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Editorial

> Stand with anybody that stands right, stand with him, stand with him while he is right and part with him when he is wrong.
>
> –Abraham Lincoln

The International Association of Chiefs of Police issued a statement concluding that "ethics remains our greatest training and leadership need today." This conclusion followed a 3-year study of ethical problems and responses within American law enforcement agencies.

Public trust and confidence in the police is irrefutably damaged when officers make inappropriate moral decisions or choose to ignore or violate the very laws and constitutional guarantees they have sworn to protect. While the list of ethical lapses on the part of the police is disturbingly long, claims of racial profiling by the police have rightfully gained the attention of the public, the media, politicians, and the courts over the past several years.

This edition of the *Law Enforcement Executive Forum* focuses on racial profiling. The articles presented provide thought and response from practitioners and academicians.

Many state legislative bodies now require police agencies to record and report traffic stop data, which is then submitted to statistical analysis in an attempt to determine whether the police unfairly target minority motorists. A number of the articles contained herein focus specifically on data collection, while others look at the broader issue of fair and equitable police actions related to minority populations.

We do not know the extent to which racial profiling by police occurs. It is not clear whether data collection will provide the answer to such questions. One thing we do know, however: If one instance of police action occurs based solely on one's race, then we in policing must continue to promote standards of ethics, training, and accountability to ensure that such practice does not stand. This edition of the *Law Enforcement Executive Forum* is dedicated to that goal.

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Addressing Racial Profiling in 2006: An Opportunity for Those Who Seize It

David A. Harris, JD, E.N. Balk Professor of Law and Values, University of Toledo College of Law

In the United States, the public discussion of racial profiling has lasted for almost 7 years—far longer than anyone expected, with no sign of the issue fading away. The first wave of stories about profiling in the national media emerged in 1998, with the passage of the Traffic Stops Statistics Act in the U.S. House of Representatives in March of that year. With the release of statistics in 1999 and 2000 from police departments all over the country, the debate reached the highest levels. Police chiefs, mayors, citizens, and patrol officers discussed the subject in public forums and town hall meetings; it even came up in the 2000 presidential election debates. In 2001, President Bush addressed racial profiling in his first address to Congress, promising that his administration would "end it in America."

As 2006 begins, we still find ourselves debating the use of race and ethnicity in policing, but the context has changed, along with the public mindset. The discussion of racial profiling in the United States now centers much less on stops of black and Hispanic drivers on roads and highways; the debate now usually focuses on safety from terrorists in airports and subway stations. Blacks and Hispanics no longer find themselves at the focal point of the debate; instead, we talk about Muslims of Middle Eastern and South Asian descent. Along with these changes, a different set of enforcement agencies find themselves on the receiving end of unwanted attention from groups opposed to profiling. Local and state agencies have mostly receded from view; the FBI and our immigration and border security agencies, tasked with anti-terrorism missions, find themselves under scrutiny for racially and ethnically driven enforcement tactics. Now, unlike in 2000 and the first half of 2001, public opinion now favors profiling—at least when authorities use it in the anti-terrorism context.

Thus, someone running a local or state police agency might well ask, "Why pay attention to the issue of racial profiling? Why continue to make efforts to address the problem, when the spotlight really does not shine on local and state law enforcement anymore, and people have become much more concerned with anti-terrorism issues?" As difficult and divisive as profiling issues can become when a community confronts them, why continue to focus on the issue? For some police departments, the answer is simple: state law or other regulations require them to continue to keep statistics, put policies in place, or take other actions. For other departments, however, those that are not mandated by either external or internal rules to institute these types of measures, the question must surely arise: why start down this road? For departments that have been at these tasks for a while, why continue? So often, it seems that from these measures, police have nothing positive to show for the effort, except for a load of grief.

While this line of thought may seem correct to those involved in the day-to-day tasks of dealing with this difficult law enforcement issue, this is really too narrow of a view. If one pulls back from the nitty gritty of the daily tasks that addressing

racial profiling requires, a different picture emerges. Police can reap real, substantial law enforcement gains—gains for the department itself and everyone in it, from the chief down to patrol officers—by continuing to address racial or ethnic profiling in a forthright and open way. Police know all about the costs and difficulties of working on the issue; they should also see that they can collect genuine dividends as well. These benefits continue to accrue well after data collection ends, and they involve the core issues of everyone concerned with public safety: catching bad guys, keeping officers safe, and connecting with the people police serve.

Perception may not be reality, but perception is real. Negative perceptions of police are a cost to police. Everyone has heard the phrase "perception is reality." The idea is that if people *believe* something is true, even if it is wrong in certain ways, it might as well be true. People sometimes get carried away with this thought; what is real, they may say, matters less than what people think is real. This is surely a debate for philosophers; it would seem to have little to do with the down-to-earth job of making the streets of a city or town safe, yet there is a lesson for law enforcement here.

Perception is not reality. Some perceptions may have only the most tenuous relation to the truth, but make no mistake: perceptions *themselves* are real. If a significant number of people believe that their police agency enforces the law in a racially or ethnically biased way, these perceptions, accurate or not, have the potential to cause problems for both the department as a whole and individual police officers. The key to understanding this comes from community policing. Many police departments, of course, use (or make attempts to use) community policing; there may be as many definitions of the term as departments that use it. With all of the different ways that community policing might show up in any given town or city, one common thread runs through all of them: connection with the community. Community policing looks for ways to connect police officers with the public they serve—to make police officers and citizens partners in the effort to create public safety. In order to exist, these partnerships require real relationships based on mutual trust. Officers and members of the public must trust each other to get the benefits of community policing. When trust-based partnerships do exist, they become conduits through which many of the core benefits of community policing can flow. The most important of these is communication; in a strong relationship with a real partner, communication will flow freely. This allows information to move between partners. If one thinks about this, the benefits become obvious: intelligence and information the public has can move rapidly and easily to the police. Information about what is happening in a neighborhood, in a precinct, or on a particular corner constitutes the key weapon for law enforcement efforts. Most police officers have heard an old joke: if a shooting happens in a neighborhood on Saturday night, by Monday morning everyone in the neighborhood knows who did it . . . except the police. Police officers often repeat this line because it captures an important idea about one of law enforcement's core realities: officers who have no real connection to the neighborhoods they serve will have a hard time making those neighborhoods safe. If police want to catch bad guys, they have to remain constantly in touch with—that is, they must put themselves in a position to continually receive information from—those they serve. If not, they may catch some of the perpetrators some of the time, but they will do this job as effectively as they could if they were working in partnership with the people who live and work in the areas they serve.

The connection between existing perceptions of racial profiling held by the community and how effectively police officers can do their jobs is perhaps subtle

but important. If a community perceives that police officers enforce the law against them in a racially or ethnically biased fashion, partnership—and the trust upon which real partnerships rests—becomes impossible. At the very least, the perception significantly undermines trust, and without trust, police efforts to work together with the community become exceedingly difficult, making it all the more difficult for police to make the streets safe.

Addressing profiling gives police agencies the opportunity to fix the problem. Many police officers voice a similar sentiment about racial profiling: "Other departments may have a problem with issue, but not mine. Sure, it's an issue in some places, but I see no evidence of it here. I know the people who work here, and they're not bigots. That's not who we are as a department." This is a common way of thinking in many places, and it is important to say that, in any particular place, it may be correct.

Even assuming so, this way of thinking does not prove that police need not or should not address profiling or that those departments that have done so should discontinue their efforts. Rather, the important idea is that if a police agency does have a problem with race-based policing of which its personnel are not aware or if an agency did not have a problem in the past but may be developing one now, there is only one way to know this: active monitoring of traffic stops and other routine investigative activities in order to detect possible patterns of conduct that could signal an incipient profiling problem. Unless the agency and its leadership know that a problem exists, there is simply no way—none at all—to fix the problem. Surely everyone would agree that, if a problem with racial profiling does exist, it should be fixed; knowing about it and ignoring it would seem irresponsible at best. Thus, the only path a department can take that actually allows it to assure the public that it does not enforce the law in a racially or ethnically biased way is by actively monitoring and measuring its own activities on an ongoing basis. The old saying among administrators really rings true: You can't manage what you don't measure. If police leaders and their departments want to manage their departments correctly, to make sure that police officers serve everyone fairly without alienating anyone, they must monitor and measure the activity of their officers. Simply saying "we don't think we profile, and you can't prove we do" will not do anything to gain the trust of the public, and it will not allow departments to address a problem if one exists.

Addressing profiling improves public safety. Many in law enforcement feel that addressing racial profiling actually detracts from core efforts to ensure public safety. This has always been an argument made against collecting data about traffic stops: time that went into filling out the profiling data collection paperwork and designing the systems necessary to make sense of it, some said, was a waste of valuable resources that would be better spent on "real" crime fighting—catching bad guys. One still hears this argument, even though we now know that designing and operating a data collection and analysis system to track profiling costs much less than many initially predicted.

All of this, however, misses the important point: addressing racial profiling in a systematic, ongoing way will actually help police fight crime and catch bad guys. It is, in other words, not a sacrifice of crime-fighting capacity to some other less important task but a way to enhance the department's ability to lock up criminals.

Return to the argument made above concerning perception. Addressing the perception of profiling, even if the perception was incorrect, would enhance the community's trust of the police. This, in turn, would make it possible to begin trust-based partnerships (or enhance those that already exist), allowing information and intelligence to flow between the police and the community.

Fifty years ago, many believed that citizens should leave crime fighting to the trained professionals—the police. The community reported crimes to the police but then were expected to let the police do the job without any interference. No one believes this any longer. It has become a truism in modern policing that neither the police nor the community, acting alone, can make a neighborhood safe. They can only do this by working together. The intelligence flow that comes from partnerships forms a large part of the reason for this. The information from the community that the police receive allows them to get bad guys off the street. More than that, a real partnership between police and those they serve will allow police to zero in on the right priorities as they fight crime. There are always more crime problems to address than police can handle; therefore, prioritizing becomes both inevitable and essential. For their part, officers may focus on obvious types of visible law breaking; for residents, other matters may be more important. Working together allows police to focus their limited resources on the tasks most important to community safety by finding out from the community itself what those tasks should be.

Addressing racial profiling improves officer safety. The idea that addressing profiling will help to make police officers safer may not seem intuitively obvious. After all, how would collecting data on traffic stops, analyzing these numbers, creating policies against prohibiting profiling, and instituting training against bias in policing help to keep cops safe from the dangers they face on the street? The answer to this question tells us everything about the dividends that police departments and their officers earn when they make forthright efforts to confront this difficult problem.

Start by thinking about a few basic facts of law enforcement life. Traffic stops remain the most frequent occasion for contact between police and the public. The 1999 Police Public Contact Survey—a study conducted by the non-partisan Bureau of Justice Statistics that involved a survey of almost 90,000 Americans—found that over 50% of all contacts between police and members of the public occurred during traffic stops. Traffic stops were more than twice as frequent as the next most common kind of encounter. Traffic stops have the potential for danger; much training both in police academies and in the field centers on the correct—that is, the safest—way to approach a vehicle after an officer stops it. Even when deadly danger does not present itself immediately, even the greenest police rookie soon learns that traffic stops can be tense and unpleasant. This tension can, of course, lead to an escalating set of problems (e.g., drivers get mouthy and disrespectful with officers, and officers get upset over this lack of respect and want to assert their authority and control the situation). None of this leads to anything good for police or citizens.

When a department addresses the racial profiling issue, the effort often includes a public education component: departments make an effort (and if they do not do this, they should) to let the public know that they are taking action. Departments also commonly alter their protocols for officer conduct during traffic stops, obligating police officers to introduce themselves, explain the reason for the stop to the driver, speak to the driver politely and respectfully no matter how rude he or she may be,

and even inform the driver after the enforcement action ends how he or she can lodge a complaint. The point is that these changes will eventually bear fruit in the form of less confrontational, and therefore less dangerous, traffic stops. The more that members of the public understand that police really mean to address their concerns with profiling and are actually taking action to do so, the more they are likely to accept the legitimacy of any individual officer's actions in a particular stop. Put another way, the more comfortable and assured that the public becomes with the fairness of their own police officers, the more likely it is that the traffic stop will go smoothly, and that both the officer and the citizen will remain safe.

Will police efforts to address racial profiling cause this change in attitudes and understanding during traffic stops to happen immediately? No. Will there still be loudmouths and jerks who will have ugly things to say to officers during a traffic stop no matter how much courtesy an officer may use? Yes. Will some African Americans or Hispanics still accuse officers of stopping them because of their race or ethnic appearance, regardless of how blatantly they may have violated the traffic code? Yes, absolutely. These things will not go away in a week, a month, or a year; we should not expect that they will. After all, the practice of racial profiling took root well back in the beginning of the 1980s, and in some places, it has been the norm for more than two decades. The point is that visible, widely known efforts to combat racial profiling will eventually penetrate the public mind, and we can look forward to a time in which members of the public do not automatically assume that racial profiling is the norm—because it will not be. This will make encounters between police and citizens less tense, less likely to develop into confrontations, and less heated—in a word, safer.

If addressing racial profiling can create this kind of direct, long-term path toward officer safety, it can also do this in some less direct but shorter term ways as well. Observation of communities across the country that have made an effort to come to grips with racial profiling—from large cities like Chicago and Detroit, to smaller places like Wichita, Kansas, and Lowell, Massachusetts—reveal an unseen victory for officer safety. In these cities, police forces and citizen groups have formed task forces to combat racial profiling—to define the problem, to decide how to approach it, and sometimes to help design data collection protocols and the studies used to analyze the results. Often, these task forces have become institutionalized; after addressing the immediate controversy over racial profiling that sparked their creation, they have turned into permanent bodies that have allowed police and minority communities to form cooperative relationships that span a number of issues in addition to racial profiling. These issues run the gamut from working together to form crime prevention groups, to police recruitment in these communities, to direct issues of officer safety. In several of these communities, I heard—completely independently—a story with important common elements. In each version of the story, a new group of immigrants had gained a foothold: people from African nations. Testy confrontations occurred between police officers and these new immigrants from Africa, and the task forces initially created to address racial profiling took up the issue. These task forces set up police/community workshops, which proved incredibly useful; the workshops provided an invaluable occasion for the police to teach the immigrant community and for the immigrant community to teach the police. From the police, the African immigrants learned how American police officers expected drivers to act when stopped because of traffic violations. Remain in the car, preferably with hands visible and without any odd or furtive movement,

police told them; wait until the officer approaches, and then provide driver's license, registration, and proof of insurance. Then, wait in the car until the officer returns with these items to speak to the driver. When the community had its turn to help the police understand their practices, everyone saw at once the value of this mutual education. In Africa, police learned, it was considered the height of disrespect for a driver to remain in the vehicle and wait for the police officer to come to him; rather, drivers were expected to exit their vehicles immediately and come to the window of the police car, on pain of anger or even ill treatment at the hands of the officers. In addition, the immigrants told police that in African countries, men commonly keep their licenses and money hidden in their socks. Thus, the roots—and the potential causes for potentially catastrophic and deadly misunderstandings exposed. The immigrants thought that moving quickly to the police car and retrieving their identification from their socks was the least they owed police—just respectful behavior; police, for their part, saw men aggressively getting out of their cars, running toward them, and reaching for weapons in ankle holsters. It was the racial profiling task forces that allowed these police and new groups in the communities to talk to each other and discover mutual misunderstanding.

Conclusion

Too often, police officers and their leaders have seen only the negatives of participating, willingly or not, in efforts to address racial profiling, and those negatives are real, to be sure—even if they are sometimes exaggerated. What fewer see is that undertaking these often difficult efforts creates opportunities and upsides for law enforcement, too. By recognizing this, we can understand the bigger picture—that when law enforcement does what it must to address public concern with this issue, it reaps dividends and benefits—not just for the community, but for itself as well.

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David A. Harris, JD, is the author of *Good Cops: The Case for Preventive Policing* (2005) and *Profiles in Injustice: Why Racial Profiling Cannot Work* (2002). *Profiles* marked an important turn in the public debate on biased policing; it was the first major work to show that using race or ethnic appearance as one factor among others in deciding which persons seem suspicious actually hurts police efforts to control crime. He is the E.N. Balk Professor of Law and Values at the University of Toledo College of Law.

Cops Without Heart: An Unintended Consequence of Racial Profiling?

