

**Practitioners Guide for
Addressing Racial Profiling**

Spring, 2005

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Practitioners Guide

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1. Introduction

Guide Purpose

What's in this Guide?

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1. Introduction

Guide Purpose

This guide was written to provide a straightforward discussion of how police departments and communities have addressed racial profiling over the past several years. Agencies across the country have confronted the issue by attempting to understand whether racial profiling is occurring in their jurisdictions, and by working with their officers and communities to address it. A wealth of knowledge and information has been developed that will greatly benefit agencies and communities that are new to this issue, or that are working through it. The intention of this guide is to give the reader an understanding of the basic issues facing agencies, communities and researchers that are struggling to identify and prevent racial profiling.

This guide is intended to be practical, not theoretical. That means that this guide will not spend a great deal of time addressing the theory or details of the research methods presented. The intention is to provide the reader with an overview of how other agencies have approached racial profiling, and to provide reference information for the areas presented. Readers will acquire an understanding of racial profiling, and be directed to additional resources. Any reader, regardless of his or her familiarity with racial profiling, will be able to benefit from this guide.

What's in this Guide?

Each section of the guide covers the methods that law enforcement agencies have used to address the issue of racial profiling. The methods covered that will be included are:

1. **Community / Police Partnerships.** This section discusses how agencies have engaged with their communities and formed partnerships.
2. **Benchmarking Methods for Stop Data Analysis.** Law enforcement agencies across the country are collecting race and ethnicity data during traffic stops. This section discusses how these agencies have analyzed that information in an effort to determine if racial profiling is occurring.
3. **Post-Stop Analysis.** Agencies have also looked at race and ethnicity data collected from vehicle searches during stops. This section discusses how that data has been analyzed, and what that information brings to the racial profiling discussion.
4. **Data Auditing.** This section discusses how agencies and researchers have audited the race and ethnicity information collected by police.

Community/Police Partnerships is the first section of this guide because communities have to be involved to address this issue effectively. Of course agencies want to improve community relations, respond to questions that have

been raised about the police department, and reduce the likelihood of litigation. But specific to this issue, we have found that regardless of agencies' practices, communities that perceive bias in their police will not change their opinions unless they learn more about the practices and behavior of officers who are conducting stops in their community. Similarly, officers will not learn why racial profiling is so important to communities unless they engage with community members and listen to community concerns.

The remaining three sections focus on what agencies have done to attempt to determine if racial profiling is occurring in their jurisdictions. We present this information because the overwhelming legislative response to this issue has been to mandate stop data collection. Collecting information about racial and ethnic background is of limited value unless it can be properly analyzed. We strongly believe that proper data analysis can help agencies stay accountable to the communities they serve; a goal that is implicit in many state laws. Agency executives and officers need this information to make wise decisions about how to address racial profiling, and communities have the right to know whether they are the targets of bias by their public law enforcement agencies. We also present this information because data analysis is one of the methods that courts consider to make determinations about an agency's liability and culpability.

The methods discussed in this guide may be used alone or in combination. More comprehensive projects may involve all of these methods.

There are many other responses that agencies have undertaken to address concerns about racial profiling. These include officer training, hiring practice reviews, policy and procedure reviews, reward system reviews and public relations campaigns. Data collection is clearly not the only solution to concerns about racial profiling but when analyzed correctly, it does provide agencies and communities with important information about the need for change or intervention.

How is the Guide Structured?

The first part of each chapter provides a "what?" section that defines and describes each of the covered areas. The second part of each chapter includes a "why?" section that provides a rationale for why the research discussed in each chapter is valuable. The "Considerations" section provides more detailed information. Each chapter concludes with a "Questions and Answers" section designed to address common scenarios.

Who is this Guide For?

This guide is a product of the conference on "Confronting Racial Profiling in the 21st Century: Implications for Racial Justice," held in Boston Massachusetts in 2003, and serves as a companion document to the Conference's final report, "Confronting Racial Profiling in the 21st Century: Learning from Research and Practice," which may be found at www.racialprofilinganalysis.neu.edu.

While the report from the conference, as well as other important works in this field provide valuable information on racial profiling, their length and attention to detail can at times limit the utility of these reports to the practitioner. This guide was developed specifically to help the reader learn about the science and methods that law enforcement agencies have used to identify and address problems.

This guide was written for police and communities who want to address the issue. As such, the descriptions and examples are targeted for practitioners charged with developing solutions to address the issue. Others, from legislators to students, will also find useful information on how agencies have approached racial profiling.

The Conference

The “Confronting Racial Profiling in the 21st Century: Implications for Racial Justice,” conference was held on March 8 and 9, 2003, by the Institute on Race and Justice (IRJ) at Northeastern University, in collaboration with the American Civil Liberties Union (ACLU), Lamberth Consulting, and the National Organization of Black Law Enforcement Executives (NOBLE), and generously funded by the Gideon Project of the Open Society Institute. This conference brought together experts who have handled racial profiling issues from advocacy, analysis, police management, and community perspectives in an effort to develop useful analytic strategies for traffic stop data (above and beyond the benchmarking question) and to discuss alternative methods of addressing concerns about racial profiling.

2. Community / Police Partnerships

What are Community/Police Partnerships?
Why are Partnerships Important?
Partnership Models
Community Partnership Questions and Answers



2. Community/Police Partnerships

What are Community/Police Partnerships?

Community/Police Partnerships refer to the joint effort of police and their community members to address racial profiling issues. These partnerships are often a companion to, or a component of an agency's broader efforts toward Community Oriented Policing.¹ Partnerships vary depending upon factors such as agency size, community interest, and specific police/community issues of bias. In all partnerships, both police and their community members dedicate their perspectives and skills to accomplishing shared objectives.

The two common and important goals of partnerships are 1) to create mutual understanding between police and the community about racial profiling; and 2) to provide a forum for each group to listen to the other's concerns. If the partnership is successful, then a third goal can be achieved: to develop working relationships that will arrive at joint solutions.

Partnerships can look and feel very different from one jurisdiction to the next. In some agencies, partnerships are developed according to strict standards. For example, in California the state legislature sets the rules for membership, meeting attendees, and public access. In other states, partnerships are less formal. For example, many agencies schedule regular meetings with local business owners, church leaders, and neighborhood representatives. In other jurisdictions partnerships are a direct outgrowth of existing community policing efforts or partnerships that were originally geared toward reducing and responding to crime.

Why Are Partnerships Important?

Hundreds of agencies across the country have adopted Community Oriented Policing concepts.² These agencies invite the perspectives and guidance of community members in order to provide better service and to provide a safer working environment for their officers. In the words of Jerome Skolnick community policing is the "co-production" of crime prevention between police and community.³ Actively involving community members in police business, however, is not easy. Police members and community members are influenced by different cultures, and different attitudes about each other. Working together often takes education and patience, but the efforts can reap tremendous benefits to the police department and to the community.

¹ Fridell, L., et al, 2001. Racially Biased Policing: A Principled Response. Washington, D.C.: Police Executive Research Forum.

² Roth, J., et al, 2000, National Evaluation of the COPS Program: Title I of the 1994 Crime Act. Washington D.C.: National Institute of Justice.

³ Skolnick, Jerome and David Bailey, 1988, New Blue Line: Police Innovation in Six American Cities. New York: Free Press.

Participation Fosters Trust

Communities that perceive bias in the police may not trust the police unless they are included in agency activities that address issues of bias. We have seen several situations in which an agency spends time and resources to study racial profiling, and is met with cynicism when the results fail to show profiling. Simply put, if communities are not educated on police initiatives and given the chance to provide input, they may question results that show that the agency acted in a fair and impartial manner.

Remember that communities concerned with racial profiling already think that the agency or its officers are violating their civil rights. They have no reason to believe the agency when it says “we have taken a look at ourselves and find everything okay.” Providing education and involvement enables concerned members to ask tough questions, learn about the agency, and begin to develop trust in the agency representatives that spend the time with them. Participation in the partnerships helps community members know that the police are taking these issues seriously.

Two Way Communication

Partnerships provide an invaluable opportunity for the agency to learn about its reputation in the community. This knowledge will help the agency make better decisions about how it conducts business. The agency can plan communications to address community concerns. The agency can also use this information to prepare its officers for what to expect on the street. Community members know what is happening in their neighborhoods. By working with the agency, the agency will learn a great deal more about criminal activity than it will through calls for service alone.

Partnerships provide the police an opportunity to educate the community on who they are and how they operate. If community members do not understand agency values such as officer safety, then safety precautions (such as approaching vehicles in a sideways position with a hand near the weapon) may be mistaken for racial bias. Agencies often use these forums to educate the community on impacts of community requests. For example, consider a community that requests more police presence to reduce crime. Increased police presence may increase the number of traffic stops, which could be misinterpreted by the community. Partnerships can prevent misunderstandings about police activity.

