

Alex del Carmen, Ph.D.

*Associate Dean, School of Criminology, Criminal Justice and Public Administration
Tarleton State University, Texas, USA*

Mark Brown, M.S.

*Doctoral Candidate, School of Criminology, Criminal Justice and Public
Administration*

Tarleton State University, Texas, USA

A Path towards the Identification of Racial Profiling in Policing

Introduction

I have had the unique opportunity to have trained thousands of police officers and all of the Texas Police Chiefs during my 23-year career as a criminologist. In so doing, I have learned that despite the fact that a great deal has been written about racial profiling in policing, very little research has actually focused on the manner in which to identify racial profiling. During the course of my work with law enforcement professionals across the United States, there seems to be a resounding agreement that racism has no place in today's professional law enforcement entities. However, there is some disagreement as to how agencies can identify racist police officers while using the tools available in today's modern law enforcement settings. Some argue that when it comes to identify racism in policing, "*you will know that it is racism once you see it*". Well, aside from blatant and obvious acts of racism such as the Rodney King incident in Los Angeles in 1991, there is often the misconception that racial profiling can be easily identified in the law enforcement profession by the mere review of video or audio recordings. However, nothing can be further from the truth. In fact, I would argue that it is very difficult, but not impossible, to identify racism in law enforcement.

State Legal Requirements

This is partly due to the fact that most state laws that require for law enforcement agencies to report data on traffic or motor vehicle stops, require macro-level data. In other words, they require for the total number of stops initiated by all police officers in a particular jurisdiction during a given year. Although this makes into an interesting read on local newspapers, it fails to focus on individual (micro-level) law enforcement behavior. Given that most acts of racism in law enforcement take place at the individual level, macro-level data is not as useful in that it shows patterns across an entire department, which has a tendency of hiding individual-level behavior. This does not eliminate the need for macro-level analysis, but simply makes the point that the most effective manner in which to identify racism among police officers is through individual level data analysis.

The challenge then, is that most laws that require law enforcement agencies to report on traffic or motor vehicle data, seldom or almost never request individual officer-level data. Thus, researchers and others asked to interpret the data, are often left with the challenge of aspiring to attain micro-level (individual) potentially racist behavior while relying on macro-level (institutional) data. In other words, with the expectation to

identify racism in individual officers with data specific to traffic stops of an entire police department.

Despite these challenges, the universal response of those that are tasked with the goal of determining if individual officers from a particular jurisdiction are in fact, engaging in racist behavior, seem to focus on the data. That is, politicians, activists and community members interested in the topic, often turn to the data (traffic and motor vehicle stops) of a particular jurisdiction for answers. However, interpreting the data is not a simple task. I often make the point that data can be useful but it should not be utilized as a stand-alone source to determine racial profiling.

Part of the challenge here is that data, when used out of context, lends itself to misinterpretation. For instance, does it have any value (when trying to determine if racial profiling is taking place), if we find that a particular police officer is performing more traffic stops on African Americans than their Caucasian counterparts? The answer to this question is not as simple as it seems. That is, the fact that a police officer may perform more traffic stops on African Americans, may not necessarily suggest that the officer is racist, if in fact, these traffic stops were legitimate in nature and scope. Further, if the officer does not exhibit any signs of racism and seems to be treating the public in a consistently professional manner, then, there is a strong possibility that racism may not be present. Meaning, when considering statistics and data, context is absolutely crucial and must be part of the equation.

In cases where the officer seems to generate more traffic stops (without a legitimate legal justification) on Blacks than Caucasians and in addition, the officer is found to have posted racist or insensitive comments on social media and is known in the department for being less tolerant of minorities, then clearly, there may be strong indicators that this particular officer should be the focus of attention by the police leadership.

Over the course of my career, I have found that the exclusive review and analysis of traffic stops is not necessarily optimal when considering the question of whether or not a police officer is engaging in racial profiling. That is, the race of the individuals that the officer stops to be used as a single factor does not suffice as the strongest source of information when determining an officer's racist tendencies and behavior. Although other facts should be taken into account (i.e., insensitive social media postings, verbal racist comments), it is important to note that there is a particular type of data that is "most useful" when considering the racial profiling question. That is, of all of the data collected by police departments across the country, the most useful data is the one that relates to motor vehicle related searches. Specifically, the nature of the search performed by the officer and its specific outcome. We can then attain the "contraband hit rate" which in my view, is the best source of data when considering patterns and practices of individual police officers relevant to racial profiling.