Michael J. Bolton, PhD, Associate Professor, Criminal Justice, Marymount University

While most variables driving the criminal justice system seem fairly well understood, I believe a potential threat to public safety is not being considered. Futurists predict that the mercurial economy, demographic changes, poverty, technology, drugs, and, more recently, acts of terrorism will influence crime patterns as we continue our entry into the new century. What social scientists may be missing, however, is the potential threat to public safety being spawned by a culture of timid police officers who are becoming excessively cautious in their actions rather than risking complaints of racial bias.

In spring 1997, I was invited by the Consortium of Universities of the Washington Metropolitan Area to join a panel being formed to evaluate the implementation of key recommendations, which had been made to the Metropolitan Police Department by an outside consulting firm. For funding reasons, the panel was disbanded before our work was fully launched but not before I was able to skim the consultant's report. A particularly troubling finding was that only a small percentage of District of Columbia police officers were arresting serious criminals in the city, causing me to wonder whether the others were lazy, were indifferent to their jobs, or had simply lost "heart," a term that will be discussed in greater detail later in the article.

In recent years, law enforcement appears to have improved in the District of Columbia, but as a former police manager, I worry that the changes are temporary and not representative of what I fear may be ominous signs of a paradigm shift in American policing. Crime rates in jurisdictions where instances of alleged police misbehavior have been hyped by the media suggest that officers in these departments may be turning away from the people most in need of their protection. If so, I believe this trend portends significant increases in intraracial crime.

Indeed, signs that police are easing their efforts to control violent crime are beginning to attract media attention. For example, Prince Georges, Maryland, which has a police department besieged with criticism, is now witnessing a spike in carjackings and other violent crimes. One indication that the media is retreating from criticizing police on profiling and excessive force incidents in Prince Georges is a *Washington Post* (2002) editorial, which speaks of the department's relationship with the community in a conciliatory tone, oddly different from the harsh commentaries of the past. "The hardworking men and women in the department need relief from repeated allegations of brutality, coercive investigations that produced false confessions, and the wall of silence that has shielded investigations of misconduct in their ranks" ("Me," 2002).

Though I rarely have contact with police officers anymore, having spent many years being one, I'm confident I understand the social dynamics affecting men and women who choose to face the challenges of American law enforcement. I am keenly aware, for example, that most regard the decision to arrest as a serious matter. Indeed, they recognize that even when violators are identified and located,

arrest is not always the best action to take. In fact, community policing alternatives are used at times (e.g., referral to social service, juvenile, or mental health agencies) but on a comparatively smaller scale. This happens in part because among other measures, many chiefs are still judged by how frequently their personnel bring persons charged with violations of law before the courts. Hence, distasteful as these practices may appear, stops, searches, custodial arrests, and traffic citations are not only essential components of law enforcement; in some jurisdictions, they continue to serve as primary indicators of officers' performance as well.

Stops, Searches, and Arrests: Essential Tools of Law Enforcement

Having said this, I'm aware that expostulating about procedures for effective law enforcement is one thing; being profiled or targeted for its application is another. Even without racial or ethnic bias, searches and arrests are profoundly intrusive. How could they not be? Constitutional issues notwithstanding, these practices involve uninvited flesh-on-flesh contact. As a consequence, it seems that a growing number of officers are avoiding enforcement actions not only because searches and arrests increase the risk of injury, but also because they've found it beneficial to circumvent the undignified, pushy aspects of police work. Or as one officer remarked, "I get paid as much for sitting on my butt all day long as for working it off" (Buerger, 2002, p. 12).

Notwithstanding such sarcasm and laziness—indeed, who hasn't met a do-nothing cop with an attitude?—there is a more serious issue to consider. It has been my experience that to a remarkable degree, these same wise guys and others like them—"slugs" as they are called by peers (Buerger, 2002, p. 12)—also possess a keen sense of timing so that when they arrive at crime-in-progress calls, other officers, those whose numbers I suggest are dwindling, are already present and have rendered the scenes safe.

Though seldom openly discussed with the public, I am convinced that officer safety, protecting one's own physical well-being, is the pivotal issue in police work; everything else is subordinate. Police recruits are taught techniques for avoiding injury from the day they step foot in the academy—indeed, even *before* they begin formal training. And with good reason. In *Justice Without Trial: Law Enforcement in Democratic Society* (1994), sociologist Jerome Skolnick informs us that law enforcement consistently ranks among the most dangerous occupations, chiefly because it is the only peacetime profession in which the possibility of being killed or maimed by a stranger is an ever-present hazard.

"Heart" and Its Role in the Police Subculture

Yet, how one handles physical and emotional hazards can be telling. There are many ways to assess the character of a person, but I suggest that if you take a person who possesses the courage to face danger while having his or her actions constantly subject to the review of supervisors, prosecutors, judges, juries, and citizens, what you have is a unique individual with enough "heart" to do a poorly understood job that at best offers little external reward and only occasional internal satisfaction.

Whether we're talking Chicago beat cop, Michigan state trooper, or Baltimore detective, all understand the value of having heart in doing their jobs. Heart is oftentimes linked to courage, morale, or esprit de corps. While courage certainly

is a major element and should always be kept in mind, morale misses the mark in capturing the essence of heart. It is true that while morale is a close cousin of heart, it fails as a definition of heart because it is ephemeral and easily manipulable through reward and punishment. Despite this conceptual disconnect, it is also true that when loss of heart occurs in police work, morale suffers: caring and risk-taking vanish, depersonalization and withdrawal from the community increases, and passion for that which drew one to the job in the first place begins to die.

Heart also ought not be confused with ferocity; even the toughest cops do not covet viciousness, and brutality, as we've seen, undermines trust between citizens and police, inevitably leading to bitterness and hatred, particularly in minority communities. In other words, illicit use of force is not juxtaposed with heart. Whereas aggression may be construed as mindless, forceful, primitive, and reactive, I suggest that having heart is something altogether different. Elusive, obscure, immeasurable, incapable of being articulated with anything resembling precision, we don't know much about having heart, except that it hints of a certain nobility. It may be said that only a few of us have heart, finding it when needed from a reservoir of pluck residing somewhere deep in the soul. Whereas a need to inflict pain may accompany aggression, rancor has no place in having heart, which serves a superior purpose, one not tainted by disdain, enmity, prejudice, or malice.

If having heart exists in scholastic literature, I've not been able to find it, but anyone who has served in a police, fire, or emergency search and rescue unit knows what it means to have heart. Indeed, in the military, the default for coveted medals—the bronze and silver stars and medal of honor—is set at exhibiting heart. Police and fire departments recognize their heroes in similar ways as well. Though not akin to battlefield situations, being on "routine police patrol," a solo activity, nonetheless suggests that police officers typically should have enough heart to step up to one's role and take responsibility for handling the uncertainty, violence, and unspeakable human atrocities most of us prefer to ignore. Good mentors help, and training and well-written procedures can be of some benefit. Beyond keen wits, alert intelligence, and a bit of heart, however, little else is available to keep officers alive and prepare them for the disorienting dilemmas they alone must resolve.

Profiling the Symbolic Assailant

Skolnick (1994) strives to makes sense of this in his assessment of the "working personality" of police, which he feels is shaped to some degree by filtering devices officers use in sizing up "Symbolic Assailants." This concept is derived from a composite of persons whose behavior cannot be predicted, and who, therefore, may pose threats to officer safety. Critics of the Symbolic Assailant Theory argue that these perceptual shorthand mechanisms lack objectivity and are subject to biases that encourage sinister practices such as profiling and indiscriminate use of force.

Perhaps there is something to this, but I admit to a biased skepticism; I tend to believe that these are the opinions of antagonists personally unacquainted with decisionmaking in situations requiring high physical and emotional risk. More candidly, if you haven't been there, you don't know. Moreover, lest there be any doubt of perspective on this issue, I would add that having the mettle to face physical danger knows no ethnic boundary: black, white, and Hispanic officers recognize that when danger is imminent—or perceived to be so—pausing to ponder

the social implications of one's actions can be distractingly reckless and result in injury or death.

Not surprisingly then, furtive actions or deviations in demeanor and appearance may signal unpredictability. Good cops become masters at spotting the out-of-place or the "extraordinary" in their working milieus. In the 1960s, British scholar Colin MaInnes (as cited in Skolnick, 1994), brought the police personality into focus by asserting that it is not thrills and devil-may-care excitement officers desire but order, regularity, and predictability shaped by persistent suspicion.

> The true copper's dominant characteristic, if the truth be known, is neither those daring nor vicious qualities that sometimes are attributed to him by friend or enemy, but an ingrained conservatism, and almost desperate love of the conventional. It is untidiness, disorder, the unusual, that the copper disapproves of most of all: far more, even than of crime, which is merely a professional matter. (Skolnick, 2004, p. 47)

Thus, beyond the usual gallery of prostitutes, robbers, carjackers, and drug dealers, people loitering in the streets, dressing extravagantly, speaking with exotic accents, being strange, weak, eccentric, or *simply any minority* whose behavior cannot be safely predicted qualify as Symbolic Assailants (Skolnick, 2004).

Regrettably, however, this characterization is sometimes carried too far with the result that despite the fact they've done nothing to warrant suspicion—and have every reason to resent it—African American males often are unfairly perceived by officers as individuals likely to be involved in criminal activity. Skolnick observes that this may account for why black males who are stopped run a higher risk of being searched for drugs and weapons. It may also help explain why the officers who hold negative attitudes toward African American males do not admit to being racially prejudice or biased.

Nevertheless, were this merely another instance of buying into stereotypes, nothing more would need to be said; however, the crux of the issue cannot be explained away by sweeping allegations of police racism. As in most countries, American street crimes are committed by the poor, our disenfranchised urban "rabble," individuals who are unemployed or with low incomes, little education, and depressingly bleak outlooks on the future.

Indeed, John McWhorter (2000), African American author of *Losing the Race: Self-Sabotage in Black America*, may not be too far afield with his opinion that "Even a police force devoid of racism, and never abusive or discourteous in stop and frisk encounters, would in some areas have to stop more black people than white to prevent crime effectively" (p. 17). Ecological studies support this idea, but McWhorter also hits the mark in explaining that whereas the disproportionate percentage of black men in prison closely parallels the crimes they actually commit, the reasons they commit more crimes are exceedingly complex, including systemic racism.

Social Class as a Better Predictor of Police Behavior

And this, I suggest, is the central issue that white and black Americans choose to ignore or prefer to discuss only with persons of their own race. In fact, multiracial

conversations on the subject are virtually nonexistent. It is, however, a frustrating area of police discretion, one that keeps criminologists in a quandary. What *exactly* does the data tell us about disparities in arrest records? Are they accurate indicators of minority involvement in crime, or are they concealed markers of police racism? In the academy, debate on the issue continues, but having perused ample research on race and crime, I'm satisfied with what appears to be the prevailing view, which is that while racial bias does affect law enforcement to some extent, at best it offers weak explanation for the substantially higher arrest rates of minorities. The closer I look, the more convinced I become that social class brings the issue into better focus.

Social class provides richer insights into perceiving crime as an economic necessity. For example, the fact that the war on drugs has disproportionately targeted our maladroit street criminals or so-called "dangerous classes"—while leaving wealthy white corporate thieves undisturbed by criminal sanction—suggests that differential enforcement motivated by class discrimination is a viable theory. Moreover, a body of literature exists to suggest that members of the powerful upper classes in America routinely use police, prosecutors, and judges as instruments for protecting the rapacious acquisition of wealth and guarding their material interests.

Understandably then, support also exists for an equally compelling theory that members of the elite ruling class have the privilege of defining which behaviors are classified as unlawful, who is defined as criminal, how individual cases are processed through the criminal justice system, and who goes to prison and for how long. It is, therefore, not surprising that one of the most popular readings in upper-level criminology courses is Jeffrey Reiman's (2001) *The Rich Get Richer and The Poor Get Prison: Ideology, Class, and Criminal Justice*, which helps us see that the very act of controlling crime is itself big business. We *need* the criminal, Karl Marx (as cited in Sheldon, 2001) cautioned because . . .

> The criminal produces not only the crime but also the criminal law; he produces the professor who delivers lectures on this criminal law; and even the inevitable textbook in which the professor presents his lecture as a commodity for sale in the market. . . . Further, the criminal produces the whole apparatus of the police and criminal justice, detectives, executioners, judges, etc. Crime takes off the labor market a portion of the excess population, diminishes competition among workers, and to a certain extent stops wages from falling below the minimum, while the war against crime absorbs another part of the same population. The criminal, therefore, appears to be one of those natural "equilibrating forces" (p. 269), which establishes a just balance and opens up a whole perspective of "useful" occupations.

Thus, fighting crime—and the targeting of persons fitting profiles of drug couriers—has steadily gained in popularity since the 1980s, chiefly due to the debut of crack cocaine but also because of the decline of the military industrial complex. Prior to September 11, 2001, our external enemies were not given the scrutiny they receive today; so, as Randell Shelden (2001), author of *Controlling the Dangerous Classes - A Critical Introduction to the History of Criminal Justice* asserts, "We had to find internal ones, even if we had to invent them" (p. 268). The net result has been increased public fear about increasing crime with an emphasis on putting people in prison, which finances a crime control industry in which (excluding recent skyrocketing

costs associated with terrorism) estimates of annual expenditures for 2005 exceed $200 billion.

Using Sheldon's prediction as a guide, it is easy to see how the war on drugs is construed as a war on members of the underclasses who are heavily involved in lower levels of drug dealing, they are profiled because they are easier to catch than major kingpins. This is a plausible but not altogether illuminating argument. Institutional racism is inexcusable, but taken in context, anyone familiar with the plight of urban neighborhoods cannot ignore the misery: they stay mired in poverty, decadence, and violence when drug dealing flourishes.

Damning the Police: A Quest for Sense of Proportion

Consequently, I believe a complicated, damned-if-you-do, damned-if-you-don't paradox has developed, which perplexes police officials at all levels and promises to grow worse. On the one hand, police are condemned when suspected of targeting ethnic groups. If officers fail to act because they fear their actions will be viewed as racially motivated, however, increases in violent crime and climates of fear will likely envelope minority neighborhoods as formal control mechanisms weaken, giving free rein to local predators and drug entrepreneurs.

In conclusion, though I believe early signs of a paradigm shift in urban policing are manifest, I have no evidence, nor any answers. This is not my intention. I will suggest, however, that although data continues to emerge on various aspects of profiling, much of what we know remains incomplete because it lacks inclusivity; aside from roadside data collection mandated by some chiefs, input from the perspective of the beat cop has been largely ignored.

Police officers are not criminologists, nor are they necessarily interested in the social forces that create the persons with whom they have the most contact. This does not mean, however, that their voices ought to be ignored or kept from the polemics concerning how they should comport themselves when confronting suspects of diverse racial backgrounds. Whether pretexts are used to justify stops or not, the fact that protests from rank-and-file police—"we are not intentionally profiling anybody"—are not taken seriously hints of a condescension that assumes most officers are not forthcoming about the degree to which racial bias influences their behavior.

To be clear, the variables of interest in this essay have not been the occasional corrupt, racist, or outlaw cops, who've yet to be brought to justice, but the good ones who I believe are becoming increasingly reluctant to act, even in situations requiring immediate police intervention.

Officers harboring toxic prejudices need to be identified. Those using the law to abuse others must be dealt with, and given the detrimental nature of such behavior, removal from police service, arrest, and prosecution certainly may be warranted. But again, these are not the police officers with whom I've been acquainted. Not by a long shot. I created the "Cops with Heart" metaphor to describe the sincere, public-spirited individuals who remain uniquely well-situated to shape the future of law enforcement providing they do not lose faith in their leaders.

Unlike the bad apples who trigger outrage by their actions, most officers are conscientious, enjoy their jobs, and do them well. Undeniably, they would prefer to do them better without the added worry that a career-ending accusation and the anxiety-inducing stress that comes with it may await their next move. Finding a way to deal with officers' concerns without relinquishing the need to maintain accountability and enforce standards of ethical conduct is a horrendous task for local officials. I wish I could offer a workable solution. I cannot, but I do suggest that a good place to start is in recognizing that enthusiasm for serious police work may be waning on a scale much greater than realized. If not addressed, police inertia eventually may supplant racial profiling as the topic of the day; perhaps now is the best time to bring the subject into the open for discussion.