Reducing Risks

Agencies that do not or cannot constructively engage their communities risk losing some level of discretion. Discretion is defined as “the power or right to decide or act according to one’s own judgment.” In jurisdictions where agencies have failed to assure communities that they use discretion properly, this right can be taken away through Consent Decrees, Memoranda of Agreement, Community Review Boards and other venues. These structures are incredibly costly to the agency and the jurisdiction. Viewed this way, high visibility through community

meetings and accountability through disclosure of activities is a means of maintaining discretion.

If agencies do not enlist the cooperation of concerned community groups, then these groups may assume that the agency does not care about the group's purpose or that the agency has something to hide. These are two scenarios that may increase the risk of litigation. Litigation is one of the costliest and most ineffective ways for agencies to engage communities and change perceptions. Genuine partnerships that involve communities mitigate the risk of loss of discretion and increased litigation. It is much more time and cost-effective for agencies to invest the time and effort in collaborating with communities than it is to argue about their differences in court.

Partnership Models

This section describes four successful partnership models. The models represent different scenarios for police and communities:

1. Washtenaw County, MI – Building Law Enforcement/Community Task Forces to address issues of bias
2. Detroit, MI – Leveraging existing partnerships to address concerns of Arab American profiling (ALPACT)
3. Wichita, Kansas – Using SARA to develop a police/community partnership to collect stop data
4. Rhode Island - Legislative-mandated Task Force Focused on Data Collection

To learn more about these partnership models, see Chapter One Case Studies of the *New Challenges in Confronting Racial Profiling in the 21st Century: Learning from Research and Practice* of the technical document, or go to www.racialprofilinganalysis.neu.edu. Go to www.lamberthconsulting.com for more information on running effective community meetings.

Building Law Enforcement/Community Task Forces

The Washtenaw County Sheriff's Department began to strengthen its collaborative community efforts with partners such as Lamberth Consulting, the Detroit chapter of the ACLU, and the Michigan chapter of the NAACP. The purpose of these forums was to engage law enforcement and community members in a constructive dialogue around racial profiling. The anticipated result of these forums was to create a law enforcement community task force.

The workshops provided separate morning education sessions for law enforcement and community representatives. The sessions were structured to educate each group on racial profiling, and provide perspectives from the other group. The intent was to find common ground. The afternoon session consisted of joint law enforcement / community work groups who worked on developing action plans and timeframes for their respective task forces. For more information on this model, visit www.lamberthconsulting.com or contact Lieutenant Jerry Clayton at claytonj@ewashtenaw.org.

Leveraging Existing Partnerships (ALPACT)

After September 11, 2001, greater Detroit's 350,000 Arab residents began to express concerns about incidents of profiling and negative encounters with law enforcement. Advocates and Leaders for Police and Community Trust (ALPACT) is a coalition of community and law enforcement leaders from across Michigan that collectively addresses social issues and strengthens police and community trust. Representation on ALPACT includes local, state, federal law enforcement, civil rights agencies, and community members, including the Detroit Police Department, Michigan State Police, FBI, INS, DNA, Michigan Chapter of the NAACP, NCCJ, ADC, and members of the Latino community.

ALPACT's relationship with law enforcement empowered the organization to serve as a mediator. In several instances ALPACT played a vital role in bridging the gaps of communication between law enforcement and members of the Arab American community, gaps which otherwise might have resulted in adversarial anarchy. For more information on ALPACT, visit the ALPACT website at http://starr_12.tripod.com/nccjframe.htm, or visit the Michigan area NCCJ at <http://www.nccj-mi.org/index.html>.

Using SARA to Develop a Police/Community Partnership

The Wichita Police Department's racial profiling data collection initiative was based upon the SARA model, which had been previously used in other areas of the department. The SARA Model for Police Training is built upon a four-pronged strategy: 1) Scanning, 2) Analysis, 3) Response, and 4) Assessment, and is a component of problem oriented policing (POP.) Because of the police-community model, the Wichita Police Department revised its mission and value statement to include a section on the significance and value of diversity. The department also reaffirmed its commitment to enforcing professional standards, providing education opportunities and initiatives around the issue of racial profiling, improving professionalism and officer accountability, and continuing to emphasize community involvement and partnerships. For more information, visit the Wichita Police Department Website at <http://www.wichita.gov/cityoffices/police/>. For more information on problem-oriented policing and the SARA model, visit <http://www.popcenter.org/default.htm>.

Legislative Model

The Rhode Island Traffic Stop Statistics Act was enacted in July 2000. The legislation required all state and municipal police departments to collect data on all traffic stops from January 2001 through December 2002. In addition, it required the creation of an Advisory Commission, consisting of legislators, community members, statisticians, and law enforcement personnel, to provide advisory input throughout the analysis process and to oversee the data collection process. The Advisory Commission provided oversight on methods to capture data, what information to collect, and reviewed the progress of the efforts. The commission worked closely with the Northeastern University researchers to understand the data collection and analysis issues and offer assistance in the

release of the final study. For more information on the legislative model, visit Data Collection Resource Center at Northeastern University at www.racialprofilinganalysis.neu.edu, or contact Dr. Amy Farrell at am.farrell@neu.edu.

Community Partnership Questions and Answers

This section will provide several real-life scenarios about community involvement and provide answers, suggestions and references.

- Q Our police department has no formal community relationships. How do I engage my community?
- A Begin by defining the purpose of the relationship, and the design of the community partnership. Develop a set of goals for the partnership, including what the partnership will accomplish and what the roles for agency members and community members will be. If you do not have a list of members in mind, contact local advocacy groups, universities, churches, and business to recruit membership. Get buy-in for the partnership goals and roles with individual members. Develop your agenda and meeting schedule as a group.
- Q I'm a community member and would like to get more involved in community/police activities. What should I do?
- A Begin by contacting local community groups (such as the ACLU, NAACP, La Raza, etc.) and ask what types of relationships currently exist with the police, and whether opportunities exist to get involved. If there are no formal relationships, ask why, and ask whether the community group might benefit from a formal relationship. Another avenue to pursue is to contact the police directly. Many police departments have "Community Policing" departments or assigned officers. Ask to get in contact with a department or individual responsible for working with the community. Ask whether any police-community groups exist, and who to contact to get involved.
- Q I get small turnout at any community meetings I hold. How do I increase turnout?
- A Community members are most likely to invest in a process when they know what is expected of them and believe that their participation is valued. Towards that end, target members to do the following:
- Call them to invite them personally to the event,
 - Have a specific, substantive agenda and explain what input or perspective you need from the community member,

Consider asking participants to speak briefly at the meeting, but be considerate of the fact that some people might be intimidated if they are asked to “present” at a public meeting

Invite feedback from community members on each meeting – what would they like to see at future meetings? Include their suggestions on future agendas,

Write a series of agendas for 6 months to 1 year using input from specific community members – assign people to help run the meetings (take minutes, bring refreshments, time discussions, and perform other tasks),

Encourage attendees at the meeting to recruit neighbors, friends, family members, co-workers, and others to participate.

Q I am a community member and have gone to several community/police meetings. I feel like we make lots of suggestions, and no changes are ever made. What should we do?

A Community/police meetings have different purposes, and are implemented in different ways. Some meetings include task forces with specific power to approve or reject activities on community/police projects. Other meetings are much more informational in nature, and the meeting has no specific authority to influence departmental decisions. It is critical to make sure that everyone attending the meeting understands the specific authority of the meeting. If the meeting has authority to influence decisions, ask the meeting chair to develop a list of areas of responsibility for the meeting. If the meeting is informational in nature, ask the meeting chair how the input from the meeting will be used. Develop an on-going “suggestions list” to be used and reviewed from meeting to meeting. Ask the police department to explain how they have acted on specific suggestions. If they have not, or cannot act on specific suggestions, ask why.

Q My community sessions sometimes get off track, and tempers sometimes flare. How do I better manage my meetings?

A Set a specific agenda with time frames for each agenda item. Ensure that participants know the agenda, and allow them to suggest alternate agenda items before the meeting. Have a meeting time recorder watch how long each agenda item takes, and signal you (the meeting leader) when the time to discuss the item is over. Make it clear at the outset that you will strictly follow timeframes for topics to maximize productivity. If participants stray from the topic you can: 1) “table” or “park” their questions for a future meeting; 2) ask the participant how his or her comments pertain to the agenda item under discussion; 3)

direct specific questions to other participants; 4) bring group members into the process of policing each other to make sure no one grandstands or monopolizes the proceedings.