Limited Utility of Traffic-Stop Data

When taking into account the utility of traffic-stop data, we must reflect on the type of data being considered. That is, traffic-stop data typically represents a police officer's contact with community members in the course of a traffic stop. For instance, the information captured in a traffic contact contains, for the most part, the subject's race, gender, driver's license number, current address, location where the citation was

issued, nature of the citation, whether or not a search was performed, and whether an arrest was made as a result of the traffic contact. Despite the fact that some believe that this information is useful in determining if a police officer is engaging in racial profiling, I would argue that additional information is needed in order to attain concrete conclusions. That is, it is extremely difficult, through the review of the limited information found in a traffic citation, to determine whether or not an officer intended to issue a citation based on the individual's race or ethnic background instead of a violation of the law. After years of conducting research, analyzing data and assessing police departments on this topic, I have come to the conclusion that:

- 1) Traffic related statistics are most useful in identifying patterns of racism at the individual or micro-level but they have a limited use at the institutional or macro-level; particularly, if they lack context.
- 2) It is very challenging to rely on traffic data alone as a way of determining the mindset or predisposition of a police officer. In my view, the only exception to this pertains to the analysis of motor vehicle searches and the contraband that may be found as a result of these; this is otherwise known as the "contraband-hit rate".
- 3) For the most part, most state laws that require racial profiling data reporting, focus (almost exclusively) on macro-level information while excluding micro-level data. This is a significant flaw as it is often the case that, when racial profiling takes place in a law enforcement setting, only one or a few individual police officers are engaged in racial profiling (and not the entire department). This does not mean to suggest that police departments should not set the tone to create the organizational conditions that prohibit racism from taking place, at any level.
- 4) The common practice of relying on the U.S. Census data to establish a baseline when comparing traffic contacts, is simply flawed. In states like Texas, a large number of the citations issued by municipalities are of non-residents of a particular jurisdiction. Therefore, it is not statistically acceptable or appropriate to compare non-residents that have received a citation with the population of residents that live in a particular jurisdiction and may not drive or even hold a drivers' license. This type of comparison is flawed and filled with errors.

Motor Vehicle Searches and Contraband

Given the fact that Census data is not useful as a baseline when analyzing racial profiling trends in police departments, the better source of information can be found in searches and the contraband found as a result of these. That is, when focusing on officer-initiated searches, there is no need to establish a baseline which would include individuals that may or may not reside in a particular jurisdiction. Instead, the focus of this type of analysis is on the outcome of the searches. For instance, if a police officer, working in a particular city in the United States were to have the following search, contraband and arrest record in a single year, there are some conclusions that could be reached:

Table 1

Race/Ethnicity	Searches	Contraband Found	Contraband Not Found	Arrests
Caucasians	1,000	950	50	950
Blacks	1,000	100	900	100
Hispanics	750	50	700	50
Asians	175	50	125	50
Native Americans	0	0	0	0

When reviewing the data from this particular table, it is clear that the officer referenced here, was very “successful” (as defined by the large volume of contraband found as a result of a search), when considering the searches performed on Caucasians, during a given year. That is, the officer shows a 95 % “contraband hit-rate” (i.e., ratio of contraband found per search performed) on all searches made on Caucasians, which led to contraband being found. This, in the view of most subject matter experts, translates to “effective police work”. However, if we consider the searches and contraband found on both Blacks and Hispanics, the outcome is very different. That is, there seems to be rather large number of searches performed on Blacks (1,000), yet the number of these that resulted in contraband is only 100. Restated, only 10 % of all searches on Blacks produced contraband. This, when compared to contraband found on Caucasians, shows that this particular police officer did not have as much success in attaining “productive” searches on Blacks. In addition, when considering the searches made on Hispanics, the data shows that this particular officer only found contraband in 50 instances out of 750 total searches performed on Hispanics. Again, when compared to the searches performed and contraband found on Caucasians, this figure shows an obvious lack of success in identifying searches which would have been “productive” through the production of contraband.