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Racial Profiling: The Link Between Equality of Treatment and Satisfaction with Police Protection

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Introduction

Over the last couple of decades, much of the American public has become aware of the law enforcement practice of racial profiling—a phenomenon broadly defined as situations in which criminal justice practitioners, like police officers and judges, act (at least in part) based on the race of particular individuals. Though some still believe that racial profiling does not exist, the reality of this discriminatory practice has been confirmed by numerous studies. Studies using objective measures to indicate racial profiling by law enforcement officials have included observational data. Specific tactics focusing on minorities have been observed in some police procedural and training manuals. Additionally, various studies that analyze the racial distribution of traffic stops within certain regions have also corroborated the claim that minorities are disproportionately targeted as potential criminals by police (Fagan & Davies, 2000; Lange, Johnson, & Voas, 2005; Rudovsky, 2001; Spitzer, 1999; Walker, 2001). Still other studies have used a less direct approach by recording information on roadway users and their driving behavior (Lange, Blackman, & Johnson, 2002; Meehan & Ponder, 2002). It has been noted, however, that there are several definition-related and methodological limitations that plague racial profiling research that uses objective measures (Schafer, Carter, & Katz-Bannister, 2004).

Studies that use subjective measures of the prevalence of this practice typically involve asking individuals about the quantitative and qualitative aspects of personal experiences with police stops. Individuals are usually asked whether they feel they have been stopped by police primarily because of their race or ethnicity, and if so, they are asked about what types of things occurred during the encounter with the police officer, including demeanor of those involved in the exchange (Reitzel, Rice, & Piquero, 2004; Schafer et al., 2004; Tyler & Wakslak, 2004). Citizen surveys offer a useful mechanism to determine the accuracy of other observational data sources. The survey data is generally compared according to the race of survey respondents and the racial composition of the areas in which they were stopped (Reitzel et al., 2004; Schafer et al., 2004). Care needs to be used in interpreting this data, however, because citizens most likely do not have information about what influences police behavior. The incongruence between officer accounts and those of the public may point to greater methodological problems rather than resolving any suspicions of profiling.

Beyond these more traditional subjective indicators of profiling, some studies have assessed the degree to which the public *perceives* that racial profiling occurs,

regardless of their own experiences with it. Many believe that racial profiling is regularly carried out by law enforcement officers, whether they feel personally affected by it or not (Gallop Poll, 1999). In addition, it appears that people not only believe that racial profiling is a somewhat regular occurrence, but one recent study indicates that people disapprove of this practice, whether they have personally experienced it or generally believe that it happens in the community or city in which they live (Weitzer & Tuch, 2002). Of course, it should be noted that there seems to be a substantial lapse in confidence in the law and law enforcement among racial and ethnic minorities, which means we would expect there to be even greater perceptions of racial profiling among those who have had a higher chance of being personally affected by it (Tyler & Wakslak, 2004).

Public perceptions about racial profiling by police may have various consequences. One such consequence is the potential to influence support for law enforcement (Tyler & Wakslak, 2004; Weitzer, 2002; Weitzer & Tuch, 2002). Using data from Los Angeles and Oakland, California, Tyler and Wakslak (2004) found that the belief that law enforcement racially profiles made respondents less willing to accept police decisions and less satisfied with police officers (as operationalized by an index of the questions "He/she did a good/bad job dealing with my situation." and "How satisfied were you with the way he/she handled the situation?"). Another model in this research based on a New York telephone survey indicates that all levels of profiling inferences (i.e., profiling is prevalent, profiling is not justified, and feeling personally profiled) led to decreased police satisfaction. The more prevalent people believe racially profiling is, the less they support police.

Conversely, it has been suggested that there is a fine line between police officers acting fairly by not profiling based on racial qualities and law enforcement efficacy (Beck & Daly, 1999). Specifically, it is possible that "forbidding the police from using some characteristics may reduce the effectiveness of policing" (Persico, 2002, p. 1472). Viewed from this perspective, regardless of whether they approve of racial profiling or not, members of the public may actually feel more protected and more satisfied by police officers if they believe that racial profiling occurs. Because of this possibility, some judiciaries have been cautious in imposing sanctions on police who have used race-based tactics to fight crime (Persico, 2002).

Racial profiling presents a policy concern because police agencies are more or less indirectly dependent (through legislative bodies) on levels of public support for funding and the implementation of various programs. Because public opinion and public policy are congruent between 60% and 75% of the time,[1] research findings on perceptions of racial profiling and police satisfaction are particularly important. In this study, we explore whether citizen attitudes about racial profiling affect perceptions of law enforcement efficacy. Specifically, we hypothesize that individuals who perceive that police treat all citizens equally, regardless of racial characteristics, are more satisfied with the protective services offered by law enforcement as a whole.

The Present Research

Racial profiling ultimately is not just the concern of law enforcement and the judiciary. Citizen satisfaction with police services relies on perceptions of treatment of potential offenders by criminal justice agencies. The impact of racial profiling, therefore, must be considered in terms of how it affects public perceptions, as well

as how it pertains to public satisfaction with police protective practices. While only a relatively small body of research has focused on public perceptions of racial profiling, no prior research has specifically explored the nature of the impact of perceptions of *equality of treatment* by law enforcement officials. Equality of treatment represents the antithesis of racial profiling. It examines the same phenomenon but from the opposing perspective.

Previous studies have assessed the relationship between perceptions of racial profiling and satisfaction with police, as mentioned above; however, to our knowledge, no prior studies have operationalized satisfaction using the measure we employ in this research. Specifically, we investigate satisfaction with protection by police. In the present study, we attempt to fill a void in the race and policing literature by investigating how perceptions of whether police treat citizens of different racial groups equally (or unequally) are associated with satisfaction with police protection, controlling for other possible influences.

Data and Methodology

The data presented here comes from a telephone survey conducted by an independent research firm in the fall of 1998. The sample was drawn from Tallahassee, Florida residents over the age of 18. This capital city of a large southern state, encompasses an area of approximately 70 square miles and contains a demographically diverse population well over the 150,000 mark that represents a broad spectrum of opinions, outlooks, and backgrounds. Furthermore, because this city is a state capital, this location has one of the largest per-capita rates of law enforcement officers in Florida and has branches of local, state, and federal law enforcement.

Our final sample includes 1,079 randomly selected adult respondents who agreed to participate in this study. These respondents were selected by asking to speak to the adult with the most recent birthday in the household, accessed by random digit dialing[2] (Kish, 1965). At the 95% confidence level, the margin of error for this sample size is plus or minus 3%. The overall response rate of 57% was calculated using the standard definition established by the American Association of Public Opinion Research, which includes refusals and incompletes in the calculation (AAPOR, 2004).[3]

Our research considers public assessments of racial profiling as well as the impact that racial profiling policies have on satisfaction with police protection. Thus, the dependent variable for the current study is satisfaction with police protection. Using a Likert-type 5-item scale with responses ranging from one to five,[4] respondents indicated the extent to which they agreed with the following statement: "*I am satisfied with the level of police protection in Tallahassee*." The mean score of satisfaction with police protection is 2.52, in which a score of 1 represents "strongly agree" and 5 represents "strongly disagree" with the statement.

The principal independent variable considered in this analysis is the perception that police treat people equally. Police equality of protection is operationally defined as the extent to which respondents agreed with the following statement using the same 1 to 5 scale as that used to code the dependent variable: "*Police treat all citizens the same, regardless of race.*" As shown in Table 1, the mean score for police equality of treatment was 3.19, indicating that the average respondent believes that the police

do not treat people the same at a level between 3 and 4. A bivariate correlation with the dependent variable, which is statistically significant at the level of .01 (r=.35), initially suggests that the perception that police treat people unequally due to racial characteristics decreases satisfaction with police protection, supporting our original hypothesis.

Other theoretically grounded attitudinal and demographic variables found to be relevant in previous research on racial profiling and law enforcement are used in this analysis to control for possible outside influences. The potential influence of political ideology is controlled by including a dichotomized measure of political conservatism, with self-described liberals and moderates serving as the reference category. We also include measures of race (dichotomized into African American, with white respondents representing the reference category), ethnicity (dichotomized according to Hispanic lineage), age, employment status, sex, level of education received, and annual income.

Our inclusion of two measures of racialized concern about crime enables us to look at the impact of police equality of treatment while attempting to control for the impact of possible crime-specific racial prejudice. This also allows us to address the common assertions that the "criminal predator has become a euphemism for young black male" (Barak, 1994, p. 137) and that a discussion about crime is, by definition, a discussion about race (Barlow, 1998). These variables are defined as the degree to which individuals are concerned with crime along racial lines, measured by asking respondents the following: "*On a scale of 1 to 10, with 10 representing the most concern and 1 representing the least concern, how concerned are you with . . . crime by white male teenagers, . . . crime by African-American teenagers?"* Concern about crime perpetrated by African American teenagers was higher (mean = 7.02) than concern with whites (mean = 6.50). By controlling for concern about crime based on offenders' races, this model more accurately represents the impact of equal treatment of citizens by the police on levels of public beliefs about police protection. These measures of concern with crime were significantly correlated (r=.14) with dissatisfaction with the treatment of citizens by police officers.

We include yet another measure of crime salience, which addresses prior interactions between respondents and law enforcement. To isolate the influence of individual experiences with police during the course of criminal victimizations, we include the response to a question about previous household victimization. All variables included in the final analysis, with the exception of sex and Hispanic ethnicity, are significantly correlated with satisfaction with police protection at the .01 level. All variables in the analysis are presented with descriptive statistics and bivariate correlations with our dependent measure in Table 1.

Table 1
Descriptive Statistics for Variables in Analysis

Variable Name	Mean	S.D.
I Am Satisfied with the Level of Police Protection in Tallahassee. *1 (Strongly Agree) to 5 (Strongly Disagree)*	2.52	1.10
Police Officers . . . Treat All Citizens the Same, Regardless of the Citizen's Race. *1 (Strongly Agree) to 5 (Strongly Disagree)*	3.19	1.11
Concern with Crime by African American Male Teenagers *1 (Not at All Concerned) to 10 (Very Concerned)*	7.02	2.43
Concern with Crime by White Male Teenagers *1 (Not at All Concerned) to 10 (Very Concerned)*	6.50	2.49
African American *1 = Yes, 0 = No*	0.22	0.41
Hispanic *1 = Yes, 0 = No*	0.04	0.20
Age *Age of Respondent from Last Birthday*	38.01	17.69
Conservative *1 = Yes, 0 = No*	0.35	0.48
Currently Employed *1 = Yes, 0 = No*	0.73	0.45
Education *5 Categories from Some High School to Post-Graduate*	3.27	1.10
Female *1 = Yes, 0 = No*	0.54	0.50
Household Victimization *1 = Yes, 0 = No*	2.82	1.23
Income *5 Categories from <$15K to Over $75K*	0.16	0.37

$p < .05$ (two-tailed test)

Findings

In order to determine the independent effects of perceptions of equal treatment by police on satisfaction with the amount of police protection, further analysis employed ordinary least squares (OLS) regression. Table 2 reports the results of regressing satisfaction with police protection on the set of independent variables previously described for the full sample. The final sample size for the regression model was 971 after using listwise deletion to handle cases with missing data.[5] Findings show that the R^2 of the model is .15, which is not atypical for research on public attitudes. Of the 12 independent variables included in this model, 6 of them significantly predict satisfaction with police protection at the .05 level.[6]

Table 2
OLS Regression Models for Satisfaction with Police Protection

N = 971	B	Beta	Standard Error
Police Officers . . . Treat All Citizens the Same, Regardless of the Citizen's Race.	0.30*	0.31	0.03
Concern with Crime by African American Male Teenagers	0.04*	0.10	0.02
Concern with Crime by White Male Teenagers	0.02	0.05	0.02
African American	0.20*	0.07	0.09
Hispanic	0.06	0.01	0.16
Age	-0.01*	-0.07	0.00
Conservative	-0.03	-0.01	0.07
Currently Employed	-0.07	-0.03	0.07
Education	-0.06*	-0.06	0.03
Female	-0.05	-0.02	0.07
Household Victimization	0.16*	0.05	0.09
Income	-0.04	-0.04	0.03
Intercept	*1.60*		*0.21*
R^2	*0.15*		

p < .05 (one-tailed test).

These results indicate that, independent of other factors, the public perception that police officers treat people equally regardless of race is positively correlated ($b = .30$) with levels of satisfaction with police protection ($p<.05$). Furthermore, the public perception of equality of treatment by law enforcement was the strongest predictor of satisfaction with protective services. These results support our initial hypothesis, suggesting that satisfaction with police protection decreases in areas where public perceptions of unequal treatment by police are greater.

Additionally, concern with crime perpetrated by African American teenagers is associated with lower levels of police satisfaction at the level of .05 ($b = .04$). Concern with crime by white teenagers, however, is not statistically significant in this model, indicating that crime-specific racialized concerns do, in fact, play a role only for black teenagers. If concern with crime was not racialized, the expectation would be that measures of concern for both black and white teenagers would be significant, or neither would be significantly associated with satisfaction with police protection. Differences in direction suggest that racial concern with black crime decreases levels of satisfaction with police protection, controlling for the other factors in the model.

Other factors influencing police satisfaction are race, age, education, and household victimization. As expected, African-Americans report lower levels of police satisfaction, as do those who have experienced victimization in their household. Those with more education and older respondents are more satisfied with police protection. Standardized Beta coefficients indicate, however, that the influence of these control variables in this model is nominal.

Discussion

The present study differs from prior research on public attitudes about racial profiling and satisfaction with police because of the particular way that our dependent and

primary independent variables were constructed. To date, this is the only research that has considered public beliefs about racial profiling from the alternate perspective of perceptions of *equality* of treatment by law enforcement officials. In addition, no previous research has used satisfaction with police *protection* as a measure of overall satisfaction with police. As with the findings of previous research, our study indicates that those who believe racial profiling by law enforcement is more prevalent will be less satisfied with the protection provided by police.

The practical implication of this work is that in areas with higher levels of racial profiling, there will be diminished support for various law enforcement policies and programs, and we can expect greater satisfaction with and support for police in places where the public does not feel racial profiling is a problem. As suggested by Tyler and Wakslak (2004), a framework based on psychology may be the best approach for addressing issues of policing and regulation. Any attempts to eliminate racial profiling by police must, of course, deal with preventing its occurrence; however, psychological factors that affect individual interpretations of interactions with law enforcement must be addressed if we would also like to increase satisfaction with police. In order to move forward and increase public satisfaction with police protection, racial profiling—and the impression of racial profiling—must be minimized. The necessity of this comes from the fact that increasing support for law enforcement personnel will enable them to operate more effectively and better serve their communities, which will not only benefit law enforcement agencies but members of those communities as well.

Several policy implications arise as a result of this research. One possible policy implication is that through law enforcement educational and training programming, police officers may be made more aware of the negative consequences that accompany racial profiling. Another policy should strive to increase equality of treatment of citizens, such that there are no differences in the way members of different racial groups are treated, thus increasing citizen satisfaction in communities. Finally, because public perceptions may not necessarily be formulated directly as a result of *actual* incidents of profiling, public policy should attempt to increase perceptions of police fairness and demonstrate equality of treatment by law enforcement. This is certainly not to suggest that the root problem of racial profiling should not be tackled by well-focused public policy because this would undoubtedly be a worthy pursuit. Since this research corroborates the idea that *perceptions* of profiling have the power to influence satisfaction with police, which may in turn benefit both law enforcement and the public in a variety of ways, beliefs—both founded and unfounded—should be addressed.

Endnotes

[1] Research on public opinion and its effects on public policy shows that it can be quite substantial, which means that if the majority of the public support harsh criminal sanctions, these wishes will be met a majority of the time. In a study measuring the congruence between popular opinion and official policy, results indicate that the two are parallel 60% to 75% of the time, depending on whether the preference followed the status quo or elicited a change in policy (Monroe, 1979, p. 10). A follow-up study supported this finding by examining 357 instances of public opinion change. This found that policy change was congruent with opinion change 66% of the time (Page & Shapiro, 1983). In a similar study, it was again found that, depending on the presence of certain factors relating to the

degree to which the public perceives an idea, "public opinion does in fact have substantial proximate effects upon policy making in the United States" (Page, Shapiro, & Dempsey, 1987, p. 23).