Above all, exercise discretion. Be sure not to intimidate attendees, or they will refrain from participating in the meeting. Sometimes discussions drift off topic, but are nonetheless valuable to the group. A good technique to use when meetings get off track but the conversation is productive is to ask the attendees if they are comfortable with the digression, and the time that it might take away from other agenda items.

Q Like many police departments, my officer's belong to a union that negotiates officer labor practices with the department's command staff. My union greatly affects my ability to involve officers in community initiatives, but they don't come to community meetings. What should I do?

A The key to getting participation is to understand why the union representatives will not come. Have you told them why their input is so crucial? Do you know what issues the union is concerned about, and do you make sure that the most critical issues are on the agenda? If they regard the meetings as a waste of time, consider maximizing meeting time by using the techniques presented in the questions above. Consider the following techniques: 1) Ask the union representative to present on what the union is and what the union does to educate your community, 2) give a copy of the minutes to the union representative for his/her input on how the committee's work will affect the officers. Explain that these perspectives would be valuable for the next meeting.

Q I'm concerned about how much I should involve my community in departmental operations. I want to be open and honest with the community, but I don't always have the answers and sometimes I am not at liberty to share what I know.

A The agency representative must make decisions on which information to disclose to the public and when. Prematurely releasing information, or information that is subject to change, can leave people feeling that they have been misled. Disclosing information too late can give the impression that people were deliberately being excluded or left in the dark. Consider the following guidelines when presenting information to community members:

Mislead community members and they will lose all trust in you. There is no better way to destroy a working relationship than to mislead one of the parties,

If you can't release information, say so and say why.

Mention what needs to happen or be resolved before you

can be more forthcoming. If your reasons make sense, people will understand. Be sure to follow up with answers when you can and people will respect you.

If there is information you cannot disclose, then explain that to community members. Help them understand that you have legal or operational constraints that you must abide by, or you will breach your ethical responsibilities. Find out why they need the information – maybe community groups are waiting for this information before they can make decisions or take actions. Knowing this may help you provide the community with enough information to move forward without jeopardizing your responsibilities.

Q I don't know if my community members' opinions accurately reflect the range of opinions in my jurisdiction. How can I test what the community at large thinks?

A Sometimes communities will have different perspectives from your community group, depending upon whom your group represents. The first step might be to pull in underrepresented voices from outside of your group. If that doesn't work, consider surveying the community. First consider if a formal survey or informal assessment should be done. If you want an informal assessment of general community sentiment, have members of your department attend regular community organization meetings. Remember that officers must identify themselves, the reason they would like to attend the meeting, and ask permission to attend. These business meetings often give your organization a sense of how community members who come together for different reasons (church, school functions, neighborhood organization) feel about the police.

Researchers or survey groups can offer expertise and manpower for formal surveys. Think carefully about the way in which the survey is administered. Mail surveys differ greatly from phone surveys in terms of cost, response rates and logistics. For a review of conducting surveys, visit www.ellisonresearch.com/Articles/Article17.htm.

3. Benchmarking Methods for Stop Data Analysis

What is Benchmarking?

Why is Benchmarking Necessary?



3. Benchmarking Methods for Stop Data Analysis

What is Benchmarking?

According to recent estimates, more than 4,000 agencies across the country are collecting racial and ethnic information on people that they stop (www.racialprofilinganalysis.neu.edu). “Data Collection” as it is termed, is fast becoming recognized as one of the most important ways for agencies to remain accountable for the stop practices of their officers. Collecting stop data alone, however, is not adequate to achieve most agency goals associated with addressing racial profiling concerns. Stop data will provide the specific percentage of minority drivers stopped in a given area, but what does that mean? How do we determine if the percentage stopped is too high, too low, or right on?

The term “benchmarking” has been applied to the activity of determining what the right percentage of drivers stopped ought to be. Stop data can then be compared to benchmark data to help determine if police departments are stopping too many minority drivers. There are two kinds of benchmarks: external and internal, and each is used to answer different questions. External benchmarking is designed to determine what percentage of drivers in a given area “ought to be” stopped. Many experienced researchers in this field agree that a direct measure or an estimate of drivers or violators in the given area is the right benchmark. For example, consider a city in which 30% of traffic stops at the intersection of Main St. and Center St. are of African American drivers. Is 30% too high, too low, or appropriate? The first question to answer is what percentage of African American drivers at Main St. and Center St. are subject to being stopped by the police. To answer this question, the percentage of minority drivers first must be measured or estimated. This figure is the benchmark. The benchmark is then compared to the stops in the jurisdiction to determine if certain groups are stopped more frequently than the benchmark would predict. Note that race and ethnicity are often used as defining elements collected during benchmarking, but other characteristics such as gender and age can also be collected.

Internal benchmarking refers to comparing officer stop data to other “similarly situated” officers or groups of officers to identify individuals or groups that deviate from the norm. In this form of benchmarking, no external data is collected. This form of benchmarking is used to identify individuals or groups whose stop practices are very different from those of other groups or officers in the agency. While this form of benchmarking can identify differences in stop practices between officers, it alone cannot answer questions about an agency’s stop practices as a whole.

Many other factors must be considered in benchmarking. How is the agency deployed? What specific campaigns is the agency undertaking? Do driving populations change according to the time of day and day of the week? We will discuss these questions and others later in this chapter.

Why is Benchmarking Necessary?

External benchmarking is a method for interpreting the stop data collected by police. Well-constructed benchmarks will show the percentage of drivers that are likely to be stopped by police. The purpose of the benchmark is to help departments determine if there are differences between the percentage of drivers stopped by police, and the percentage of drivers that are likely to be stopped by police. The benchmark is ultimately used to help stakeholders determine if these differences are caused by police bias.

Police executives often use internal benchmarks as a management tool. By comparing officer-to-officer stop practices, executives can identify “outlying” officers or units and work to understand the reasons for the differences in stop practices.

Risk Management

The courts have used external benchmarking to decide whether racial profiling exists⁴. Agencies that actively monitor their own behavior are much more likely to know if a problem exists, and are in a position to manage the real or perceived behavior with factual information. Absent this information, the agency simply cannot comprehensively respond to allegations of profiling.

Addressing racial profiling means those stakeholders in legislative and legal communities will be less likely to believe anecdotal allegations. That is, if law enforcement stakeholders understand that the agency is working hard to address allegations, then the importance of lawsuits may be diminished, and less credence may be given to allegations of the practice. Class action lawsuits will similarly be much more difficult to bring against an agency that has a demonstrable commitment to preventing racial profiling. Similarly, departments that do not collect data and are not monitoring traffic stops have a hard time responding to allegations of profiling. Data collection and benchmarking are responsible management practices that help departments know if they have potential problems that they must address before the problems get to court.

Management Tool

Data collection and analysis provide factual information on stop rates. Without this critical information, any agency response must be based on anecdotal information or intuition. Just like any other organization or business entity, law enforcement agencies are beginning to demand measurement of the problem before committing time and money to address it.

Traffic stop data collection and analysis do not answer all of an agency's questions, but if done properly can provide a solid foundation and begin to answer some questions. Data analysis should be an essential, proactive, ongoing component of any agency's quality control program. It provides a measurement of an agency's practice in regards to stop subjects. Measurement

⁴ State v. Soto, 734 a. 2d350 (N.J.Super. App. Div.1996).

then becomes the quality control mechanism as it provides an agency with valuable data on how frequently individuals of different races are stopped.

Engage Stakeholders

Data collection legitimizes community concerns. By collecting and analyzing stop data correctly, agencies can demonstrate genuine concern regarding racial profiling. Similarly, communities may be less likely to be concerned about the issue if the agency is analyzing the data and can answer their questions about it.

Several agencies have used data collection and analysis as a focal point for community engagement. Data collection and analysis can provide a structure for agencies and communities to work collaboratively to address profiling. For example, a data collection review board consisting of agency and community representatives can be established. The review board can have as its charter the responsibilities of reviewing and providing input to the data collection and analysis process.

Another advantage of establishing a review board is to educate officers. Officers on review boards hear directly from community members, and community members hear directly from officers. Dialogue in this context can occur in a non-adversarial manner. This section provides examples of some common external benchmarks. A discussion of strengths and limitations of these benchmarks is provided in the next section.

Observations

First used by Dr. John Lamberth in 1993, observation benchmarking refers to the use of surveyors to measure the racial and ethnic driving population. Surveyors visually identify and record the race and ethnicity of drivers that they see. These surveys have been conducted on highways and on street corners. Observations may be thought of as a “direct” measurement of the roadway traffic, because surveyors directly measure the race and ethnicity of drivers at a particular location by observing driver characteristics and recording what they see.