When contemplating the differences that exist in these figures, advocates of police officers accused of racial profiling, typically resort to a particular explanation. That is, that the officer may lack proper training and therefore this can be categorized as a “training issue”. Meaning, the police officer needs additional training on probable cause in order to ensure that all searches being performed, are in fact, following the appropriate standards and policing protocols while being performed within the scope of the Constitution of the United States. This explanation, however, falls short, in this particular instance, of supporting the facts suggested by the search data. That is, if a particular police officer, in fact, lacks training, the officer would have never been able to produce such a large volume of contraband on Caucasian searches. If the officer had shown an equally low distribution of contraband in all searches (including Caucasians) then, the “lack of training” argument would be suitable and perhaps even credible. However, given that the officer was rather “successful” in identifying searches that produced contraband on Caucasians but was not as successful in searches performed on Blacks and Hispanics, the “lack of training” argument is not valid in this situation and lacks merit.

Therefore, the most logical conclusion that we can attain, after reviewing the search data in this particular case, is that the officer, due to a particular reason, seemed more successful in the searches of Caucasians than the searches performed

on minorities. This could be, according to some, due to the fact that the police officer may be exclusively relying on probable cause on all searches of Caucasians but not relying on this principle on searches performed of minorities. In other words, the officer may have chosen to ignore police training and simply relied on a faulty rationale supporting the falsehood that the majority of minorities encountered should be searched since they “probably” possessed contraband. The point here is that the end-result or outcome of searches may reveal the initial “intent” of the officer. Note the fact that this particular statistical analysis on searches does not rely on a particular baseline. Therefore, it is not subject to the errors and omissions that are attributed to baselines which rely almost exclusively on resident data deriving from the U.S. Census. It should be noted that analyzing searches and obtaining the contraband-hit rates, are not foolproof. In other words, these do not lead to a magical formula that may reveal who is or is not engaging in racial profiling in a police department. However, the search analysis does serve as a tool or measure, which is based on the premise that a particular percentage of searches is expected to result in contraband, if the officer relies on the constitutional premises related to probable cause and reasonable suspicion. Meaning, there is an expectation that a police officer would find contraband from a particular number of searches, regardless of their race and ethnic backgrounds. If there are inconsistencies in the percentage of contraband found on Caucasians when compared to minorities, it may signal that there is a potential concern about the individual police officer performing the searches. This is particularly valid if the officer is someone known to the police department as an individual that may be subject to receiving complaints on behavior deemed as being unprofessional when interacting with citizens. That is, the totality of circumstances which may include search/contraband hit rates that show disparity between Caucasians and minority searches, complaints filed by the public on issues related to unprofessionalism including racism, social media postings that may be racially insensitive, and general knowledge in the police department about the officer’s frequent negative predisposition, may all contribute to make a case on the officer’s actions as perhaps being racist in nature.

In my view, generally, racial profiling statistical measures are flawed and have a limited utility when attempting to identify if in fact, racial profiling practices are taking place in a particular police department. In fact, we should be mindful of the fact that if racism takes place in a law enforcement agency, it will be easier to identify it at the individual level; therefore, making macro (institutional) level data not useful in the process of identifying a single officer’s racist behavior.

Best Practices in Racial Profiling Data Analysis

When analyzing individual officer data, we should be mindful of the following:

1. Traffic-contact data while controlling for demographical information relevant to the location where the officer is located along with the officer’s shift assignment. This is, we should take into consideration that police officers assigned to predominately minority areas in a city or municipality may end up contacting minority motorists disproportionately when compared to Caucasians. In addition, it is also a possibility that police officers assigned to the day shift may have a different volume (lower) of contacts with minorities when compared to police officers who are not assigned to that the day shift.