[2] A two-stage modified Mitofsky-Waksberg sampling design was used to provide a telephone sample that closely mirrored the characteristics of a simple random sample while providing enhanced productivity by focusing on household exchanges. The demographic characteristics of the sample were within sampling error of the population.

[3] By eliminating business, fax, and disconnected numbers, the survey attained an acceptable response rate for those individuals beginning the survey based on the national average of 60% (Weisberg, Krosnick, & Bowen, 1989).

[4] 1 = Strongly Agree, 2 = Agree, 3 = Neutral/No Opinion, 4 = Disagree, and 5 = Strongly Disagree

[5] Further analysis did not reveal any apparent bias introduced by excluding missing cases. **Note:** *Listwise deletion* is a statistical term that means "exclusion of cases that are missing information on any of the variables used in the analysis, even if they are not missing information for the particular statistic being calculated."

[6] No problems with multi-colinearity are apparent with tolerance levels consistently over .67. Heteroskedasticity (a statistical term meaning that the sample has unequal variances in the population; it is an assumption of using OLS regression) was established by using a Modified Gleisjer test.

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Racial Profiling in Law Enforcement: Reality and Perception

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On July, 18, 2003, Illinois Governor Rod Blagojevich signed Public Act 93-209 into law. The law required every law enforcement agency in the State of Illinois to begin collecting certain information from every traffic stop made beginning January 1, 2004, and continuing through December 31, 2007. The data to be collected includes the race/ethnicity of the drivers of motor vehicles as well as arrest and search information. The collected information must be reported to the Illinois Department of Transportation every March, and it will be then sent to the Center for Public Safety at Northwestern University for analysis. A report is then prepared and sent to the Illinois General Assembly every July for debate and public release. The question is, "why has this time consuming, expensive, and unfunded state mandate been implemented?" The mandate seeks to determine whether law enforcement agencies in Illinois are taking enforcement actions on citizens based on their race/ethnicity.

Illinois is not alone in this endeavor. According to the Institute on Race and Justice at Northeastern University in Boston, there are 24 states that are under legislative mandate to collect traffic stop data and 22 more that are collecting data without legislation. There also are some jurisdictions required to collect data as part of an agreement known as a "Memorandum of Agreement" or "Settlement Agreement" with the United States Department of Justice. Police agencies across the nation have been accused of widespread bias-based enforcement by organizations like the American Civil Liberties Union (ACLU) and the National Association for the Advancement of Colored People (NAACP). The news media broadcasts and publications contain articles almost on a daily basis about this provocative and divisive subject. The result is that the police are viewed as the enemy, and everyone knows that if it is written in a newspaper or on television, it must be true.

The purpose of this article is to look at the truth behind the allegations of racial profiling. Both sides of the argument are explored, and significant issues are addressed. The methods of data collection are also analyzed, and that analysis reveals that the most popular methods of data collection are flawed and lead to incorrect conclusions. Finally, the role of the media is investigated to determine the extent to which its influence has fanned the flames of controversy and mistrust in the police. The question, "Does racial profiling exist?" must be answered yes, but only on a limited and individual basis. A small minority of unethical officers has given law enforcement a black eye, and they will be and are being dealt with by their organizations and peers. This article demonstrates that bias-based policing is not a pattern or practice for the majority of law enforcement officers in this country, and there is no overwhelming and convincing data to prove otherwise.

Civil rights groups, law enforcement agencies, and the federal government all have definitions of racial profiling and racially based policing. Although the wording differs, most concur that racially based policing occurs when officers inappropriately (solely) consider the race or ethnicity in deciding with whom and how to intervene

in an enforcement activity (Fridell, 2004). There is no dispute among all parties involved that actual occurrences of racial profiling and bias-based policing violate the United States Constitution as well as other applicable laws, statutes, and individual police department policies. The 14th Amendment of the United States Constitution guarantees that citizens of the United States will not be denied equal protection of the law, and the 4th Amendment prohibits unreasonable searches and seizures of persons and property. Reasonableness is determined by justifiable facts and circumstances that make an officer believe that criminal activity has occurred or is about to occur (Schott, 2001, p. 26). Obviously, decisions based solely on race or ethnicity would be suspect and on the surface not reasonable. Title 42§ 1983 of the United States Code, makes it illegal for a person under color of government authority to deprive any citizens of the United States any rights granted to them under the Constitution. There is no question that the actual practice of racial profiling is illegal, unethical, and against legitimate police policies and practices.

Drugs and Profiling

Racial profiling is not a new controversy. In June of 1999, University of Toledo College of Law Professor David A. Harris attributed President Ronald Reagan's 1982 declaration of a "war on drugs" as a key event in modern racial profiling practices. Professor Harris illustrates his point by citing a 1985 Florida Department of Highway Safety and Motor Vehicles guideline for police on "The Common Characteristics of Drug Couriers." In the guideline, Professor Harris states that officers were advised, "Be suspicious of […] drivers wearing lots of gold, drivers who do not fit the vehicle, and ethnic groups associated with the drug trade" (p. 5). According to Professor Harris, this guideline not only encouraged racial profiling but spelled out how to do it.

There have been presumptions in law enforcement and throughout the country that most drug offenses are committed by minorities (Harris, 1999). These presumptions are what encourage racial profiling. Because the police are mainly looking for minorities, they are stopping minorities. As a result of more minorities being stopped, there is a disproportionate number of minorities arrested, and the presumption then becomes a "self-fulfilling prophecy." More minorities are arrested, so therefore more minorities are drug offenders (Harris, 1999). Professor Harris points out that in actual government reports, 80% of the country's cocaine users are middle class, white suburbanites (p. 6). In contrast, "Blacks constitute 13% of the country's drug users; 37% of those arrested on drug charges; 55% of those convicted; and 74% of all drug offenders sentenced to prison" (p. 7). This, Harris concludes is all due to racial profiling. The white offenders are often overlooked and the result is a "corrosive effect on the legitimacy of the entire justice system" (p. 3).

The existence of these assumptions is also expressed by David Rudovsky, a professor at the University of Pennsylvania Law School. He cites an incident in Philadelphia where a car containing four young African-Americans was stopped by police and searched. When one of the occupants asked why they were being detained, a policeman answered, "Because you are black and in a high drug trafficking area while driving a nice car" (Rudovsky, 2002, p. 28).

There is another side to the minority drug use debate. In the *Albany Law Review*, London (2002) refuted the case against racial/ethnic based stops by pointing out

that if the drug trade is being controlled by a certain section of the population in a certain area, it would be foolish for the police to ignore that section of the population just because it was a minority. It does not mean that all the members of that population are dealing drugs, but it would be a good place to start (p. 343). London uses an example of the Washington Heights section of New York City. It was common knowledge that the Dominican population controlled cocaine traffic in the area and the Jamaicans controlled heroin. That didn't mean that every Dominican or Jamaican in Washington Heights was a cocaine or heroin dealer, but it wouldn't make sense to ignore these groups just because of their race. London argues that this activity is not illegal profiling but a matter of common sense. He gives an example of a female in New York: If there are two subway cars and one has Hari Krishnas in it, and the other has several young males with their hats on backwards and playing a loud boom box, which car would the female enter? This is profiling in the strict sense but also common sense, and "People operate on assumptions all the time" (p. 346).

London does not deny that profiling exists. He also does not endorse the use of race as the only factor to determine enforcement action. He recognizes that in an attempt to be "politically correct," the government is prone to be excessive in its pursuit of perceived injustice. He points out the policy of affirmative action as an example of the government trying to correct wrongs of the past with a temporary fix when there is no likelihood of real change (p. 346). London endorses the use of common sense, and the assumptions that are made must be appropriate to the circumstances.

The U.S. Court of Appeals for the Eighth Circuit also agreed with the common sense approach. In the case of *United States v. Weaver*, the court declared that citizens should not be regarded by law enforcement officers as presumptively criminal based on their race; however, it also stated that it makes no sense to ignore facts simply because they are unpleasant (Kennedy, 1999). When circumstances are such to include race with other factors, then it could be a legitimate reason to take enforcement action. Other courts have agreed with the Eighth Circuit that the Constitution does not prohibit the police from taking race into account as long as they do it for purposes of bona fide law enforcement, and the sole reason for the action is not based on race alone (Kennedy, 1999).

The Courts

In 1944, the case of *Korematsu v. United States* was heard by the United States Supreme Court. The case involved an American of Japanese descent who sued because he was excluded from military areas on the West Coast of the United States due to Presidential Executive Order 13, issued in May of 1942. Mr. Korematsu claimed that he had been denied his rights to due process and equal protection under the United States Constitution (Schott, 2001, p. 25). The justices refused to accept Mr. Korematsu's claim. They felt that during times of national crisis (World War II), preventing spying and internal sabotage were important enough to permit the government to use race as sole distinction in excluding citizens from constitutionally protected rights. In their ruling, however, they also wrote, "Legal restrictions which curtail the civil rights of a single racial group are immediately suspect" (Schott, 2001, p. 25). Since that time, and especially during recent years, the Supreme Court and state courts have not allowed that broad of a government intrusion. Some would

argue that the current Patriot Act is very close, but in relation to racial profiling and traffic law enforcement, the courts have not tolerated actions based solely on race.

One recent Supreme Court case that anti-profiling advocates see as a blow to their cause is *Atwater v. City of Largo Vista* (Schott, 2001, p. 27). This was not a racial profiling case per se. It was the case of a white female who was stopped and taken into physical custody for a minor (seatbelt) traffic violation. The decision in the case was very close, 5 to 4 in favor of the defendant, the city of Largo Vista. On the dissenting side, Justice Sandra Day O'Conner wrote, "Indeed, as the recent debate over racial profiling demonstrates all too clearly, a relatively minor traffic infraction may often serve as an excuse for stopping and harassing an individual" (Cooper, 2001, p. S-9). Justice O'Conner's minority opinion points out that unbound discretion given to law enforcement officers carries with it serious potential for abuse (Schott, 2001, p. 27). The key word here is *potential*. The courts still require some type of legitimate and objectively reasonable cause for stopping a motorist. They will not tolerate traffic enforcement based solely on race. Stops that are motivated only by race are still subject to claims of constitutional violations (Schott, p. 27).

A second Supreme Court case that anti-profiling supporters say undercut their efforts is *Whren et al. v. United States*. Again, this case is not directly related to profiling, but it is alleged that abuse of its ruling will allow a racist police officer to act legally when the officer's "subjective state of mind" in deciding to make a stop or arrest is racially motivated (Cooper, 2001). In this case, Washington, DC officers assigned to patrol a "high drug area" observed a pickup truck sitting at an intersection for what the officers described as an unusually long period of time. The truck then speed off at an "unreasonable" speed. The officers stopped the vehicle to warn the driver about traffic violations and observed plastic bags that contained crack cocaine in Whren's (the passenger's) hands. Both occupants of the pickup truck were subsequently arrested for possession of the cocaine and filed a motion to have the evidence suppressed. They based their request on the theory that the officers' activity was pretextual in nature and therefore unconstitutional under the Fourth Amendment. The motion to suppress was denied, and the defendants were convicted. They appealed to the Court of Appeals, and the district court's decision was affirmed. Justice Scalia wrote the opinion for the unanimous Supreme Court in this case. The court held that a temporary detention like a traffic stop does not violate the Fourth Amendment when probable cause exists that a traffic violation has occurred, and the subjective intent of the officer is not a consideration in its legality.

Complaints against police departments do not always reach the Supreme Court. In *Chavez v. Illinois State Police*, testimony was given that Illinois has a total Hispanic population of less than 8%; however, the Illinois State Police were stopping Hispanics at a rate of 30% (Harris, 1999, p. 18). The plaintiff contended that the cause for this disparity was drug interdiction profiling by troopers assigned to "Operation Valkyrie." The district court disagreed, and a summary judgment for the State Police was entered. On appeal to the U.S. Seventh Circuit Court of Appeals, the court agreed with the district court and dismissed the case. In its published opinion, the appellate court recognized the public perception of traffic stops in connection with drug interdiction; however, when race is used in connection with other factors including moving violations, driver behaviors, as well as other "clues" (in this case a rental car from out of state), it is a reasonable practice. The Appellate Court felt

that to prove the claim, plaintiffs would have to show that there were "similarly situated" people of a different race who had not been discriminated against. In other words, they would have needed to show that there were white drivers, who for example, engaged in the same conduct but were not stopped, searched, or arrested. In their ruling, the court did advise the Illinois State Police that it might want to consider how to change the public perception of racial profiling as it relates to drug interdiction activities.

In 1996, *State v. Soto* was heard in the New Jersey Appellate Court. In this case, a group of African-American motorists moved to suppress evidence of narcotics found in their cars, based on their claim of selective enforcement. According to Professor Rudovsky (2002) of the University of Pennsylvania Law School, "*State v. Soto* [is] the opening wedge in the New Jersey Turnpike racial profiling scandal" (p. 29). During the trial, discovery was used to obtain databases of all traffic stops and arrests by the New Jersey State Police on the New Jersey Turnpike on randomly selected days between 1988 and 1991. The court found that based on the numbers submitted, arrests and searches were disproportionate based on race. The State of New Jersey did not rebut the numbers. They did, however, call attention to flaws and unmeasured variables to the data collected. The court found in favor of the defendants, and the New Jersey Attorney General commissioned a more formal study to be done.

The case also resulted in a United States Department of Justice investigation and a federal civil rights law suit (*United States v. New Jersey*, 1999). To settle the case, the State of New Jersey signed a mutual consent degree with the Department of Justice (Banks, 2003). Professor Rudovsky believes that this was the case that brought national attention to allegations of racial profiling in law enforcement. It also placed the words "Driving while black (brown)" in the conversations of people across the nation (Kennedy).

New Jersey

The court noted in *Soto* that there was a disproportionate number of minorities stopped on the turnpike. The statistics provided to the court indicated that 42% of all stops and 73% of all arrests were of African Americans (Rudovsky, 2002, p. 28). In an interim report filed by the New Jersey Attorney General's office in April 1999, several observations were made—one of the most important being that the reviewing team found that the majority of the state troopers were "honest, dedicated professionals who are committed to enforcing the laws fairly and impartially" (Verniero & Zoubek, 1999, p. 3). They also found that there was no official policy or practice that embraced racial profiling in the New Jersey State Police. The reviewing team chose to use a much more restrictive definition of racial profiling to make their determinations. They defined racial profiling as, "To include the reliance by a state trooper on a person's race, ethnicity, or national origin in conjunction with other factors in selecting vehicles to be stopped . . ." (p. 5). Using this definition, the reviewing team concluded that racial disparities had occurred; however, they also concluded that although some were a result of willful misconduct, many were probably because of stereotypes based on drug and gun courier profiles (p. 80).

Another statistic that was observed and reported by the review team was the number of minorities that were asked to give consent searches: 77.2% African Americans

and Hispanics were asked whether their cars could be searched as compared to 21.4% of white drivers. They also noted that very few stops actually resulted in a search (.07%) (29-30). It should be noted that there were no statistics kept as to how many motorists of any race refused the search and continued on their way without further contact.

Perhaps the most outspoken critic of the anti-racial profiling movement and the New Jersey Turnpike study is Heather MacDonald. Ms. MacDonald is a John M. Olin fellow at the Manhattan Institute and a contributing editor to the *City Journal*; she holds a JD from Stanford University Law School. In a spring 2001 article entitled, "The Myth of Racial Profiling," MacDonald asks the question, "What exactly do you mean by racial profiling, and what evidence is there that it exists?" (p. 1). She answers the question by paraphrasing the common thought that racial profiling occurs whenever statistics show a high rate of minority stops and arrests. The problem with this definition, MacDonald points out, is there is no benchmark by which to gauge whether police are pulling over, searching, and arresting too many minorities (p. 3). MacDonald attacks the New Jersey Turnpike study for just that reason. In a 2002 article in the *New York Post* entitled "Profiling Myth Smashed," she calls the study "shoddy" and claims that it "would earn an F in a freshman statistics class" (p. 1). Ms. MacDonald bases her conclusion on the fact that the study lacked any data that indicated at what rate different racial groups violate the law.