Using surveyors to conduct observations is a well-established, and often used method of gathering data in the social sciences⁵. In the racial profiling

⁵ Lamberth, J. C. Traffic Observations: The How, What & Why, Confronting Racial Profiling in the 21st Century: Implications for Racial Justice, Boston, MA; Northeastern University Institute on Race and Justice: Boston, MA, 2003. Shapiro, G., et al. (2001) Sample Design Issues for Surveys Involving the Observation of Drivers. Proceedings of the Annual Meeting of the American Statistical Association. Available at www.amstat.org/sections/srms/Proceedings/y2001/Proceed/oo505.pdf, Waterford 2003 Traffic Study. www.waterfordva-wca.org/traffic-wires/waterford-traffic-surveys., Gordon, J., et al., (2003). Proceedings of the workshop: The use of controlled exposure experiments to investigate the effects of noise on marine mammals: scientific, methodological and practical considerations. European Cetacean Society Newsletter No. 41-Special Issue Fe. 2003. 24pgs. (1), Frey, K.S., et al. g Playground Bullying Reducinand Supporting Beliefs: An Experimental Trial of the Steps to Respect Program. Developmental Psychology. 41(3), May 2005, 470-491, Antonak, R.F. , Levneh, H., Direct and indirect methods to measure attitudes

context, observation surveys have been found valid and reliable in court cases⁶. Most methods that attempt to estimate the driving population use some level of observations to “test” whether the estimate is accurate. Observation benchmarking has been used by several researchers in the United States and by researchers in the U.K.⁷. To conduct these benchmarks, teams of trained surveyors are sent to observe specific highways and intersections. While these benchmarks have been used for state-wide studies⁸, they provide for a very detailed and location-specific analysis, and have most often been used in single jurisdictions. For a more comprehensive description of this benchmark, go to Chapter two: Traffic Observations of *New Challenges in Confronting Racial Profiling in the 21st Century: Learning from Research and Practice* of the technical document. For more information on these benchmarks, visit www.lamberthconsulting.com.

Driving Population Estimate (DPE)

Introduced by Northeastern University⁹, the DPE provides an estimate of the driving traffic. This method is based on the premise that it is possible to estimate the demographics of drivers by knowing who resides in the surrounding communities and understanding why they might drive into the target community. This method begins with the collection of census data in the city being analyzed, and from all cities within a 30 mile radius. Factors likely to “push” individuals out of surrounding cities, such as eligible drivers, drivers who commute more than 10 miles to work, and travel time are determined. Other factors likely to “draw” individuals into the city are the percent of State employment, percent of State

toward persons with disabilities, with an exegesis of the error choice test method. *Rehabilitation Psychology*. 40(1), Spr 1995, 3-24.

⁶ State v. Soto, 734 A.2d 350 (N.J. Super. App. Div. 1996), Wilkins v. Maryland State Police, Civil Action No. CCB-93-468 (D.Md. 1994), State v. Maiolino, 752 A.2d 735 (N.J. Court of Appeals 2000).

⁷ Lamberth, J.C., (2003) Racial Profiling Data Analysis Study for the San Antonio Police Department, Zingraff, M., et al. North Carolina Highway Traffic Study. Available at: http://www.chass.ncsu.edu/justice/reports/hwy_traffic_study_03.htm, Engel, R.S., et al., Project on Police-Citizen Contacts (2004). Farrell, A. The Rhode Island Driving Population Estimate, *Confronting Racial Profiling in the 21st Century: Implications for Racial Justice*, Boston, MA; Northeastern University Institute on Race and Justice: Boston, MA, 2003, Farrell, A., et al. (2004) Massachusetts Race and Gender Profiling Study. Available at http://www.racialprofilinganalysis.neu.edu/IRJsite_docs/finalexecutive.pdf, Alpert, G. P. Toward a Better Benchmark: Assessing the Utility of Not-At-Fault Traffic Crash Data in Racial Profiling Research, *Confronting Racial Profiling in the 21st Century: Implications for Racial Justice*, Boston, MA; Northeastern University Institute on Race and Justice: Boston, MA, 2003, Joseph, T.D. (2004). The City of Claremont, California, Report of the Vehicle Stop study, Unpublished Manuscript, Miller, J. (2000) Profiling Populations Available for Stops and Searches. Available at: www.homeoffice.gov.uk/rds/prgpdfs/prs131.pdf

⁸ Lamberth, J. C. "Racial Profiling Study and Services: A Multi-jurisdictional Assessment of Traffic Enforcement and Data Collection in Kansas."

⁹ Farrell, A. The Rhode Island Driving Population Estimate, *Confronting Racial Profiling in the 21st Century: Implications for Racial Justice*, Boston, MA; Northeastern University Institute on Race and Justice: Boston, MA, 2003.

retail trade, percent of State food and accommodation sales, and percent of State average daily road volume, are determined.

A statistical analysis is then conducted to modify contributing city driving estimates and the target city driving estimates. Driving populations for the entire city are then estimated on the basis of these figures. Observation surveys are conducted to test the DPE's accuracy. Northeastern has used the DPE in Rhode Island and in Massachusetts. The DPE has been conducted for single jurisdictions, but may be best suited for conducting studies of multiple agencies. For more information, visit www.racialprofilinganalysis.neu.edu.

Using Not-at-Fault Accident Data

Introduced by Dr. Geoff Alpert in Miami-Dade County¹⁰, the Not-at-Fault Accident method provides an estimate of driving traffic. The assumption is that not-at-fault drivers in accidents should represent the driving population in any given area. That is, if not-at-fault drivers are hit at random by at-fault drivers, then their racial and ethnic makeup should reflect that of the driving population over time.

Not-at-fault accident data provides an estimate of the driving population at any given location. This estimate benchmark is flexible, and can be used to measure city-wide driving estimates and location specific estimates (assuming that enough accidents have occurred at the location to make a good comparison.) To conduct this analysis, jurisdictions must collect racial and ethnic data on not-at-fault drivers. Observation surveys are conducted to test the method's accuracy.

Unadjusted Census Data

Unadjusted census data has been used in studies as an estimate for the driving population. It is inexpensive and easily available. In the late 1990's and early 2000's, the scientific community simply did not know how well census data predicted driving populations. The scientific community has since learned that unadjusted census data does not reliably predict driving patterns. This estimate may work for some jurisdictions and not for others. Unfortunately, no predictors have been identified which will reliably determine where this benchmark will and will not work.

While copious data have been gathered to support this assumption¹¹ there are several commonsense reasons for why the census population is not always the same as the driving population. For example, people live, work, and seek entertainment in different areas. Census data also cannot account for university populations, tourists, people of driving age who do not drive or drive at different

¹⁰ Alpert, G. P. *Toward a Better Benchmark: Assessing the Utility of Not-At-Fault Traffic Crash Data in Racial Profiling Research, Confronting Racial Profiling in the 21st Century: Implications for Racial Justice*, Boston, MA; Northeastern University Institute on Race and Justice: Boston, MA, 2003

¹¹ Fridell, L.A., *By The Numbers: A Guide for analyzing Race Data from Vehicle Stops* (2004)

rates and the use of public transportation. All of these factors make unadjusted census data a less accurate benchmark.

Alternative Benchmarks

Some benchmarks create a benchmark from within the stop data collected by the officers. That is, the stop data collected by officers is compared to a subset of that data based on the premise that there are situations in which officers cannot, or do not, identify a driver's race prior to stopping the vehicle.

One example¹² is based on the premise that officers cannot see a driver's race and ethnicity at night, and therefore nighttime stops will provide a good measure of driving populations. These benchmarks may be attractive to some because the analysis can be conducted without the need to collect any additional data.

These types of benchmarks, however, have some severe limitations. The first is that all the data analyzed come entirely from self-reporting by the agency. These methods do not provide for comparison against a data set that was not compiled by the police. Another limitation is the premise itself. Take, for example, the nighttime stops benchmark. The premise of this method is that officers cannot see race and ethnicity at night, and therefore nighttime stops could not be influenced by a driver's race and ethnicity. But in a recent study in Los Angeles¹³, officers reported to researchers on "drive-alongs" that they could positively identify race and ethnicity of the driver in 68% of drivers at night before stopping them. If this is the case, then clearly the presumption of the nighttime stop study does not hold true. It is also true that the authors of this guide have conducted nighttime observations and have been able to determine race of driver at night under many conditions.

Internal Benchmarking

Internal benchmarks provide additional comparative data for law enforcement agencies to assess the quality of their officers' work. These systems are used to compare performance of an individual officer to a group of officers who patrol similar areas of the community. These systems can also be used to compare groups, or units of officers to other units of officers who have similar characteristics. The goal of these systems is to identify trends of behavior or circumstances for individual officers that may present a risk to the agency.