2. The number and nature of complaints filed against a police officer by community members. It is often the case that police officers who are known to engage in racial profiling are also subject to an unusually high volume of complaints filed against them by citizens. These complaints do not have to be specifically on racial profiling; instead, they can also include behaviors, such as use of inappropriate language, disrespectfulness towards fellow police officers, and engaging in unethical behavior.
3. A number of incidents where force has been used. That is, a review of use of force incidents on an officer is appropriate when considering the nature of when force was used, the instances that led to the use of force, and the race or ethnicity of the person that was subject to the use of force.
4. A review of the officer's search data may reveal that the officer in question seems to search minorities at a higher rate than searches performed on Caucasians. In addition, we should try to identify if in fact, most of the searches on minorities do not seem to result in contraband. Particularly, if most, or at least a large volume of searches on Caucasians, seem to result in contraband seized.
5. Officer makes insensitive or racist comments while in the presence of other police officers. Further, the officer seems to have a particular disregard and hatred towards minorities.
6. Systematic review of video footage of officer-minority citizen interactions reveals the presence of comments which are insensitive or perhaps even racist, in nature.

When considering the points made about the value of data in determining if racial profiling is taking place in a specific police department, it should be noted that data has a limited role. That is, data as a stand-alone component, is for the most part, not useful. However, when used in conjunction with other variables (i.e., complaints filed by the public, social media postings that may be inappropriate or racist), data becomes a very useful tool in determining if an officer acted in a racist manner when interacting with community members.

It is imperative to those interested in obtaining answers on the racial profiling issue, through the collection and analysis of data, that they keep in mind that any finding made as a result of analyzing data is limited to the quality and integrity of the data collected. Meaning, if the data is being collected in a manner not consistent with best practices, all the information used when making a projection or finding, will be equally flawed. As they say in the field of research methods: "*garbage in, garbage out*". Meaning, if we rely on information gathered in the field, which may be flawed and not valid, the findings and analysis attained will be equally flawed and therefore deemed as "useless".

Conclusion

When analyzing racial profiling data, one of the most important research principles to observe is to "ask the right question" on the information obtained, instead of being focused with the notion that we must always have the "right answer". As I have often found, some individuals concerned, but not necessarily well informed about the subject of racial profiling, simply "*don't know what they don't know*" about the magnitude of complexities which are often associated with racial profiling data analysis. In the end, there is no explanation that will satisfy them as to why there may

be a large discrepancy in the numbers, when comparing to vehicle contacts of Caucasians to those made on minorities. What is clear to me is that the issue of racial profiling in policing has been weaponized as a result of political agendas which clouds the understanding that the most effective manner in which to identify racial profiling in policing is to rely on search data, social media behavior and related components. It is the combination of facts obtained through these sources that will allow police administrators to have the necessary tools to prevent, identify and eradicate racism from law enforcement.

References

- Applied Research Center (ARC). (2001). Preventing Racial Profiling by Police. SB 1074. State of Texas, 2001.
- BOPP, W., and D. SCHULTZ (1972). *A Short History of American Law Enforcement*. Springfield: Charles Thomas.
- BRAYLEY, D. (1999). "The Development of Modern Police". In: L. Gaines and G. Cordner (Eds). *Policing Perspectives: An Anthology*. Los Angeles: Roxbury, pp. 59-78.
- CARTE, G. and E. CARTE (1975). *Police Reform in the United States: The Era of August Vollmer*. Berkeley: University of California Press.
- CLINTON, William, J. (1999). *Comments made at the Strengthening Community Partnerships Conference*. Washington, D.C., Reported by CNN, June 9, 1999.
- del CARMEN, Alejandro. (2008). *Racial Profiling in America*. Prentice Hall.
- DOUGLAS, David. L. "Department of Justice Consent Decrees as the Foundation for Community-Initiated Collaborative Police Reform". *Police Quarterly*, 2017. 0(0) 1-15. Sage Publishing.
- HARRING, S. (1983). *Policing a Class Society: The Experience of American Cities, 1865-1915*. New Brunswick: Rutgers University Press.
- HARRIS, David A., (1999). *Driving While Black: Racial Profiling on Our Nation's Highways*. American Civil Liberties Union Special Report.
- HART, Jessica, L.; LARSEN, Anne Marie; LITTON, K. Shay and Laura J. SULLIVAN, (2003). "Racial Profiling: At What Price?" *Journal of Forensic Psychology Practice*, Vol. 3, No. 2, pp. 72-88.
- HEUMANN, Milton and Lance CASSA,. (2005). *Good Cop, Bad Cop: Racial Profiling and Competing Views of Justice*. Peter Lang: New York.
- House Bill 3389. (2009). 80th Texas Legislature.
- House Bill 3051. (2017). 84th Texas Legislature.
- LICHTENBERG, Illya, (2006). "Driving While Black (DWB). Examining Race as a Tool in the War on Drugs." *Police Practice and Research*. Vol. 7. No. 1. March 2006, pp. 49-60.
- LANG, James E.; JOHNSON, Mark B. and Robert B. VOAS, (2005). "Testing the Racial Profiling Hypothesis for Seemingly Disparate Traffic Stops on the New Jersey Turnpike." *Justice Quarterly*. Vol. 22, No. 2, June 2005. Pp. 193-223.
- LEUNG, Ambrose; WOOLLEY, Frances; TREMBLAY, Richard, E., and Frank VITARO, (2005). "Who Gets Caught? Statistical Discrimination in Law Enforcement". *Journal of Socio Economics*. Vol. 34, No. 3, May 2005, pp. 289-309.