MacDonald points out that there are consequences to overzealous political and Justice Department involvement in law enforcement practices. In 1988, the New Jersey State Police filed 7,400 drug charges from stops made on the turnpike. In 2000, they only filed 370 drug charges. The demoralizing effect did not only affect the troopers on the turnpike but flowed throughout the state police. As a result, The New Jersey Attorney General was asked to study speeding on the turnpike. The state troopers made it clear that they would accept the results of the new study (MacDonald, 2002, p. 1). MacDonald (2002) writes that the report, which was leaked to the *New York Times*, proved that the troopers were only doing their jobs. It was discovered that African Americans made up 16% of the drivers on the turnpike, and they made up 25% of the speeders in the speed zone where profiling complaints were most common (p. 2).

Data Collection and Analysis

The issues of racial profiling and disparities of enforcement action are based upon numbers—the comparisons of how many drivers are on the road and who is receiving enforcement action against them. The most popular method of determining the driving population of a certain jurisdiction is to use residential census information. Unfortunately, although this is the most readily available information, it is the least reliable. This information only tells the story of the number of residents who live in a certain jurisdiction. This does not take into account any other drivers who may travel through the jurisdiction, when they travel, and how often. An example would be a study done in Massachusetts by Northeastern University in Boston. By using residential census data, Northeastern determined that 249 Massachusetts police departments out of 366 were profiling. The study involved the review of 1.6 million tickets, issued over a 2-year period (2001-2003). On its face, the shear amount of data collected would lend credence to the study; however, according to Jack Riley of the RAND Corporation, this could not be any

more wrong. It is not to say that the departments are not profiling; it is just that with the data and comparisons that are being made, it is impossible to tell because it does not provide enough information. It does not tell how many of these census residents use public transportation and never drive. It doesn't tell where the stops were made or whether the areas in which the stops were made were high crime or traffic crash areas. Without specific information on driving patterns, locations of stops, and law enforcement deployment, the census comparisons and Northeastern study told very little of the real story. "Wrong measurements of the problem lead to wrong conclusions and wrong answers" (Riley & Ridgeway, 2004).

In 2002, a U.S. Department of Justice report done by the Office of Community Policing Oriented Services highlighted the importance of data collection methodologies (McMahon, Garner, Davis, & Kraus, 2002). The report acknowledges that the collection of data and its analysis adds to the professionalism of the law enforcement community and public trust. It also found, however, that the collection of improper data or inaccurate data analysis contributes to problems both in public perception and within law enforcement itself (McMahon et al., p. 83).

In an attempt to offset the inadequacies of using census data as a baseline from which to compare, police agencies across the nation have employed other methods or benchmarks. Dr. Alex Weiss et al. (2004) from The Center for Public Safety at Northwestern University, suggests that the easiest and most cost-efficient method is to use not only a jurisdiction's census data but also to average in the census data from surrounding jurisdictions. This is the method that Northwestern is going to use when analyzing and comparing data in the State of Illinois. For example, in the suburbs of Chicago, instead of using just the census data for an individual municipality, Northwestern will use census data for citizens living within the boundaries of one of the six Cook County Circuit Court Districts. In South Barrington, Illinois, that would be the 3rd municipal district. In towns that are located in more than one county (like Hanover Park, Illinois), then combined populations from both counties will be used. This method allows for a larger population base, and an assumption is made that people who live in the area will also drive in the area (Weiss et al., 2004). Unfortunately, this benchmark method still ignores actual drivers, their habits, and who is actually violating the law. In other words, it is still just an estimation of who is actually driving in the area.

In addition, Dr. Weiss and his colleagues suggest that a police department can collect data from the not-at-fault driver in motor vehicle traffic crashes located within their jurisdiction. This additional information can be compared with the modified census data for accuracy. This additional method makes it fairly easy for the police agency to collect and maintain such information since all crashes are already recorded.

Dr. Fridell of the Police Executive Research Forum proposes a more personal and direct approach to collecting benchmark stop information. The "Observation Method" uses human observers to actually count traffic on roadways within a jurisdiction and record drivers' race or ethnicity. In its very simplest form, this information provides information on who is driving through an area in a given time. To make this method even more valuable, Dr. Fridell suggests that information is also recorded on the driver's race, driving habits, and any possible traffic law violations that are observed. The added information adds pieces to the puzzle and gives a more complete picture as to not only who is driving in the area but what

they are doing while they are there (Weiss et al., 2004). Although this method does provide more accurate information, it still has some downfalls. The most notable is the ability of the observers (and subsequently police officers) to identify drivers.

During a study in Oakland, California, the RAND Corporation addressed just this issue. An officer must have the ability to identify the driver's race in advance if he is going to make a stop based on that information; therefore, comparisons must be made only during the time that both officers and observers can identify the drivers while in the car (RAND). The other stumbling block in using this method is that it is time-consuming and expensive. Depending on the number of observations needed (times and locations) and the amount of data to be collected on each vehicle (race/ethnicity, sex, habits, or violations), the cost for the observers can be huge. This also does not include the associated costs of data input and analysis (Weiss et al., 2004). For government entities like those in Illinois that are not reimbursed for these efforts from the state mandate, the costs will run into thousands and thousands of dollars in a very short period of time; however, this method will provide a more accurate benchmark for a police department that must defend itself in a court of law or the court of public opinion.

Proper benchmarking and data comparison is the only way to truly determine whether bias-based policing is taking place. Dr. Geoff Alpert of the University of South Carolina (as cited in Weiss et al., 2004), points out some of the myths that are associated with poor benchmarking. First, there are claims that a weak benchmark cannot prove the existence of racial profiling but does prove that it doesn't exist. As Jack Riley previously pointed out, bad information is bad information, and Dr. Alpert agrees. Bad information taints all results of a study. The second myth Dr. Alpert addressed is that even if the benchmark method was faulty, a positive finding of profiling over and over again must mean that profiling exists. This is wrong because the shear repetition of results does not magically isolate the cause of the disparity or correct the faulty benchmark. Finally, Dr. Alpert dispels the idea that even if the first year's measure is faulty, it can be used as a base line for the second year. Very simply, Dr. Alpert responded to this by pointing out that if you don't know what you are measuring in the first place, it doesn't matter in following years because the data is still wrong (Weiss et al., 2004).

The Role of the Media and Public Perception

Law enforcement media relations expert Rick Rosenthal calls the national news media, "The 900-pound gorilla in the room." What he means by this is that if the gorilla is ignored and not given some attention, he will make his own attention. This is what has occurred with the issue of racial profiling during the last 10 to 15 years. Police administrators have refused to even acknowledge the presence of any type of biased policing practices because they are afraid it will contribute to negative headlines and political pressure on them and their agencies (McMahon et al., 2002, p. 101). As a result, organizations like the ACLU and the NAACP have been allowed full access to the media without any response from the law enforcement community. What kind of picture is the media going to paint? The picture that the media paints is going to be tainted by the party that provides the information (Rosenthal, 2003).

Colonel Jerry Oliver, Chief of Police for Richmond, Virginia, reminds law enforcement executives that "police departments were formed to provide services

to free people in a democratic society" (McMahon et al., 2002, p. 101). The only way that the services can be provided is through regular interaction between the parties involved. The image and credibility of law enforcement is what is really at stake. Oliver went on to say that police departments no longer have the luxury of receiving a favorable benefit of the doubt from the citizens that they serve (McMahon et al., 2002, p. 95).

What is the public perception of law enforcement relating to racial profiling? In a Gallop poll (1999, December), 59% of national adults (all races) polled said that racial profiling is widespread in the United States, and 81% said that they disapprove of the practice (Newport). Another example of the erosion in the level of trust is a report published in the November 2003 *NIJ Journal*. Respondents to an *NIJ* poll were asked to rank their trust of the police on a scale from 1 to 5; with 1 representing that the police are always fair and 5 representing that they are never fair. The average response for a white American was a 1.89. The average response for an African American was 2.53. Over half of the African American respondents indicated that they distrusted the police and cited that it was a result of negative stop experiences and racial profiling (Zingraff, 2003).

It is clear that there is a perception by a significant number of American citizens throughout the United States that their police forces are unreliable and not trustworthy and participate in bias-based policing. There is a snowball effect to these perceptions. Professor David Harris points out that a direct result of the growing cynicism is that there is considerably more skepticism in what police officers are saying to the public. No longer does the minority driver accept on face value that the officer was stopping him or her for a simple traffic violation. The lack of trust has created a suspicion that all stops are racially motivated and unjustified (Harris, 2001). The longer that these perceptions persist, the more the distrust is going to grow. The ultimate result of this ever-widening cynicism is that police agencies run the risk of forcing legislators to make ill-informed decisions and pass restrictive and unreasonable laws.

The lines of communication between all parties involved must remain open. "Inclusion and communication" are the keys to reducing the tension between the community and their police (Lamberth & Clayton, 2003). By bringing civil rights groups, the media, politicians, and law enforcement together, policies and procedures can be explained and discussed. Data collection methods and benchmark standards can be presented without the veil of secrecy that has occurred in the past. The citizens will no longer think that they are on the outside looking in but that they are part of the process and can take responsibility for it. The members of the police agency also will benefit. They will no longer feel that they are at odds with the people they serve due to animosity and mistrust and will better understand why data is being collected and what is being done with it once it is collected. Keeping the street officers in the loop is important. As MacDonald (2002) previously pointed out, drug arrests went down significantly on the New Jersey Turnpike after the results of the first study were announced. This is called "depolicing" and is a result of police officers feeling that they are being unfairly accused of illegal behavior. As a result, police officers felt that, if they get in trouble for just doing their job, they won't do anything (Weiss et al., 2004). This is a no-win situation. Education of all parties involved will ease tension, explain discrepancies, and provide the public with both sides of the racial profiling story.

Conclusion

Racial profiling and bias-based policing is not a new topic in the criminal justice world. The allegations have been around for many years. It is only recently that law enforcement executives have addressed the issue and not denied its existence. The change in policy has not come easily. There has been resistance in the police community to admit the existence of even a little dirty laundry. It goes against the principles for which government stands. The rights of all citizens are to be protected, and people are to be treated with respect and dignity. Police agencies expect their employees to live up to these ideals and perform their duties with the highest honor and ethics. The majority of police officers fulfill these requirements. Even the most vocal supporters of the anti-profiling movement have admitted that the majority of police officers in the United States are honest, hard-working individuals, performing their jobs with the highest integrity. There is a small minority, however, that disgrace their uniforms and fellow officers by participating in racially biased enforcement activities. The law enforcement community must deal with these individuals, and it does and will continue to do so. The public demands it, and the reputation of law enforcement officers across the nation depends on it.

The only way to show the public that law enforcement officers are doing their jobs is to provide accurate and reliable data comparisons. Apples must be compared to apples. The use of proper comparison data and completely and accurately collected stop data is the only way to truly get the picture of what is going on. Municipalities must collect benchmarks that will accurately depict the motoring public that drives through their jurisdiction. This must be compared with census data being used by legislative mandate. Once the data is compared, the cries of widespread racial profiling in the law enforcement community will cease. If disparities exist, they will be investigated, and corrective action will be taken if necessary. Not all disparities equal profiling; a reasonable explanation may be found and provided to the lawmakers and the public.

Lines of communication must be kept open. Police agencies, lawmakers, and citizens must be provided with the latest and most accurate information available. Officers need to be kept up to date on their progress and how the agency views their activity. Continued training in ethnic diversity and community relations will strengthen the bond between the police and the citizens. Law enforcement cannot afford to be at war with the public it serves. It is important that public/police partnerships grow for the good of all.

There has never been solid empirical data to prove that racial profiling exists on a widespread level within the law enforcement community. Poor communications between all the parties involved have led to misunderstanding and mistrust. Future efforts and more realistic data collection will prove that outside of a small minority of unethical members, law enforcement as a whole, is an honorable, unbiased, and highly respected profession.

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The Perceptions of African American Males Toward Racial Profiling in a Mid-Southern City: A Descriptive Analysis

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Introduction

In recent years, interest in the controversy surrounding selective law enforcement based ostensibly on race has proliferated among legal scholars, criminal justice practitioners, politicians, other policy makers, and the general public. The racial profiling controversy is of great concern for the law enforcement community in particular. Margolis, Watts, and Johnston (2000) put it more poignantly, as they contend that racial profiling is one of the most important issues facing law enforcement today.

Racial profiling has been given many different definitions (Batton & Kadleck, 2004). Matthews (1999) defines *racial profiling* as the process of using certain racial characteristics, such as skin color, as indicators of criminal activity. According to Walker, Spohn, and Delone (2004), "racial profiling is defined as the use of race as an indicator in a profile of criminal suspects" (p. 111). On the other hand, Kennedy (1997) defines *racial profiling* as follows: "Properly understood, then, racial profiling occurs whenever police routinely use race as a negative signal that, along with an accumulation of other signals, causes an officer to react with suspicion" (p. 11). Yet another explanation, advanced by Callahan and Anderson (2001), uses the term to designate the practice of stopping and inspecting people who are passing through public places (e.g., drivers on public highways or pedestrians in airports or urban areas) when the reason for the stop is a statistical profile of the detainee's race or ethnicity. This latter definition is more comprehensive as it includes not just stopping motorists but pedestrians in public places as well.

As indicated above, there is no universally accepted definition of *racial profiling*. In fact, Batton and Kadleck (2004), who provide an extensive listing of such definitions, have argued that failure to adequately conceptualize racial profiling is one of the primary problems with current research; however, what is clear from these definitions is that racial profiling occurs when law enforcement officers employ race as the main reason for the investigation of a particular person in regard to alleged law breaking.

According to Harris (1999b), the city of Miami along the infamous Interstate 95 serves as the origin of racial profiling. Commonly referred to as Driving While Black (DWB), most

citizens, regardless of race or ethnicity, have come to understand that this practice raises concerns about how American law enforcement officers mete out police strategies. Due largely to the outpouring of criticism from individuals and organizations, policy makers and legislators have been compelled to respond to allegations of racial profiling. Carrick (2000) reported that five states have outlawed the practice of racial profiling at the suggestion of former Attorney General Janet Reno. Furthermore, he found that the states of Connecticut and North Carolina had enacted legislation that required record keeping of police stops. Ramirez et al. (2000) reported that some police departments have taken it upon themselves to devise data collection methods, while other law enforcement agencies have had to be prodded by court decrees.

Also weighing in on this phenomenon is the White House. Former President Bill Clinton required federal law enforcement agencies to collect data on the race of individuals stopped by agents. President Clinton referred to the practice as "morally indefensible, deeply corrosive"; he concluded that racial profiling is "wrong; it is destructive; and it must stop" (Ramirez et al., 2000, pp. 22-23). More recently, President George W. Bush, following the lead of Clinton, required the practice of collecting data to continue, as illustrated by a February 27, 2001, memorandum to Attorney General John Ashcroft (Bush, 2001). In that communication, President Bush directed Ashcroft to examine the practice by federal law enforcement officers of using race as a factor in carrying out their duties. The memorandum further instructed Ashcroft to develop strategies to collect relevant data on this important matter. Congress has also expressed concern about racial profiling, and two pieces of legislation have been introduced: (1) the Racial Profiling Prohibition Act of 2001 (H.R. 965) and (2) the End Racial Profiling Act of 2001 (H.R. 2074). The former would require states to adopt and enforce standards prohibiting racial profiling and would withhold funds from noncompliant states. The latter bill would require local and state law enforcement agencies applying for specific grants to maintain policies and procedures to eliminate racial profiling and end practices that encourage racial profiling. Another component of H.R. 2074 would require agencies to collect data on routine investigatory activities and submit the data to the U.S. Attorney General's Office. Neither bill became law, however.

Despite the immense interest in racial profiling as manifested by the general public, politicians, and the media, there still is a paucity of empirical research on racial profiling, and only a few studies that examine racial patterns in police stops of citizens (Weitzer & Tuch, 2002). This article, descriptive in nature, seeks to expand the body of research devoted to this topic by examining the perceptions of one racial category: African Americans, the group of people who have often been the focus of racial profiling (Harris, 1997, 1999a, 1999b; Kennedy, 1997; Weitzer, 2000).

The Present Study

The research draws on a sample of African American men in a mid-southern city. The research focuses not only on traffic stops, the most common form of racial profiling, but also on other instances in which the respondent may have had an occasion to be racially profiled (e.g., field interrogations that take place in public arenas such as malls and airports). This article also examines the perception of African American males of other potential victims of racial profiling, specifically Middle Eastern persons. This research is timely, as some polls have indicated that Americans in general hold opinions about racial profiling and foreigners. For instance, a CNN/

USA Today/Gallup poll (Gallup Organization, 2001a) conducted a few days after the events of September 11, 2001, found the following:

- 58% of Americans backed more intensive security checks for Arabic airplane passengers.
- 49% supported special IDs that Arabs—even U.S. citizens—should have to carry.
- 35% said they now trusted Arabs living here less than they had before.
- 32% said that Arabs living in the United States should be placed under special surveillance as Japanese-Americans were following Pearl Harbor.