With this valuable information in hand, an agency has the opportunity to work with individuals to bring their behavior in line with departmental goals. Although these tools will not provide insight into overall agency performance, early warning systems represent a solid and fundamental management tool that

¹² Grogger, J. & Ridgeway, G. (2004). Testing for Racial Profiling in Traffic Stops from Behind a Veil of Darkness. Unpublished Manuscript, University of Chicago

¹³ Alpert, G., et al. Proposed Vehicle and Stop Data Methodology Report. Available at www.lacity.org/da/lapdstopreports/clalapdstopreports222126652_o1o12005.pdf.

can, if implemented properly, provide critical information to law enforcement management¹⁴.

¹⁴ Walker, S. Searching for the Denominator: Problems with Police Traffic Stop Data and an Early Warning System Solution, *Confronting Racial Profiling in the 21st Century: Implications for Racial Justice*, Boston, MA; Northeastern University Institute on Race and Justice: Boston, MA, 2003

4. Benchmark Considerations

Differences in Benchmarks
Benchmarking Comparison
Benchmarking Questions and Answers



4. Benchmark Considerations

Differences in Benchmarks

When considering which benchmark to use, there are two fundamental criteria to consider:

Is the benchmark accurate?

What is the benchmark designed to do?

We have discussed unadjusted census data as one benchmark that has not stood up to close scrutiny. Simply put, this benchmark fails to estimate driving populations accurately. For police and communities trying to work through concerns about bias, a benchmark that does not work well may cause more problems than it solves. But determining which benchmark to use has been difficult for police and for communities. Trying to choose the right method from among many is not easy. We recommend two guidelines to use when evaluating the accuracy of a benchmark:

1. Does the benchmark make sense? Most of the benchmark methods are based upon straightforward assumptions that may or may not be logical. For example, unadjusted census data is based upon the assumption that people live and drive in roughly the same areas. We know that people live and work in different areas (which are often primary reasons for owning a car). We also know that populations such as university students and tourists are not counted in the census. Thought through, unadjusted census data does not make sense in many areas.
2. Has the benchmark been successfully used by other researchers? Methods designed by researchers are often tried by other researchers to see if they work. If a method is considered successful, then another researcher tried it and obtained similar results. For benchmarks, see if other researchers have used the method, and if it was considered successful by the researcher, by the community, and by the police.

The second critical aspect of selecting a benchmark is to fully understand what the benchmark is designed to do. Not all benchmarks are intended for the same purpose. Different benchmarks provide different levels of analysis for the agency. For the purposes of this guide, we have defined three categories that benchmarks fall into.

1. Jurisdiction-level analysis
2. Intersection-level analysis
3. Officer-level analysis

The jurisdiction-level analysis provides a measurement of whether a group is stopped more frequently in comparison to other groups in the jurisdiction in

question. This is an external benchmark, and requires the development of a comparison dataset that measures or estimates the driving population. A jurisdiction could be the city, a district or a neighborhood. In this analysis, the number of stops for the entire jurisdiction is compared to the benchmark that measures the entire jurisdiction. These methods analyze behavior for the entire agency, or for groups of officers working in the jurisdiction. They are not typically used to analyze specific officer behavior. Researchers with experience using these methods can often conduct multiple analyses quickly and economically. For example, the researchers at Northeastern University¹⁵ conducted a city-level analysis for more than 300 agencies in the state of Massachusetts in approximately two years.

One trade-off for conducting a jurisdiction-level analysis is that the level of detail provided in the analysis is reduced. For example, a city-level analysis does not account for where officers are deployed or the numbers of officers deployed in specific areas (such as at intersections). If more officers are deployed in minority areas, then it is to be expected that minorities would account for a higher numbers of stops. The city-level analysis will not identify this, because it does not provide information for stops in those areas.

Intersection-level analysis is designed to provide more detail than a jurisdiction-level analysis. At this level, benchmarks are developed for specific intersections or mile marker designations for highways. This external benchmark requires the development of a comparison dataset that measures or estimates the driving population for that location. In an intersection-level analysis, the numbers of stops in specific areas are compared to their benchmarks. This analysis is designed to account for differences in deployment levels, because the analysis is conducted for targeted areas. The intersection-level analysis has been most frequently used to report on agency behavior at specific locations, rather than to report on specific officer behavior. This type of analysis can also be used to conduct jurisdiction-level analyses. This requires randomly selecting locations from all locations within a jurisdiction, and conducting analyses on those locations to make estimates at the jurisdiction level.

This type of analysis enables the agency to obtain very specific information about agency behavior. For example, if disparities are found at a particular intersection, the agency can then review specific incidents, criminal activity, and agency initiatives occurring during the time in question. The agency can also review the types of stops conducted at that location. The results enable the agency to identify causes of the disparity, or to conclude that absent a reasonable explanation, bias is the most likely cause for the disparity. This type of information empowers the agency to directly address community concerns about officer behavior at specific locations.

One trade-off for conducting an intersection-level analysis is that such analyses may be more time- and resource- intensive than jurisdiction-level

¹⁵ Farrell, A., et al. (2004) Massachusetts Race and Gender Profiling Study. Available at http://www.racialprofilinganalysis.neu.edu/IRJsite_docs/finalexecutive.pdf

analyses. Analyses are not conducted for a single jurisdiction, but rather a series of specific analyses are conducted for several intersections or specific locations. This means that more time and resources may be required to measure an entire jurisdiction than would be required for a jurisdiction-level analysis.

The officer-level analysis has been most frequently conducted using internal benchmarks. These analyses compare each officer’s stop data against that of other officers. The comparisons can be run for individual officers, or for groups of officers. No external benchmark is typically collected or used in this analysis. The analysis provides an indication of whether an officer, or a group of officers, performs differently from other officers at similar situations. This analysis is especially useful for identifying officers whose performance differs from the group’s collective normal performance. Thus, an officer stopping many more individuals from a targeted group than other officers in similar situations will be identified through this type of analysis.

The officer-level analysis is not designed to measure collective agency performance. Each officer, or group of officers, is measured against the average of all officers. No conclusions can be drawn about the average performance of the agency. Thus, if the agency as a whole is stopping more individuals of a targeted group than other groups, this analysis will not identify it.

Benchmarking Comparison

The following chart compares benchmarks.

Benchmark	Benchmark Type	What it Measures	Jurisdictions employing this benchmark	Used in Litigation
Observations	Location Specific	Driving Population, and Violator Population	San Antonio, TX (Lamberth, 2004), Grand Rapids, MI (Lamberth, 2004), Ann Arbor, MI (Lamberth, 2004), Washtenaw County, MI (Lamberth, 1999), Kansas (Lamberth, 2002), Santa Cruz, CA (Rickabaugh, 2003), North Carolina (Zingraff, 2003), Arizona, (Solop, 2002), Pennsylvania (Engel, 2004), Rhode Island (Farrell, 2004), Massachusetts (Farell, 2004), Florida (Alpert, 2004), California (Joseph, 2004), England (Miller, 2000)	Yes
Driving Population	Jurisdiction Level	Driving Population	Rhode Island (Farrell 2004)	No

Estimate			Massachusetts (Farrell 2004) Prairie Valley, KS (2003) used in a limited number of studies	
Not-At-Fault Traffic Accident Data	Location Specific	Driving Population	Miami-Dade County (Alpert 2004)	No
Internal	Officer Level	Officer(s) to Officer(s) Comparison	St Louis (Rojack and Decker)	Yes

Observation Surveys

Strengths:

1. Provide a direct measure of the driving population. The observation method is well established in the social sciences community as a valid way to gather data.
2. Have been validated in court cases in New Jersey, Arizona, and Maryland. In future litigation, courts will have strong precedent for accepting this method.
3. Provide city-wide and location-specific analysis that enables an agency to see results city-wide and in specific areas of a jurisdiction.
4. Enable precise measurement for differing traveling populations because results can be stratified across day of week and time of day.
5. Compensate for many limitations found in driver population estimates.

Limitations

1. Require the additional step of collecting observation data through teams of observers.
2. Require management capability and on-site supervision to ensure that surveying teams collect the data at the right times and accurately.
3. Require additional experience and resources to hire, train, and manage surveyors to conduct the observations.

Driving Population Estimate**Strengths:**

1. Creates citywide driving population estimate.
2. Takes into account traffic flow from surrounding communities.
3. May be less time-consuming to estimate than to observe.
4. Can be used for multiple jurisdictions – good for statewide or multiple jurisdiction studies.