- Michael A. When and James L. Brown v. United States, 95-5841 (1995).
- BLAKESLEE, Nate. (2005). Tulia: Race, Cocaine, and Corruption in a Small Texas Town. Public Affairs.
- PETROCELLI, Matthew; PIQUERO, Alex R. and SMITH, Michael R. (2003). "Conflict Theory and Racial Profiling: An Empirical Analysis of Police Traffic Stop Data". Journal of Criminal Justice. Vol. 31, No. 1, January 2003, P. 1.
- RENO, Janet (1999). *Comments made at the Strengthening Community Partnerships Conference*. Washington, D.C. Reported by CNN, June 9, 1999.
- UNDERWOOD, A. (1906). *Congressional Record* 40. (June 25, 1906): 9155.
- United States Constitution (1787). U.S. Government Publication.
- United States Declaration of Independence (1776). U.S. Government Publication.
- United States Department of Justice, Civil Rights Division. (2017). Civil Rights Division's Pattern and Practice Police Reform Work: 1994—present.
- WALKER, S. (1998). *Police in America*: New York. McGraw-Hill.
- Wilkins v. Maryland State Police, 93-468. (1996). District Court of Maryland.

S U M M A R Y

This paper focuses on racial profiling in policing. Specifically, it explores the various ways in which racial profiling can be measured from a statistical perspective. The author reflects on his work with police chiefs in the State of Texas and the various challenges that exist regarding data analysis relative to motor vehicle stops. The discussion provides an overview of the objectives, challenges and best practices relative to data analysis of motor vehicle stops relative to racial profiling. This, being a topic of interest to police entities throughout the world, makes this discussion not only relevant but necessary to the study of racism in policing.

Keywords: Racial Profiling, Data Analysis in Policing, Motor Vehicle Stops, Policing Data, Racism in Policing, Statistical Analysis in Policing.

R E S U M É

del CARMEN, Alex BROWN, Mark: *CESTA K IDENTIFIKACI RASOVÉHO PROFILOVÁNÍ V POLICEJNÍ PRÁCI*

Tento článek se zaměřuje na rasové profilování v policejní práci. Konkrétně zkoumá různé způsoby, kterými lze rasové profilování měřit ze statistického hlediska. Autor se zamýšlí nad svou prací s policejními veliteli ve státě Texas a nad různými výzvami, které existují ohledně analýzy dat ve vztahu k zastávkám motorových vozidel. Diskuse poskytuje přehled cílů, výzev a osvědčených postupů ve vztahu k analýze údajů o zastávkách motorových vozidel ve vztahu k rasovému profilování. Vzhledem k tomu, že toto téma je předmětem zájmu policejních subjektů po celém světě, je tato diskuse nejen relevantní, ale nezbytná pro studium rasismu v policejní práci.

Klíčová slova: rasové profilování, analýza dat v policejní práci, zastavení motorových vozidel, policejní data, rasismus v policejní práci, statistická analýza v policejní práci.