While the principal goal of this article is to expand our knowledge of racial profiling issues, the article also covers some of the difficulties of conducting race-based research using African American males as subjects. It concludes with several recommendations for future research.

Review of Prior Studies

As mentioned previously, the scholarly literature examining racial profiling is scarce. We feel it is safe to suggest that only a few empirical studies have specifically investigated this phenomenon. In fact, those investigating racial profiling have not been social scientists but rather law professors with their work published in law review journals (Lundman, 2004). Moreover, Fridell et al. (2001) suggest that racial profiling initially was brought to the forefront of the American consciousness as the result of writings by newspaper and magazine journalists. This paucity of research production by social scientists is unfortunate when one considers the amount of media attention and allegations that this practice has generated over the last decade. In addition, citizens feel strongly about this issue; 83% of African Americans and 55% of whites not only agreed that racial profiling exists but that it is widespread (Gallup Organization, 2001b). In a 1999 national poll, 72% of African American men between the ages of 18 and 34 believed that they had been stopped by the police because of their race (Newport, 1999, p. 2). Overall, in this poll, 81% of the respondents were opposed to the practice of racial profiling.

Most of the limited number of previous studies investigating this controversial practice utilized larger data sets that often compared the views of racial/ethnic groups to other groups, usually whites. Furthermore, prior research has examined those who have been stopped only for alleged traffic infractions. Additionally, the research in this area has generally utilized data sets obtained from official data sources, such as law enforcement agencies, which could present a bias (Smith & Petrocelli, 2001).

Smith and Petrocelli (2001) examined racial profiling that focused on the treatment of minorities of different races and ethnic backgrounds by police in Richmond, Virginia. After an analysis of 2,673 traffic stops conducted by the Richmond Police Department, the researchers concluded that among minorities, "African Americans were disproportionately stopped compared with their percentages in the driving-eligible population" (p. 22).

Using data derived from *Contacts Between Police and the Public: Findings from the 1999 National Survey*, Lundman and Kaufman (2003) found that African American drivers (both men and women) and Hispanic men are significantly less likely to

think that police had a legitimate reason for stopping them. Moreover, African American and Hispanic men are significantly less likely than white men to report that police acted properly during the traffic stop encounter. Most recently, Tyler and Wakslak (2004) examined the results of four studies that investigated racial profiling as an attribution of police motives. Among the numerous findings, the researchers observed that people are less likely to infer that they have been profiled when they are treated with politeness and respect by the police. Moreover, Tyler and Wakslak found that in a New York City post-9/11 sample, white respondents seemed to view profiling as associated with neutral policing behavior, while minority respondents continued to view it as nonneutral behavior. In other words, whites believe profiling by law enforcement officers to be an acceptable form of policing. On the other hand, minorities believe profiling to be a subjective form of policing.

One practice used to examine racial profiling is the creation of a "disparity index"—the proportion of traffic stops of a group divided by the proportion of the population comprised of that the group. Nixon (2001), analyzing Missouri traffic stops, found that whites and Hispanics were stopped at a rate proportionate to their population numbers, but African Americans were stopped at a disproportionately high rate.

Unlike most research on this topic, Taylor and Whitney (1999), relying on Uniform Crime Report (UCR) statistics, argued that given African Americans' high disproportional number of arrests for crime, racial profiling is a justified police strategy. Countering this argument, and sharply criticizing their methodology, Lynch (2002) chastised Taylor and Whitney for their use of criminal justice data as evidence of differences in offending by race. Essentially, doing so results in a self-fulfilling prophesy because police, in effect, profile.

Reports on Racial Profiling

Although a number of law enforcement agencies or government agencies have conducted "in house" studies, they lack the academic rigor required to be designated as scholarly research (Novak, 2004; Smith & Petrocelli, 2001). Despite this, these studies are illustrative of the problem in certain areas.

A finding from an early study commissioned by the Massachusetts Attorney General (1990) revealed that police in Boston were involved in questionable stop practices. In particular, the report found that in a small sample of 50 interviews, African Americans were stopped without any valid reason. The report also revealed that the stopped African Americans were discouraged from reporting this behavior after being threatened by the officers. In another study of improper activity by police officers from the East, conducted under the auspices of the New York Attorney General, researchers reported that African Americans represented one quarter and Hispanics represented slightly less than one quarter (23.7%) of the city's population. They found, however, that African Americans accounted for 50.6% and Hispanics for 33% of the stops, even after controlling for such variables as crime rates and the racial composition of the neighborhood (Fagan & Davies, 2001). The results of the analyses suggest that these persons were stopped for no apparent reason other than their race.

The West Coast has not escaped allegations of racial profiling. A study conducted by the San Diego Police Department (2000) revealed that African Americans and Hispanics were overrepresented among persons stopped, searched, and arrested.

In summary, a review of the limited literature suggests that only a handful of scholarly empirical studies exist that specifically examine racial profiling. Most studies were conducted by law professors and reported in law review journals. Of the published studies, larger data sets were utilized, often comparing the views of racial/ethnic groups to whites. Moreover, most prior research analyzed traffic stop data, which raises issues of bias. For instance, police officers may be exercising greater discretion in making traffic stops if they are aware that they are being monitored (Lundman & Kaufman, 2003). Substantively, prior research revealed that African Americans were more likely to be stopped, and African American males particularly were less likely to think that police had a legitimate reason for stopping them. The literature review also suggested that police mannerism played a role in perception in that police officers exercising politeness are less likely to be suspected of racial profiling.

Hypotheses

Based on the results of the brief literature review, we advance five hypotheses:

H1. Generally, African American males are likely to report being a victim of racial profiling.
H2. African American males stopped by police are more likely to report perceptions of racial profiling than African American males not stopped by police.
H3. Younger African American male drivers are more likely to report being stopped by police than older African American male drivers.
H4. African American males with perceptions of mistreatment by police are likely to report allegations of racial profiling.
H5. African American males are likely to be opposed to racial profiling of other racial/ethnic groups.

While not included in formal hypotheses, the data allowed exploratory analysis of some variables to see what, if any, effect they had on perceptions of profiling.

Methods

Our analysis was limited to African American male residents of Memphis, Tennessee, who were contacted for telephone interviews. The interviewers asked the respondents whether they had ever been racially profiled (i.e., whether they believed they were stopped by law enforcement for no other reason than race or a minor reason simply because of their color or race). The respondents were selected at random from a telephone listing of all African American male registered voters in Shelby County, Tennessee, during 2002. All interviewers were instructed to interview only African American males of driving age. Due to the number of incorrect phone numbers or lack of an African American male at the residence, additional callbacks were made that generated a 52% response rate. In the final analysis, our sample yielded 105 usable cases—clearly disappointing but not enough to cause us to discard the data. Because of the small sample, it is difficult to determine its representativeness; therefore, although regrettable, no claims will be made regarding the representativeness of the sample or generalizability of the results.

Several items were included in the questionnaire that measured the respondents' perceptions of racial profiling. The items included the following:

- Have you had contact with any law enforcement officer?
- Do you believe that you have been the victim of racial profiling?
- If not, do you believe racial profiling occurs?
- Do you think that all Arabs or persons of Middle Eastern descent should be stopped and searched if they are walking on the street, driving and following the traffic laws, or boarding an airplane?
- Do you believe profiling is okay for people who look like they are from the Middle East?
- Would you report to police suspicious activities of an olive- or brown-skinned person on an airplane?
- Would you report to police suspicious activities of an olive- or brown-skinned person on the street?

Selected Data Characteristics

A number of variables, primarily demographic, were also measured. These include age, education, marital status, income, employment status, and whether the respondent has had contact with the police. The categories for these variables along with frequency and percentage distributions are presented in Table 1.

Independent Variables

Age. The respondents' ages were coded into an ordinal variable of five categories. We employ age as an independent variable because the limited research on racial profiling has deemed it to be important. Weitzer and Tuch (2002), based on a national survey that included 961 randomly selected African Americans, reported that nearly three-quarters of the African American males in the youngest age category (18-24, N=381) claimed to have been victimized by racial profiling at least once.

Education. We employed education and coded it into five ordinal categories. Education is consistent with previous criminological research in general (Walker & Katz, 2005) and racial profiling research in particular (Tyler & Wakslak, 2004). Research employing education as a control variable suggests that people with more education rate police more favorably than people with less education (Walker & Katz, 2005).

Personal Income. The respondents' income was also included as a control variable and analyzed in five categories. Several decades ago, Chambliss and Liell (1966) reported that police are likely to be more careful in dealing with economically privileged citizens. Moreover, Mastrofski and Ritti (1992) observed that police are more cautious in their interaction with people holding economic standing. In the present study, it is plausible that those with higher incomes may be more or less sensitive to having been profiled than those with lower incomes.

Employment Status. It is plausible that the unemployed may be more available to be profiled. They are more likely to be observed on the street by police and may present other characteristics leading to profiling that the employed are less likely to exhibit. Given this possibility, we also employed employment status as a control variable in five categories.

Table 1
Frequencies of Demographic Characteristics

	Frequency	Percent	Valid Percent
Age			
18-25	6	5.9	6.1
26-35	13	12.7	13.1
36-45	12	11.8	12.1
46-55	24	23.5	24.2
55 and over	44	43.1	44.4
Total valid	99	97.1	100.0
Missing	3	2.9	
Total	102	100.0	
Education			
High school diploma or certificate	40	39.2	44.4
Some college	21	20.6	23.3
College degree	21	20.6	23.3
Some post graduate studies	2	2.0	2.2
Post graduate degree	6	5.9	6.7
Total valid	90	88.2	100.0
Missing	12	11.8	
Total	102	100.0	
Personal Income			
Under $12,000	19	18.6	21.8
$12,001 to $20,000	11	10.8	12.6
$20,000 to $35,000	21	20.6	24.1
$35,000 to $50,000	18	17.6	20.7
Over $50,000	18	17.6	20.7
Total valid	87	85.3	100.0
Missing	15	14.7	
Total	102	100.0	
Employment Status			
Employed	45	44.1	46.9
Self-employed	10	9.8	10.4
Unemployed seeking work	8	7.8	8.3
Unemployed disabled	6	5.9	6.3
Retired	27	26.5	28.1
Total valid	96	94.1	100.0
Missing	6	5.9	
Total	102	100.0	
Contact with Any Law Enforcement Officer			
Yes	52	51.0	71.2
No	21	20.6	28.8
Total valid	73	71.6	100.0
Missing	29	28.4	
Total	102	100.0	

Dependent Variable

This study employed only one dependent variable: perception of racial profiling (i.e., whether the respondent believed he was racially profiled).

Results

H1: African American males are likely to report being a victim of racial profiling.

This hypothesis must be rejected. As can be seen in Table 2, fewer than half of the respondents (46%) indicated that they believe they were profiled. The chi-square significance for these percentages is greater than .3. Overall, it appears that most of the respondents did not perceive racial profiling to be a problem. Fifty-four percent indicated that they had not been profiled, and 59% said that they did not know of a person who had been. These results show a somewhat lower perception of profiling than that found by McMahon, Garner, Davis, and Kraus (2002), who reported that 52% of African American males in a *Washington Post* survey believed that they had been victims of racial profiling.

Table 2
Perceptions of Racial Profiling

	Yes	No	N
Perceived having been racially profiled	46%	54%	100
Knows someone who was profiled	41%	59%	100
Age (Sig. = .352)			
18-25	16.7%	83.3%	6
26-35	61.5%	38.5%	13
36-45	41.7%	58.3%	12
46-55	56.5%	43.5%	23
55 +	44.2%	55.8%	43
Education (Sig. =.610)			
High school diploma or certificate	41.0%	59.0%	39
Some college	61.9%	38.1%	21
College degree	52.4%	47.6%	21
Some post graduate studies	50.0%	50.0%	2
Post graduate degree	60.0%	40.0%	5
Personal Income (Sig. =.017)			
under $12,000	36.8%	63.2%	19
$12,001 to $20,000	45.5%	54.5%	11
$20,000 to $35,000	66.7%	33.3%	21
$35,000 to $50,000	17.6%	82.4%	17
$50,000 plus	64.7%	35.3%	17
Employment Status (Sig. =.297)			
Employed	50.0%	50.0%	44
Self-employed	55.6%	44.4%	9
Unemployed seeking work	12.5%	87.5%	8
Unemployed disabled	50.0%	50.0%	6
Retired	55.6%	44.4%	27
Marital Status (Sig. = .650)			
Single	44.8%	55.2%	29
Married	50.0%	50.0%	48
Separated	50.0%	50.0%	2
Divorced	40.0%	60.0%	10
Widower	80.0%	20.0%	5

Exploratory Variables

Turning our attention to the portions of Table 2 relating various demographic characteristics to perceptions of profiling, only one variable, income, has significance below the .05 level (p=.017). In general, but with one exception, perceptions of being profiled increase as income increases. The exception is for those who earn between $35,000 and $50,000, where the percentage plummets to only 17.6%.

Although not statistically significant, age shows an interesting relationship with perceptions of having been profiled. Sixty-nine percent of those 55 and over report that they have been profiled, while 60% of those 18 to 25 say they have not. This is contrary to research focusing on suspected race-based police stops (Weitzer & Tuch, 2002) and is surprising given studies that report younger citizens in general and African American males in particular to hold generally less favorable attitudes toward the police (Taylor, Turner, Esbensen, & Winfrey, 2000; Tuch & Weitzer, 1997; Weitzer & Tuch, 1999).

Education, too, shows an unexpected pattern. A majority of those with at least some college report having been profiled. Only the lowest category of education shows a majority indicating that they had not been profiled. Again, these differences are not significant. While we made no hypotheses concerning this variable, the results of our exploration suggest that higher levels of education may make one more sensitive to racial profiling. This may occur because those with more education may be more likely to be aware of the phenomenon in general. Or, perhaps, being more educated, they may be more indignant when stopped for no apparent reason other than their race. On the other hand, those with lower education may be more likely to see random police stops as "a fact of life" and are therefore less sensitive to seeing such stops as racially motivated.

H2. African American males stopped by police are more likely to report allegations of racial profiling than African American males not stopped by police.

This hypothesis is supported (see Table 3). Only 73 of the respondents answered the question regarding contact with the police (see Table 1), but of these 73, 52 (71%) answered in the affirmative. Over 63% of those who reported having had contact with the police indicated a belief that they had been a victim of profiling. The perhaps surprising finding is that almost 20% of those reporting no contact with police still indicated that they think they had been victims of profiling. Perhaps this simply indicates the belief of these respondents that profiling does happen.

Table 3
The Effect of Police Contact on Perceptions of Profiling

Do you believe you have been a victim of racial profiling?				
		Yes	**No**	**N**
Have you had contact with any law enforcement officer?	Yes	63.5%	36.5%	52
	No	19.0%	81.0%	21
P=.001	N	37	36	73

H3. Younger African American male drivers are more likely to report being stopped by police than older African American male drivers.

This hypothesis is rejected (see Table 4). Generally, it appears that age has no consistent relationship with police contact. The two age groups reporting the highest percentages of police contact are those 26 to 35 and those 46 to 55. Indeed, it is only the youngest group (18 to 25) that has a majority reporting no police contact; however, there were only five respondents in this category, hence these percentages are likely to be unstable. The chi-square significance for the table is .135. The result of the test of this hypothesis is interesting and contrary to previous research findings. For instance, the U.S. Department of Transportation (2001) found that traffic law violators are more likely to be young and male and report negative observations of the police.

Table 4
Age Differences in Contact with Police

Have you had contact with any law enforcement officer?				
Age		**Yes**	**No**	**N**
18-25		40.0%	60.0%	5
26-35		90.0%	10.0%	10
36-45		60.0%	40.0%	10
46-55		87.5%	12.5%	16
55 +		69.0%	31.0%	29
P=.135	N	51	19	70
		72.9%	27.1%	100.0%

The instability of the percentages can be seen when the age groupings are collapsed into fewer categories (see Table 5). Now every age group shows a majority reporting police contact, with the middle group (36 to 55) reporting the largest percentage (79.6%); however, this table shows even less significance than did the more detailed table (P=.80).