Limitations

1. Precludes analysis of traffic patterns at neighborhood level; only provides limited information about specific areas of a city.
2. Must be validated with roadway observations.
3. Requires existence of specific economic and traffic volume data for each agency.
4. May be difficult for police and lay audience to understand methodology.

Not at Fault Accident Data Method**Strengths**

1. Utilizes not-at-fault driver data, which if it exists in a city, would not need to be collected by the researcher.
2. Provides city-wide analysis and may provide intersection-level analysis.
3. Enables precise measurement for differing traveling populations because the results can be stratified across day of week and time of day.
4. Does not require specialized skills or experience.

Limitations

1. Jurisdiction must collect race/ethnicity data for not-at-fault accident data for extended periods before this data can set a benchmark.

2. In smaller jurisdictions, there may not be enough traffic accidents to create a large enough sample size for a meaningful benchmark analysis to be possible.
3. Initial results were only significant after data was aggregated to city level. May not accurately predict location variances.
4. To date requires some level of observational validation before results can be presented with confidence.

Internal Benchmarks

Strengths:

1. Utilizes stop data only to compare officers – no additional data collection required.
2. Making the comparisons is straightforward.
3. Can be used by agency executives as an on-going tool for managing employees.
4. Can be inexpensively implemented for smaller agencies using easily accessible technology such as Windows environment databases.

Limitations

1. Larger agencies may require a software solution to measure officer behavior, which may require extensive time and resources.
2. No agency-level information is provided.
3. Unionized police workforces and officers' organizations might oppose of the use of this benchmark.

Benchmarking Questions and Answers

This section will provide several real-life scenarios surrounding benchmarking and provide answers, suggestions, and references.

Q How do I begin conducting a benchmark analysis?

- A Reading this guide is a good start, but you should contact other departments and researchers that have done this work in the past. When you talk to these experts, be sure to frame your discussion with the following information in mind:
- 1) why you are doing the study – good management idea, community concerns, litigation, city mandate, etc.
 - 2) talk to agencies that fit your situation as closely as possible in terms of size, population, surrounding jurisdictions' racial/ethnic make-up, number of sworn officers, number of stops and citations, number of citizen complaints, history of racial incidents
 - 3) identify the specific scope of work– will you conduct community engagement activities, training, benchmarks, or a subset of these work activities
 - 4) financing resources, including city funds, grants, agency funds.
- Q I'm on a limited budget. Can I still conduct a good benchmark?
- A Yes. The assumption that this type of work costs hundreds of thousands of dollars is simply untrue. You certainly can hire researchers to conduct the entire study for you, however, you can also partner with researchers who will provide guidance, tools and work reviews at a much reduced cost.
- Agencies can leverage local researchers, civil service personnel, and even volunteer community members. The authors recommend using experienced people to provide guidance or advice. For example, some researchers will run workshops for agencies to teach them how to conduct benchmarks, and give them the tools to do it. They will also do the analysis, or work with agency personnel who can do the analysis at a much lower rate than what it would cost to hire outside professionals alone.
- Q My community is concerned that the analysis may not be impartial. How do I alleviate these concerns?
- A If the agency or researcher conducts this study without input from the community, then any results that show the agency favorably run the risk of being met with skepticism. Similarly, officers might question the results unless they understand the method. The authors strongly recommend involving the community and officers in the study at the outset by doing the following:
- 1) Provide education on the method, work steps, and timeframes of the

study to community members and officers. Discuss what kinds of results might indicate profiling, and what kinds of results would indicate the absence of profiling.

2) Ask community members and officers what their reaction will be if the results show disparities that could be a result of bias. Ask them what their response will be if the results show no disparities. Challenge these groups to consider how they will react, and what they will do if the results don't align with their expectations. These critical questions help challenge officers and community members who may have very strong preconceived notions about what the study results will show. This enables both groups to begin the planning process for how to respond to the study – even if outcomes differ from their expectations.

3) Identify opportunities for community members and officers to participate in the study, or at least observe portions of the study. For example – you can invite communities and officers to watch observational survey teams do their work. These groups can also work on survey teams.

Q My agency has conducted a study that has been met with a lot of criticism. Should I start over?

A Your course of action should be dictated by two criteria:

1) Was the study well conducted?

2) Why are stakeholders critical?

In the first scenario, if the study was well conducted then the study does not need to be done again. Provide opportunities for additional dialogue with the community to continue to educate them about the time, commitment, resources and effort it took to conduct the study. Share information on the accuracy of the methodology and the conclusions.

If the study is weak, discuss its strengths and weaknesses. Do not deny the flaws in the study. Denial will only further alienate stakeholders. This route may lead to litigation. By engaging in candid communication, you will gain respect and perhaps better community/police relations from this process.

If the study has serious weaknesses, consider redoing it. If you do, however, avoid making the same mistakes. Do you need to collect additional data? Do you need a different type of benchmark?

If stakeholders are critical, then you must determine why there is criticism. If it is warranted, address it openly and honestly. If it is unwarranted, seek to determine if more education is required or more time and attention to the community is required.

Q An analysis of my stops has been conducted using census data as the benchmark. My numbers look pretty good. Does this mean I shouldn't worry about profiling?

A Collecting data without the proper analysis puts law enforcement agencies at a real disadvantage. Newspapers and some under-informed advocacy groups have been able to identify agencies that do not match up well against census numbers, and print damaging articles that inflame the public and tarnish the reputation of the agency.

For agencies that do stack up well against census data, know that the numbers reported do not mean that there is not a problem. Decisions made on the basis of inaccurate organizational data are likely to be poor decisions. There are several common sense factors that can explain the difference between residential populations (as measured by the census) and driving populations. Census data excludes university students, tourists, and people of driving age who do not drive. All of these factors limit the usefulness of unadjusted census data.

Q How do I convince my officers of the need for an analysis?

A Many officers take allegations of racial profiling personally. The work of a law enforcement officer is hard, and having one's integrity questioned is frustrating. We often engage with officers who are quite defensive about the issue. Simply put, they are offended at the suggestion and consider analysis a waste of time.

If people in your agency share these sentiments, you will do your officers and your agency a true service by providing education. Officers need to vent and to have their concerns validated. Their feelings are valid and officers need to express their frustrations with the types of activities that they are ordered to do or think are necessary to make communities safer.

But officers must also be reminded of their duty to serve the community, and if members of the community think that they are being profiled, they have the right to be heard. Remember also that a well designed study may very well show that minorities are not stopped at disproportionate rates. In these instances, the study can validate officers' perceptions and enlighten the community. Consider the use of video cameras in cars. At first, officers disliked the idea of being videotaped during traffic stops. However, in several departments,

video cameras have cleared officers of allegations of wrongdoing, and now cameras are popular in many agencies.

The authors have found two methods of education particularly useful: 1) training specifically for officers; and 2) law enforcement and community engagement models.

Training should be specific and should address racial profiling. More information on what kind of training to conduct is provided in a question on training in this section. The LE/Community engagement work mentioned in the previous chapter is not solely for communities. Officers benefit greatly from hearing and talking to community members that are affected by perceptions of profiling. Especially for officers who do not live in the minority communities involved, hearing anecdotes and stories of the effect of negative perceptions of the police can be very powerful.

Q Our study includes an analysis of pedestrian contacts. Are the benchmark methods the same?

A The authors have used the observation method to benchmark pedestrians in highly trafficked urban areas, and during special events like parades and festivals. The logic behind traffic and pedestrian benchmarks is fundamentally the same – surveyors observe the race and ethnicity of pedestrians on street corners, walkways, and in public spaces. Stop data are then compared to those benchmarks and analysis is conducted. Like traffic observations, locations and surveying timeframes are selected so that generalizations of location, race, and ethnicity can be made.

The differences lie in the manner in which pedestrians are observed. Cars travel along predictable routes – the roadways. Pedestrians travel in very different ways, often backtracking and retracing steps. While benchmarking pedestrians is and has been done on numerous occasions, the authors recommend working with an experienced researcher to help ensure the study is conducted properly.

Another difference is the manner in which the “stop data” set is developed. In traffic benchmarking, officer- initiated stops are typically used because they involve a higher level of officer discretion than when officers respond to calls for service, or to “be on the lookout” broadcasts. Foot patrol and bicycle officers (for example) will often stop and talk to business owners or other people in the pedestrian traffic stream. Not all of these stops represent “detentions,” and so determining which stops to include in the pedestrian analysis can be more complex. One criterion that can be used for identifying

appropriate pedestrian stops is to ascertain whether a field interview was conducted.

