.

This research would not have been possible without our most valuable resource—the undergraduate research assistants from the Criminal Justice Concentration. We appreciate their help.

Research is both inspired by and impacts on our personal lives. My co-researcher Mike Ponder thanks his wife Nan, who will no longer have to ask “why are you and Jay out on the roads at three in the morning?”

For my part, I thank my partner in life, Anne Rawls, a brilliant sociologist in her own right who is our most thoughtful critic and editor.

Finally, there is an old saying regarding inter-generational dynamics—it goes like this: “the cast of characters changes, but the script remains the same.” My father, Bert Meehan, like his father, was your prototypical Irish cop. He used to tell me that as young child he saw signs in store windows saying “Help wanted: Irish Need Not Apply”. The Irish, he said, were despised like Blacks. History tells us the Irish in America eventually became white.

Bert personally fought against racism and discrimination throughout his police career and in his everyday life and encouraged his sons to do so as well.

And so, when Bert's grandson—my son—who is black, was asked the question in a traffic stop, “what are you doing this far north of eight mile road?”—we knew exactly what that meant—So—this research is dedicated to my son and all who have endured such injustices, and to those police officers, like my father, who truly believe in equality and justice, and who strive to make those principles a day to day reality.

We hope to change that script for this generation and those to follow.