Table 5
Age Differences (Three Categories) in Contact with Police

Have you had contact with any law enforcement officer?			
Age	**Yes**	**No**	**N**
18-35	73.3%	26.7%	15
36-55	76.9%	23.1%	26
over 55	69.0%	31.0%	29
N	51	19	70
	72.9%	27.1%	100.0%

H4. African American males with perceptions of mistreatment by police are likely to report allegations of racial profiling.

No questions were asked specifically about mistreatment; however, three questions may indirectly measure this by indicating how intrusive the contact was. One question asked whether the police informed the respondent why he was stopped. The others asked, respectively, whether the respondent was frisked or whether personal property was searched. Regardless of how "mistreatment" was measured, the hypothesis was not supported.

The cell percentages regarding whether the respondent was told why he was stopped appear to support the hypothesis (see Table 6) but may well result from the small number answering both questions (44), and the small number (8 = 18.2%) who said that they were not told why they were stopped. Still, all of the eight who were not told perceived racial profiling. In addition, the vast majority (88.9%) of those who were told still perceived that they were victims of profiling. The important finding is that regardless of whether one was informed of why he was stopped, the perception was that profiling occurred. This explains why the chi-square significance for Table 6 is .323.

Table 6
Perceptions of Profiling Related to Being Informed of Reason for Stop by Police

Did police tell you why you were stopped?				
		Yes	**No**	**N**
Do you believe you have been a victim of racial profiling?	Yes	88.9%	100.0%	40
	No	11.1%	.0%	4
P=.323	N	36	8	44

A similar number of respondents (44) answered the question regarding being frisked (see Table 7). Most (62.5%) said that they were not. Again, whether or not the respondent was frisked had little effect on the perception of having been profiled; a majority believe they were. Those who were frisked, however, do show a somewhat higher percentage having that perception (93.3% compared to 88.0%, respectively; P=.323).

Table 7
Perceptions of Profiling Related to Having Been Frisked

		Were you frisked?		
		Yes	No	N
Do you believe you have been a victim of racial profiling?	Yes	93.3%	88.0%	36
	No	6.7%	12.0%	4
P=.586	N	15	25	40

Whether one's property was searched had even less effect on perceptions than the previous two variables. Of the 39 who answered this question, all but two believed that they have been victims of profiling. Indeed, the percentage is slightly higher for those whose property was not searched.

Table 8
Perceptions of Profiling Related to Having One's Property Searched

		Were you searched (car, bag, personal items)?		
		Yes	No	N
Do you believe you have been a victim of racial profiling?	Yes	93.8%	95.7%	37
	No	6.3%	4.3%	2
P=.791	N	16	23	39

H5. African American males are likely to be opposed to racial profiling of other racial/ethnic groups.

The only questions asked relevant to this hypothesis were asked in regard to the racial profiling of Middle Easterners. The results may be interpreted as mixed. Table 9 displays the percentage of responses to four questions relating to those who might be perceived as Middle Eastern.

Table 9
Attitudes Toward Racial Profiling of Middle Easterners

	Yes	No	N
Do you think that all Arabs or persons of Middle Eastern descent should be stopped and searched if they are walking on the street, driving and following the traffic laws, or boarding an airplane?	45.6%	54.4%	79
Do you believe profiling is okay for people who look like they are from the Middle East?	20	80	80
Would you report to police suspicious activity of an olive- or brown-skinned person on an airplane?	77.8	22.2	81
Would you report to police suspicious activity of an olive- or brown-skinned person on the street?	71.3	28.8	80

When asked in a way that implied or specifically mentioned profiling of Middle Easterners, the results tended to support the hypothesis. The majority (54.4%) did not think it was acceptable to stop Middle Easterners if they were walking on the street, driving and following traffic laws, or boarding an airplane. An even larger majority (80%) did not think it was acceptable to profile persons who simply looked as though they were from the Middle East. It appears, however, that these respondents were not above profiling, themselves, at least not if they saw "suspicious activity." Large majorities indicated that they would report the suspicious behavior of an olive- or brown-skinned person. Moreover, where the suspicious behavior occurred had a small effect on the willingness to report it. If on an airplane, 77.8% said they would report suspicious activity; if on the street, the percent is slightly smaller (71.3%). The real question, however, is whether these respondents would be more likely to label behavior as "suspicious" if it were performed by someone who appeared to be from the Middle East than if the person were white or African American.

Discussion and Conclusion

There tends to be a consensus that African Americans face greater criminal justice surveillance than people from other racial backgrounds and are more likely to be stopped, questioned, and searched by the police (Donziger, 1996; Engel, Calnon, & Bernard, 2002; Harris, 1997). Is this a result of racial profiling on the part of police or good police work in general? Noted African American legal scholar Randall Kennedy (1997) spoke on the issue of using race as a proxy for law enforcement action. Recognizing the extreme counter-conducive effects of race-based policing, he argues that only under extreme circumstances should this controversial practice be allowed and then only in the most extraordinary of circumstances.

The issue of racial profiling is very important to law enforcement. As Wexler (2000) asserts, "Issues like racial profiling are a manifestation of larger issues of effective communication, trust, respect, sensitivity, and accountability (p. 2). Racial profiling, therefore, must be taken seriously, and those found to be exercising this unacceptable practice should be dealt with zealously and accordingly.

Our findings in the instant research were contrary with previous research on racial profiling. Given the small sample size and low response rate, obvious questions about the generalizability of our data are raised; therefore, we do not attempt to generalize to other populations. More research needs to be undertaken to determine why the finding of young African American males compared to older African American males is contrary with prior research, which shows that younger citizens (in general) are more likely to harbor negative feelings, perceptions, and attitudes toward police than their older counterparts and are more likely to report having been profiled.

There are some potential reasons worthy of mentioning as to why the findings from our analyses yielded results contrary with other research. First, the results may accurately reflect the beliefs of these respondents: they actually did not tend to believe the actions of the police raised to the standards of racial profiling. In addition, it is plausible that the African American males in this current sample were reluctant to discuss criminal justice issues and so reported what they thought the interviewer wanted to hear. It is also possible that, unlike the law enforcement officers relevant to the findings of other research, the law enforcement officers in

this jurisdiction are more professional in their duties and thus refrain from racial profiling practices. Of these, the last alternative would, of course, be the ideal. The first is less perfect, perhaps indicating the presence of more professional policing but possibly evidencing instead simply less perception of actual profiling behavior. The second alternative, unfortunately, is quite plausible. The experience of profiling may, in fact, lead to a lesser willingness to report it to others whose connection to the police is unknown.

This research also demonstrates some of the difficulties inherent in using African Americans males as subjects in criminological research indicating that they may have had an adversarial contact with criminal justice officials. The rate of refusal encountered in this study makes it difficult to be confident about the reliability or validity of the results. The high rate of refusal, however, should not come as a surprise; African Americans are traditionally suspicious of research. Perhaps their distrust in participating in research of any kind can be traced back to slavery and more recently to the infamous Tuskegee Syphilis Study (Thomas & Quinn, 1991). Although they may not have correct information about the exact nature, extent, and length of that study, many know that it involved African Americans who had syphilis and did not received treatment. The present study, however, was not medical in nature, nor was any treatment withheld. It could be that African Americans are quite protective of their privacy and are unwilling to divulge information about themselves or others, particularly information relating to their contact with the criminal justice system (Sudman & Bradburn, 1982). For many African Americans, distrust of the criminal justice system in general, and police in particular, is well documented (Taylor et al., 2000; Tuch & Weitzer, 1997; Weitzer & Tuch, 1999). The topic of racial profiling, which is both controversial and sensitive, makes it a challenging task to collect information from African Americans about their experiences.

A limitation of this research may lie in the survey method. Telephone surveying is a very prominent method (Lavrakas, 1987) but has limitations, which possibly affected the regrettably low response rate in the instant research. Another weakness may be associated with our definition of *racial profiling*. We assumed that the respondents were accurately reporting their experiences in regard to racial profiling. It is possible that their individual personal characteristics led them to inaccurate reports of racial profiling; some may be more attuned than others to recognizing a profiling event.

In light of these limitations, there is clearly a need for much additional research on racial profiling. A larger sample of African American males is encouraged for any future research. Additionally, using a different data collection technique may prove to be more beneficial (e.g., utilizing African American interviewers in face-to-face interviews. This may serve to lessen the suspicion of potential respondents, leading to both a lower refusal rate and more valid responses from those who do participate. Moreover, even though Smith and Petrocelli (2001) observed that officer race was unrelated to the decision to stop motorists, it is advisable that future research includes the officer's race as a predictor variable. The emphasis of the present research is not on whether racial profiling is interacting with the race of the officer but rather simply whether racial profiling is perceived by African American males and to what extent. Future research should nevertheless include the officer race variable. It is plausible that the race of the officer affects the perceptions of the person stopped such that African Americans stopped by African American officers

are less likely to see the event as one of racial profiling. Given this possibility, another plausible reason may exist as to why our analyses yielded results contrary with other research: more of the officers in this study were African American and so the respondents did not see the stop as racial profiling.

Despite the noted limitations of this research, we feel that it does contribute to the literature on racial profiling. Future research should continue to use police collected data in conjunction with primary data from respondents of all races and ethnicities to provide a more comprehensive picture dealing with this complicated phenomenon.

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Police Traffic Enforcement Actions on a Midwestern University Campus: A Case Study

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Introduction

A disproportionate number of minority traffic stops by the police has been a controversial issue in recent years. Minorities, especially blacks, have complained that they are disproportionately stopped by the police during traffic violations or field interrogations (Knowles & Persico, 2001; Weitzer & Tuch, 2002). This phenomenon is known as "racial profiling" (Engel, Calnon, & Bernard, 2002; Knowles & Persico, 2001; Lundman & Kaufman, 2003; Reitzel, Rice, & Piquero, 2004; Schafer, Carter, & Katz-Bannister, 2003; Smith & Alpert, 2002; Weitzer & Tuch, 2002). Generally, the term, *racial profiling*, indicates that police officers use a citizen's race as a criterion to initiate contact to search in their investigation of criminal activities (Engel et al., 2002; Schafer et al., 2003).

Racial profiling can occur in diverse contexts (Meehan & Ponder, 2002; Weitzer & Tuch, 2002). Studies indicate that all drivers, regardless of the driver's race, routinely violate traffic laws (Harris, 2002; Lamberth, 1996; Meeks, 2000; Rubinstein, 1973). It is known that the police disproportionately stop, question, and search minorities (Meehan & Ponder, 2002; Weitzer & Tuch, 2002). Minority drivers have complained that the police use traffic violations as a pretext to stop and search them to investigate possible criminal activities, such as drug trafficking (Weitzer & Tuch, 2002).

To understand better the existence and prevalence of racial profiling, much more research is needed. Only a few empirical studies on racial profiling have been conducted, mainly because of recent interest on racial profiling. The current study examines police traffic stop data collected during 2001 in a university setting. First, the proportion of minorities stopped, ticketed, and searched is compared to a population baseline to examine racial disparities. Then, multiple regressions are performed to examine the effect of a driver's race on the police officer's decisions (search and citation) during traffic stops, controlling for other important extralegal factors. The article concludes with a discussion of directions for future research and policy application.

Empirical Research on Racial Profiling

Though racial profiling can occur in diverse contexts and includes all "race-targeted enforcement" by police officers, it is mostly used to indicate that police officers use citizens' race as a key factor in initiating traffic stops (Buerger & Farrell, 2002; Meehan & Ponder, 2002; Weitzer & Tuch, 2002). Recently, a number of empirical studies

have been conducted to understand racial profiling on traffic stops. Several studies (Meehan & Ponder, 2002; Schafer et al., 2003) examined the existence and prevalence of racial profiling by using traffic stop data collected by a police department. The results indicate that minorities, especially black drivers were disproportionately stopped and searched (Lamberth, 1996; New York Attorney General's Office, 1999; San Diego Police Department, 2000; San Jose Police Department, 1999; Schafer et al., 2003). Hispanic drivers were more likely to be ticketed and arrested than white drivers were.

A study on stop-and-frisk practices of the New York City Police Department also found that minorities were more likely to be stopped by the police (New York Attorney General's Office, 1999). Of those stopped, 51% were blacks, though they only comprised 26% of the city's population, and 33% were Hispanics, while they accounted for only 24% of the city's population.

In comparison of the racial composition of drivers who violated traffic laws and drivers stopped/searched along I-95 in northeastern Maryland, Lamberth (1996) found that black drivers were disproportionately stopped and searched. The moving survey along I-95 showed that 18% of black drivers and 75% of white drivers violated traffic laws (speeding); however, 29% of drivers stopped were black, while 64% were white. Among drivers searched along I-95, 71% were black, while only 21% were white. In a recent study, Schafer et al. (2003), using official traffic stop data collected by Central City Police Department, conducted multivariate analyses to examine the relationship between a driver's race and an officer's decision during a traffic stop. The study found that black and Hispanic drivers were more likely to be searched during traffic stop, controlling for several situational/demographic variables (e.g., reasons for stop, driver's age and gender).

Several studies, which examined the general public's perception toward racial profiling, found that a majority of respondents believed that racial profiling is widespread and that police actively use race as a key factor to implement traffic stops (Buerger & Farrell, 2002; Weitzer & Tuch, 2002). Additionally, studies indicated that minorities, especially blacks, are more likely than whites to perceive that racial profiling is widespread and to report that they are victims of racial profiling (Lundman & Kaufman, 2003; Reitzel et al., 2004; Weitzer & Tuch, 2002). Weitzer and Tuch (2002), using the Gallup poll data about citizens' perceptions of racial profiling, found that blacks are more likely than whites to perceive the prevalence of racial profiling and report the experience of being stopped by police because of their race/ethnicity. Of black respondents, 82% perceived that racial profiling is widespread while 60% of white respondents held the same belief. Of black respondents, 40% indicated that they were the victims of racial profiling, while 5% of white respondents reported the experience of being stopped because of their race/ethnicity. Multiple regression analyses (reported by Weitzer & Tuch, 2002) also indicated that race is a significant predictor of prevalence of racial profiling, controlling for some individual/social demographic characteristics (e.g., gender, age, education, income, neighborhood crime).

A study that used contacts between police and the public data, originally collected as part of National Crime Victimization Survey, examined citizens' perceptions of frequency of traffic stops, the legitimacy of traffic stops, and police behaviors after stops (Lundman & Kaufman, 2003). The results indicated that black drivers, especially black male drivers, are more likely than white male drivers to report a

higher number of traffic stops. Also, Hispanic male and female drivers were less likely to report traffic stops than white male drivers. The results, however, showed that all minority groups (black, Hispanic, and others) were less likely than whites to perceive that police officers had a legitimate reason for stopping them in the first place and that police officers acted properly during traffic stop. More recently, Reitzel et al. (2004) examined citizens' perceptions of racial profiling, focusing on the experience of the Hispanic population. The study found that respondent race was significantly related to both the prevalence of racial profiling and the experience of being profiled, consistent with previous findings (Lundman & Kaufman, 2002; Weitzer & Tuch, 2002). Blacks and Hispanics are more likely than whites to report that racial profiling is prevalent and that they were victims of racial profiling.

These findings have increased our understanding about the existence and prevalence of racial profiling; however, there are several significant limitations. First, a limited number of empirical studies have been conducted to examine police racial profiling during traffic law enforcement. In addition, the majority of these studies compared the proportion of minorities stopped, ticketed, and searched to the population baseline by using simple descriptive analyses. Few studies (e.g., Schafer et al., 2003) performed multivariate analyses to further understand the relationship between a driver's race and a police officer's decisions (e.g., stop, search, and legal disposition) during traffic stops, controlling for other extralegal (demographic and situational) factors, which are known to affect police officers' decisionmaking. Lastly, a majority of these studies examined racial profiling by limiting its comparison between whites and nonwhites or whites and blacks, consequently ignoring possibly different experiences of racial profiling among minorities (blacks, Hispanics, Asians, etc.).