- Q We are considering using a researcher to assist in analyzing our stop data. What should I look for when looking for a researcher, and what value should I expect the researcher to provide?
- A An experienced researcher will bring substantial knowledge about successes and failures that will help the agency and community avoid costly mistakes. The authors do not advocate using a researcher who is new to the field unless he or she is under the supervision of an experienced researcher. Look for researchers that have experience and ask carefully about that experience. Contact agencies and jurisdictions that have used them to verify the purpose of the projects, and ask their opinions of the work.

Experienced researchers can bring a neutral perspective to this work. For communities that have questions about the integrity of the police agency, the only way that a study will have is to have a third party conduct the work. The researcher, however, must be able to educate and articulate why his or her method is not biased. If the researcher does not, or cannot, then communities may think that the researcher is lacks objectivity.

An experienced researcher will know what to do, when to do it, and how to talk about it to the agency and the community. A primary example is statistical expertise and competence. A researcher who has been formally trained in research methodology and statistics is absolutely essential, as is ability to explain the statistical concepts used in terms that the community will understand. A researcher that is qualified as an expert in statistics in state and federal courts is better, as the agency can use the researcher in legal contexts. Most agencies simply will not have statisticians trained in experimental design and associated statistical modeling.

Another example is in methodology. Observation benchmarking, for example, sounds straightforward. The details can become quite complex, however. Where, when, and why should observations be conducted? How are observers tested for competence? How do I know if an observer is performing poorly? How many cars should I count? These are but a few of many details that will determine the success or failure of this work.

Many agencies may lack the personnel to dedicate to this work. In these instances, researchers can play the role of advisors, project team members, or project directors.

Q In addition to collecting stop data, we are considering offering training to our officers. What should I look for in this type of training?

A Comprehensive training in this area should adhere to the basic concepts of addressing the tasks an employee is expected to perform given a specific job classification.

Effectively addressing bias-based policing through a training program requires a curriculum that is based upon the identification and analysis of the specific tasks of law enforcement patrol officers. The following issues must be included:

- (1) What questions about law enforcement performance, specifically those of the law enforcement officer, do allegations of bias-based policing raise?
- (2) Can certain behaviors related to specific tasks be identified and addressed with targeted training?
- (3) What decisions are made by law enforcement officers while performing their duties that require or allow for the exercise of discretion?
- (4) What conditions cause law enforcement officers to engage a citizen and what actions (both verbal and non-verbal) does a law enforcement officer take that result in the citizen having an impression of biased or respectful treatment?

To address these and other important considerations, the curriculum must be more than a modified cultural diversity course or a set of instructions regarding how to conduct traffic stops. Although many excellent diversity and traffic stop courses exist, and can be used to supplement agency responses to the issue, the questions law enforcement administrators and coordinators of staff training must ask and answer are;

1. What problems are we attempting to solve?
2. What were the objectives of the available training courses when they were designed, and will they address our agency's issues?
3. What specific knowledge and skills are the available training courses intended to develop or enhance?
4. How will we know if the training has worked?

The most effective training courses should allow the participants to explore the origins of bias-based policing, definitions, different stakeholder views, cultural influences. The courses should create opportunities for the participants to build stronger decision-making, conflict resolution, and interpersonal communications skills.

Because biased policing, whether real or perceived, comes with very real risks and consequences, effective training must achieve specific and measurable goals that are targeted to mitigate those risks and consequences. Substituting generalized courses or non targeted courses because they are quicker or cheaper may save some money in the near term, but these stopgap measures do not constitute effective risk management, and may end up being much more expensive in the long run.

5. Post-Stop Analysis

What is Post-Stop Analysis?
Why Do Post-Stop Analysis?
Post-Stop Questions and Answers



5. Post Stop Analysis

What is Post-Stop Analysis?

Post-stop analysis refers to measurement of disparity in officer's behavior after a stop has taken place. Measurement can be conducted on activities such as the decision to cite or warn drivers, duration of the stop, and decision to arrest. The most common and perhaps the most useful post-stop behavior to study is the decision to search a vehicle. For this reason the focus of this chapter will be on searches.

Officers sometimes search cars, or individuals or both as a matter of policy. Searches conducted subsequent to arrest or when stopping felons can fit into this category. Officers sometimes search cars because they have reason to suspect criminal activity. Probable cause and reasonable suspicion searches fall into this category. Officers also have the discretion to ask to search the car when probable cause and reasonable suspicion are absent. These searches are referred to as consent searches.

Search types may be thought of in terms of degree of discretion. Incident to arrest searches are mandatory in many departments, and thus may be thought of as involving little or no officer discretion. Probable cause searches involve an officer identifying probable cause, and may be thought of as involving more discretion. Consent searches involve the greatest degree of officer discretion. Searches that involve higher levels of discretion are more useful for this type of analysis because implicit in the allegation of profiling is the inappropriate use of officer discretion. Thus, analysis of higher discretion searches will better answer questions about officer discretion. The type of searches used for this analysis will vary depending upon the type of searches conducted. While consent searches may be best suited for this analysis, agencies with very few consent searches will require analysis on other types of searches.

The percentage of searches of minorities (as compared to stops) may be compared to the percentage of searches of non-minorities, which can yield a measure of disparate treatment between minorities and non-minorities. This analysis, however, is very different from the stop analysis.

Absent credible information from a reliable source, officers most frequently use driving behavior or vehicle condition to conduct a stop. The decision to ask for a consent search, however, occurs after the officer has interacted with the driver during a stop. Driving behavior and vehicle condition have defined measures for acceptable and unacceptable standards (vehicle inspection regulations and traffic laws.) Because these standards are defined, measurement of officer behavior (decision to stop vs. not stop) is easier to interpret. Before a search is requested, however, the officer uses his or her interaction with the driver to decide whether or not to ask for a search. These interactions are not defined in a rules book. Attempts to interpret results, therefore, cannot account for all factors, such as perception of nervousness, or

misleading statements that might prompt an officer to conduct a search. This does not mean, however, that analyzing searches is not productive.

Why Do Post-Stop Analysis?

Being searched, or having one's car searched during a traffic stop is one of the most emotional, frustrating and sometimes humiliating experiences a motorist can have with an officer. Approximately 1 in 10 individuals is stopped for traffic violations in a given year; however, only about 7% of traffic stops¹⁶, result in a search. These are the experiences that people remember and relate to friends, family and colleagues. In communities that already believe that law enforcement practices are biased, vehicle searches that are conducted without probable cause or reasonable suspicion cement those beliefs. Analyzing search data can show concerned communities that the agency cares both about the manner in which it treats citizens and about enforcing the law. Analysis can demonstrate whether minorities in a given community are searched more frequently. If so, then the agency can work with its officers and community members to understand why. Searches can result in big payoffs (substantial drug "hits") but they may also come at a high cost in the community. Weighing the payoffs and costs of conducting searches is a good management practice that will benefit law enforcement agencies and their communities.

Post-Stop Questions and Answers

This section will present several real-life scenarios involving post stop analysis and provide answers, suggestions and references. I have just finished completing a stop data study and have been asked about post stop analysis. Do I need to do another study?

- A A search data analysis answers fundamentally different questions from a stop data analysis. This means that your stop data study cannot be used as a proxy or estimate for search behavior. If your community demonstrates strong concern over search behavior, or if you have reason to question search behavior, then another analysis should be conducted. This does not mean, however, that you need to collect additional data. Most data collection efforts will benefit from planning to collect search data at the outset.

Another consideration is how many searches are conducted in your jurisdiction. If too few searches are conducted, then very small differences found in search analysis may look statistically significant, but may also be practically unimportant.

Remember that results from a search analysis cannot be easily interpreted, and that caution should be exercised before drawing

¹⁶ Contracts between Police and the Public Findings from the 1999 National Survey avail at; www.ojp.usdoj.gov/bjs/pub/pdf/cpp99pdf

conclusions from results. Consult an experienced researcher to assist with the analysis.

- Q I have reviewed data from my local police department and noticed that minorities are searched at a greater rate than non-minorities. Does this mean my local police are profiling?
- A Specific conclusions can be made from this analysis may not be possible. Some searches such as “subsequent to arrest” may not be as meaningful in this type of analysis because police in many agencies have less discretion when conducting these searches. Consent searches are the most useful when conducting analysis, but they must first be distinguished from other types. If police are more heavily deployed in higher crime areas that have higher minority populations, you might very well expect to have a higher search rate of minorities. Remember also, that officers may have multiple reasons for the search.

While definite conclusions cannot necessarily be drawn from this analysis, it does raise some good questions. Any department that has disproportionate searches of a particular group should understand why and know if this practice is productive in terms of leading to more contraband being found, reduced crime, etc. A more thorough analysis conducted by a knowledgeable researcher is required to interpret the data properly.

- Q I know that during stop analyses, the location of the stops is important. Is location important in search analysis?
- A Yes. Like stop analyses, the location of searches is very important. Consider situations in which an agency is heavily deployed in neighborhoods that report more crime. You would expect an increase of stops and searches in these areas. If racial differences exist in the traveling populations in these two areas, then any analysis that does not consider specific location may over- or under- report disparities in stops or searches. The way to conduct this analysis is to analyze searches and stops at the same locations. In this way, factors such as heavy deployment in specific areas will be accounted for in the analysis.
- Q Our agency will use forms to document officer activity, and we will have limited space. Can you tell me what “post stop related” fields we should use on the form?
- A The only reason to collect any data is so that it can be used in the future. This holds true for search data as well as stop data. We will assume that some of the basic information will be captured on the form

for stop subjects, such as race/ethnicity, and location,. The fields that should be collected are:

Reason for Search (subsequent to arrest, probable cause, reasonable suspicion, inventory, consent, etc.)

Length of Search

Scope of Search (driver, vehicle, passengers)

Disposition of Search (was evidence of criminal activity discovered?)

The form should include officer action if consent for search is refused.

6. Data Auditing

What is Data Auditing?

Why Audit Stop Data?

Stop Data Audit Questions and Answers



6. Data Auditing

What is Data Auditing?

Data auditing refers to the methods or steps taken to ensure that police departments gather data for all traffic stops conducted and that the stop data is collected properly. Collecting stop data can represent a tremendous investment in time, money and resources for a police department. Some agencies have had difficulty ensuring that their officers collect data for all stops. This probably happens for two reasons. The first reason is that the collection of stop data is never started properly. Due to a lack of training or supervision, officers are too casual about the data collection process. The second relates to the data collection systems. Some agencies have used handheld devices, and some agencies have used other collection techniques. If there are technical problems, a shortage of collection forms, or problems with radio dispatch, then the data collection efforts may stall or even stop.

There are two types of data audit: internal and external. An internal data audit refers to the department conducting its own check for completeness and accuracy. External data auditing refers to an outside group or auditor check the department's stop data for completeness and accuracy.

Internal data auditing can be conducted in a variety of ways. The agency can perform the first and most basic audits, by checking officer stop information each day, and comparing the stop data to another source such as patrol logs. This fairly simple method has proven to be the most effective. Supervisors or IT personnel can also use information, such as CAD data, to compare against stop data to check for completeness. Another check that can be performed is to check stops against citations to ensure that every time a citation is written the officer has filled out a corresponding data collection card. Other checks such as comparing in-car video to stop data cards, or comparing stop data cards to DMV data can be conducted.

External data collection is conducted when researchers or auditors independent of the agency perform a check of the stop data collected. A variety of methods have been used to audit the collected stop data. For example, researchers in Ann Arbor, Michigan¹⁷ compared the agencies stop data to the CAD database. In California¹⁸ independent reviewers monitored police stops and compared their demographic data to that of the officers. Traffic stops that appear on in-car video have been compared to the information reported on traffic collection cards or other instruments in litigation contexts see Chapter 4, Use of Video for Auditing and Analysis in *New Challenges in Confronting Racial Profiling in the 21st Century: Learning from Research and Practice*.

¹⁷ Lamberth, J., (2004). Ann Arbor Police Department Traffic Stop Data Collection Methods and Analysis Study, available at: <http://www.lamberthconsulting.com>

¹⁸ Joseph, T.D. (2004). The City of Claremont, California, Report of the Vehicle Stop study, Unpublished Manuscript.

Why Audit Stop Data?

Agencies with low compliance rates (percentage of time that officers record stop information) put themselves at a disadvantage. The data collected becomes of limited use for analysis purposes. High levels of missing data mean that any analysis conducted may be flawed – the analysis might look very different depending upon what the missing data would show. This limits the ability of executives to make decisions according to data on officer practices. Low compliance can also expose an agency to litigation. For example, profiling litigation in Rhode Island^{19,20} has been about non-compliance for completing stop data cards rather than specific evidence of bias or profiling.

Agencies with low compliance rates run the risk of alienating their communities. Questions such as “why don’t officers collect data?” can be very embarrassing. Community leaders may be tempted to think that the missing data is missing on purpose, and that the agency is trying to “hide” stops of minorities. In the best circumstances, agencies will have a great deal of difficulty building trust in their communities if their officers are unable or unwilling to collect stop data.

There is a strong legal precedent for agencies that do not collect stop data. The courts do not look favorably upon agencies that cannot execute operations they have committed to. In Providence, Rhode Island, officers believed that the collection of state- mandated data on traffic stops was not important to the leadership of the Department. Over the first few months of data collection officers reacted to this lack of agency priority and stopped completing the required data collection cards. This situation was noted by the local ACLU chapter, which filed suit against the Providence Police Department. As a result of the lawsuit a receiver was named to assure that the Providence Police complied with the statutory data collection requirements.

Setting up auditing systems, even modest ones, in advance of problems can prevent accusations of non-compliance. Departments leave themselves exposed to risk when the data looks questionable and departments have no accountability systems.

Stop Data Audit Question and Answers

This section will provide several real-life scenarios surrounding stop data audit.

Q Do I need a third party person to audit my stop data?

A No. Third-party researchers or courts may look to audit stop data in the context of an independent study or litigation; however the agency can and should conduct an audit of its own stops as part of regular operational practice. The easiest way to audit stop data is at the

¹⁹ Zinner, K, (2002). High Court to Rule on Collection of Racial-Profiling Data. Providence Journal-Bulletin (Rhode Island), Pg. A-03.

²⁰ Davis, K, (2002). Police working to comply with race study. Providence Journal-Bulletin (Rhode Island), Pg. B-01.

supervisor level. Have supervisors review each officer's stop data cards at the end of each shift. The supervisor should review the data at two levels. 1) A comparison of stops to patrol logs (or similar such as citations) should be made to ensure that all stops were recorded. 2) Stop data sheets (if used) should be reviewed to ensure that all fields were filled out correctly, and that they can be read when the data is transferred to electronic format. Supervisors should include a logical check to determine if all fields were filled out. For example, if the officer marked that a search was conducted, then the reason for the search, scope and outcome fields should also be completed. Incomplete or inaccurate forms should go back to the officer for revision.

If handheld devices, MDT, or radio dispatch is used, develop procedures for review that accomplish the same goals as described above – review to ensure all stops are recorded, and that all information is recorded for all stops.

- Q Auditing stop data will insult my officers. Isn't auditing stop data like saying "I don't trust you?"
- A Education for your officers is a critical component of auditing stop data. Officers should be informed of the rationale for auditing data. Data checks represent fundamental quality checks that are not specific to law enforcement. Organizations of every size and type review their work product to ensure its quality. This holds especially true for when service gaps (low rates of compliance) can have negative consequences for the agency. Auditing stop data will help protect officers in the long run. This practice helps departments respond to allegations and helps educate officers if they are making innocent errors as a result of misinformation.

Auditing police information is not an isolated practice. Many departments, particularly those using the National Incidence Based Reporting System (NIBRS) to report crime data have auditing systems in place that return incident reports to officers if there are errors or inconsistencies. This practice is part of good organizational management. In addition, in most police agencies the kind of auditing described here is common practice when supervisors review incident and arrest reports.

- Q We've been collecting data for months, and I know we don't have a lot of cooperation. How do I get my officers to start collecting?
- A The agency needs to make a commitment at two levels. First, the agency must commit to data collection. This commitment starts at the top, and must be conveyed to executives, supervisors and

officers. All levels of the organization must be educated on the need to collect data, and the consequences of not doing so.

Second, staff at all levels need to support and be involved in ensuring data collection. This means that supervisors must monitor officer compliance. Captains must monitor supervisors.

Asking for greater compliance will not work without oversight or supervision and enforcement. Low compliance rates mean that officers are comfortable with not collecting. Unless officers become uncomfortable with not collecting, their behavior will not change.

Q We've been using handheld technology to collect stop data, and it has a lot of problems that have really reduced compliance. What should we do?

A The agency must either develop technology that works, or scrap the technology and use more traditional collection methods. Handheld technology is convenient, novel and a good way to collect information. If the technology doesn't work, however, then it is more trouble than it is worth.

Q We have real trust problems with members of the community and they believe that our compliance rate should be 100% or the study will not be valid. Can you tell me what the industry standard is regarding compliance rates?

A There is currently no universally accepted compliance rate. Compliance rates above 90% have been accepted in some legal circumstances. Missing data above 3-5% is often flagged as a problem in many departments' auditing stop data. In part it is a function of how much error the department is willing to accept.

7. List of Expert Resources



List of Expert Resources

Name	Specialty Area	Contact
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