The current study, therefore, attempts to address these limitations by examining police traffic stop data collected during 2001 at a Midwestern university. The study compares the proportion of minorities stopped, searched, and cited to the population baseline to examine any racial disparities during traffic law enforcement. The study also performs multiple regressions to examine the effect of a driver's race on the police officer's decision to search a vehicle/driver and issue a citation during a traffic stop, controlling for other important extralegal factors (i.e., driver's gender and age, state of driver license, reason for stop).

Methodology

Data

Data was voluntarily collected by the university police department, located in a Midwestern state, during the 2001 academic year. The campus is one of the largest universities in the United States with approximately 45,000 students and 4,500 faculty and staff members. A racial/ethnic breakdown of students currently enrolled, as well as faculty and staff members, showed that 83.7% are whites, 7.8% are African American, 5.1% are Asian/Pacific Islander, 2.8% are Chicano/Other Hispanic, and 0.6% are Native American. Women constituted 54%, while men accounted for 46%. The current study of this population, as a population baseline, will be compared to motorists stopped by university police officers during the 2001 academic year.

This university police department employs 58 sworn officers, and the majority of them are white officers. They are highly educated, as a four-year degree is required

for potential candidates to apply for a university policy job. The department has been actively involved in community policing and implemented various community policing programs. In order to combat racial profiling and improve police minority relations across the campus, the university police department has begun to collect information on all traffic stops. All police officers are required to fill out a specific form whenever they make a traffic stop. The form requires such information as driver's demographic characteristics (i.e., race, gender, age, license), situational factors of the traffic stop (i.e., location, data, time, reasons for stop), and actions/dispositions after the traffic stop (i.e., search, verbal warning, citations). Thus, this data includes police perceptions of encounters with citizens during traffic stops.

Dependent Variables

Two dependent variables were used: (1) vehicle/driver search and (2) provision of citations against verbal warning. A vehicle/driver search variable measures whether police officers searched a vehicle/driver during a traffic stop. It is a dichotomous variable, coded as "yes" if there was a vehicle/driver search and "no" if there was no vehicle/driver search. Among all traffic stops occurring during the data collection period, police officers searched vehicles/drivers only three times out of 100 traffic stops (See Table 1).

This is consistent with the finding that vehicle/driver searches rarely occur during traffic stops (Schafer et al., 2003). The other dependent variable is the police officer's legal disposition during a traffic stop. A traffic form, has five different types of legal dispositions police officers could mark: (1) verbal warning, (2) a misdemeanor citation and/or arrest, (3) citation, (4) other arrest, and (5) warrant arrest. The results showed that most of police citizen traffic encounters (63%) at the university concluded with a verbal warning. Of these, 26% ended with the officer's issuing a civil infraction citation (ticket), 9% resulted in a misdemeanor citation and/or arrest, and 2% concluded with a warrant arrest or an arrest for some other reason. Previous studies (Schafer et al., 2003) compared verbal warnings to legal sanctions that were created by analyzing the citation and arrest data. The current study attempts to examine verbal warnings versus civil citations, omitting other legal sanctions (i.e., misdemeanor citations/arrest and other arrests) because an officer's decision to issue a citation is far different from arresting drivers. It might be possible that an officer's decision to issue a citation is also influenced by legal factors (e.g., severity of traffic violation), as is the decision to arrest or not. It is possible, however, that a police officer is less likely to be bound to consider legal factors for issuing citations than for arresting drivers and more likely to be influenced by extralegal factors (e.g., race, age, gender, or situational factors). Because of the lack of legal factors in our model, the study excluded misdemeanor citations/arrest and other arrest cases from further analyses. A traffic stop that ended with a verbal warning was coded as 0, and a traffic stop that concluded with a civil citation was coded as 1.

Table 1
Drivers' Social Demographic Characteristics, Situational Factors, and Officers' Actions/Dispositions Following Traffic Stops in 2001*

	Percent (number)
A Vehicle/Driver Search	
Yes	3 (166)
No	97 (4,892)
Legal Disposition	
Verbal warning	63 (3,195)
A misdemeanor citation or arrest	9 (439)
Other legal sanction	2 (84)
Citation	26 (1,321)
Driver's Age (Mean/S.D)	27 (11)
Driver's Race	
White	68 (3,449)
Black	17 (868)
Asian/Pacific	8 (385)
Others	7 (350)
State of Driver's License	
In-state license	94 (4,757)
Out of state license	6 (305)
Time of Stop	
6:00 to 12:00	20 (1,017)
12:00 to 18:00	19 (962)
18:00 to 24:00	30 (1,539)
0:00 to 6:00	30 (1,540)
Reason for Stop	
Seatbelt violation	4 (191)
Equipment violation	13 (674)
Other vehicle code violation	34 (1,727)
Other violation	2 (121)
Speed violation	46 (2,337)
Officer Type	
Low stop officer	10 (510)
Middle stop officer	26 (1,325)
High stop officer	64 (3,227)

N = 5,062

* There were situations in which data was missing and did not equal the N of 5,062.

Independent Variables

Four social demographic characteristics were used as independent variables: (1) gender, (2) age, (3) race, and (4) state of license. A driver's gender was dichotomized as a dummy variable. A male driver was coded as 1 and a female driver as 0. Table 2 shows that a majority of drivers who were stopped were male drivers (62%), and female drivers account for 38% of all traffic stops. A driver's age is a continuous variable, and the mean age of drivers stopped was 27. With regard to race of the drivers who were stopped, the data revealed that 68% of drivers were

white; 17% were black; 8% were Asian/Pacific Islander; and 7% were others, which would include Hispanics and Native Americans (See Table 2).

Table 2
Racial/Gender, All Traffic Stops, Vehicle/Driver Search, and Citations/Verbal Warnings in 2001

	Percent of All Stops	Percent of All Vehicle/Driver Searched (Percent Within Race/Gender)	Percent of Receiving Citation (Percent Within Race/Gender)
Race			
Whites	68	59 (3)	68 (29)
Blacks	17	29 (5)	15 (25)
Asians/Pacific	8	5 (2)	10 (37)
Other	7	8 (4)	8 (33)
Gender			
Male	62	75 (4)	58 (28)
Female	38	25 (2)	42 (32)

In addition, three situational factors of traffic stops were used as additional independent variables: (1) time of traffic stop, (2) reasons for traffic stop, and (3) type of police officer (low-, medium-, and high-frequency traffic enforcers). Four different time categories were used: (1) 6:00 AM to 12:00 PM, (2) 12:00 PM to 6:00 PM, (3) 6:00 PM to 12:00 AM, and (4) 12:00 AM to 6:00 AM. The majority of traffic stops took place during the evening and early morning hours. More specifically, 30% of traffic stops occurred between the hours of 6:00 PM and 12:00 AM (See Table 1). Another 30% of traffic stops took place between the hours of 12:00 AM and 6:00 AM. The remaining traffic stops were fairly evenly distributed with 20% occurring between 6:00 AM through 12:00 PM and 19% transpiring between 12:00 PM and 6:00 PM. Table 1 shows that the majority of those stopped by the police were pulled over because of speeding violations (46%). The second largest category of traffic stops was vehicle code violations (34%) followed by equipment violations (13%) and non-seatbelt compliance (4%). Other violations, such as alcohol-related stops and "Be-on the-look-out" (BOL) traffic stops accounted for 2% of all traffic stops combined.

It was not possible to examine traffic stops relative to officers' characteristics because of the police departments' unwillingness to reveal officers' demographic information. While it may have proven to have been a great benefit to examine traffic stops in relation to demographic and experiential variables pursuant to traffic officers, this data was unavailable for the current study. We were able, however, to differentiate police officers by type as high-, medium-, and low-frequency stop officers, based on how often they stopped cars during the period studied. Each police officer was required to write his or her badge number on the form whenever a car was stopped. Analysis of officers' badge numbers for all traffic stop cases showed that 43 police officers enforced traffic laws, and some police officers stopped motorists more frequently than others. Table 1 showed that 64% of stopped drivers

were pulled over by high-frequency stop officers, 26% by middle-frequency stop officers, and 10% by low-frequency stop frequency officers.

Results

Race and gender breakdowns of university police officers and total university populations (i.e., students, faculty, and staff) were not available. Nonetheless, comparisons of race and gender relative to searches and citations are presented in Table 2. Notwithstanding, this data shows that black drivers were involved in 29% of all driver/vehicle searches even though this group constituted 17% of all traffic stops. Asian drivers accounted for 5% of all traffic searches, while representing 8% of all traffic stops.

As noted earlier, the results of an officer's decision to issue a citation showed that a larger percentage of Asian drivers received citations, compared to white and black drivers. Of the Asian motorists stopped, 37% were given a citation, while 29% of white and 25% of black motorists were given citations.

Moreover, results indicated that male drivers were stopped more often, which is consistent with previous findings (Rubinstein, 1973; Schafer et al., 2003). Of stopped drivers, 62% were males, and 38% were females. Male drivers account for 75% of all vehicle/driver searches. Of the drivers stopped, 4% of males and 2% of females were subject to vehicle/driver search. A greater proportion of female drivers received a citation as compared to male drivers; 32% received a citation, while 28% of all male drivers stopped were given a citation.

Table 3 presents the results of logistic regressions of extralegal factors on an officer's decision to search a vehicle/driver. Since minority males, especially black males, are more likely to be targets of racial profiling on traffic stops (Harris, 2002; Lundman & Kaufman, 2003; Meeks, 2000; Websdale, 2001), the study examined the interaction effect of race and gender on an officer's decision to search white males and females, black males and females, Asian males and females, and other males and females. Two different models, therefore, were used. In Model 1, race and gender were separately examined along with demographic and situational variables. In Model 2, interaction variables between race and gender were added for both dependent variables: (1) vehicle/driver search and (2) provision of citations against verbal warning. Data displayed in Model 1 indicates that a driver's age is negatively related to an officer's decision to search. The older a driver is, the less likely he or she is to be searched. Motorists who were stopped between 6:00 AM and 12:00 PM, 12:00 PM to 6:00 PM and 6:00 PM and 12:00 AM were less likely to be searched than those stopped between 12:00 AM and 6:00 AM. Drivers who were stopped because of seatbelt infractions, other vehicle code violations, and/or alcohol violations/BOL were more likely to be searched than those stopped for speed violations. Additional data also showed that male drivers are more likely to be the subject of vehicle/driver search than female drivers.

Table 3
Logistic Regression Results for Police Officers' Action to Search in 2001*

	Vehicle/Driver Searched	
	Model 1	**Model 2**
Age	-0.98*	
Time of Stop		
6:00 AM to 12:00 PM	- 0.16 ***	
12:00 PM to 6:00 PM	-0.20 ***	
6:00 PM to 12:00 AM	-0.42 ***	
12:00 AM to 6:00 AM (Reference)		
Out of State License	0.74	
Reason for Stop		
Seatbelt violation	3.05 ***	
Equipment violation	1.24	
Other vehicle code violation	1.61 *	
Alcohol violation/BOL	6.52 ***	
Speed violation (Reference)		
Officer Type		
Low-frequency stop officer	0.55	
Middle-frequency stop officer	1.09	
High-frequency stop officer (Reference)		
Male	1.69 **	
Race/Ethnicity		
Asian/Pacific	0.78	
Black	1.74 **	
Other	1.16	
White (Reference)		
*Race/Ethnicity * Gender*		
Asian/Pacific male		0.71
Black male		1.79 **
Other male		0.88
Asian/Pacific female		0.56
Black female		0.88
Other female		1.55
White female		- 0.56 *
White male (Reference)		

Note: * p < .05; ** p < .01; *** p < .001.

* The reference group serves as a comparison. For example, the regression coefficients in Time of Stop are 6:00 AM to 12:00 PM, 12:00 PM to 6:00 PM, and 6:00 PM to 12:00 AM. They are compared to 12:00 AM to 6:00 AM, which is when the most stops and subsequent searches are thought to occur. The reference group is the comparison group for which all other groups are compared. This approach was utilized for Reasons for Stops and Officer Type. With regard to race and gender, white males were the reference group or point of departure.

** This also explains why there is no regression coefficient for the reference groups because they are the standard for comparison.

Regarding race, Table 3 further showed that a driver's race also had a significant effect on police officers' decisions to search. In Model 2, interaction variables between race and gender were added, and black male drivers were more likely than white male drivers to be searched during traffic law enforcement.

This same procedure was used to examine predictors of police officers' decisions to issue citations during traffic stops, and the results of logistic regression analyses are presented in Table 4. In Model 1, age was significantly related to officers' decisions to search and also had a significant effect on an officer's decision to issue a citation. Results showed that older drivers were less likely to receive a citation.

Table 4****
Logistic Regression Results for Police Officers' Actions After Traffic Stops in 2001*

	Police Actions after traffic stops: Citation vs. Verbal warning	
	Model 1	***Model 2***
Age	-0.98 ***	
Time of Stop		
6:00 AM to 12:00 PM	2.79 ***	
12:00 PM to 6:00 PM	1.96 ***	
6:00 PM to 12:00 AM	1.30 ***	
12:00 AM to 6:00 AM (Reference)		
Out of State License	0.80	
Reason for Stop		
Seatbelt violation	0.72*	
Equipment violation	- 0.29 ***	
Other vehicle code violation	-0.42 ***	
Alcohol violation/BOL	-0.51 ***	
Speed violation (Reference)		
Officer Type		
Low-frequency stop officer	1.93 ***	
Middle-frequency stop officer	1.77 ***	
High-frequency stop officer (Reference)		
Male	0.98	
Race/Ethnicity		
Asian/Pacific	1.78 ***	
Black	0.84	
Other	1.32 *	
White (Reference)		
Race/Ethnicity Gender*		
Asian/Pacific male		1.98 ***
Black male		0.64 ***
Other male		1.33
Asian/Pacific female		1.35
Black female		1.11
Other female		1.16
White female		0.96
White male (Reference)		

Note: * p < .05; ** p < .01; *** p < .001.
**** The same rationale is used for this table as in Table 3.

Interestingly, results showed that motorists who were stopped between 6:00 AM and 12:00 PM, 12:00 PM and 6:00 PM, and 6:00 PM and 12:00 AM were more likely to receive a citation than those stopped between 12:00 AM and 6:00 AM.

Driver's license state of issue, which was not significantly related to officers' decisions to search, was not significant in terms of issuing a citation. In other words, drivers who possessed an out-of-state drive license were not more likely than in-state drivers to receive a citation.

Results revealed that seatbelt violators were significantly more likely to receive a citation than drivers who exceeded the posted speed limit. It should be noted that the 2001 time frame reflected a period in which the state participated in a "Click-it-or Ticket Campaign" that targeted seatbelt violations. Equipment violators, other vehicle code violators, and other traffic violators (Alcohol or BOL) were less likely to receive a traffic citation than speeders.

Results showed that motorists stopped by low-frequency and/or medium-frequency stop officers were significantly less likely to receive a traffic citation than motorists stopped by high-frequency stop officers. This suggests that officers who stop more motorists are more likely to write citations than officers who stop fewer motorists.

With regard to a decision to search, females in general were less likely to be searched than males. A driver's gender did not have an impact on officers' traffic-citation decisions. These logistic regression analyses showed that female motorists were treated similarly to male motorists in terms of likelihood of receiving traffic citations.

Results revealed a significant race effect in terms of traffic citations, however. Asian and black male motorists were significantly more likely to receive traffic citations than white male motorists during the time this study was conducted.

Discussion

The findings on the relationship between a driver's race and an officer's decision to search and issue a citation are complex. The results indicated that a driver's race played a significant role in officers' decisions to search a vehicle/driver and issue a traffic citation. Black male drivers, who were often the object of racial profiling on traffic stops, were more likely than white male drivers to be searched. Also, white female drivers were less likely than white male drivers to be searched, but Asian males and black males were more likely to be ticketed.

The results suggest that black male drivers were searched more often than white male drivers, regardless of the reason for the stop. In other words, the traffic stop appears to become an invitation to search the vehicles of black drivers for other illegal activities.

Asian male drivers were less likely to be searched when stopped, but more likely to be cited for a traffic violation than white males. A possible explanation for this may be that the language barrier between officers and Asian drivers might have some effect on the decision to issue a citation. Among enrolled students at the university,

significant numbers of students are international students, mostly from Asian countries. Because English is not their native language, it is possible that police officers may experience frustration with communication problems and subsequently attempt to end the interaction quickly by issuing a citation.

Though the results showed that minority drivers, specifically black male drivers, were stopped and searched disproportionately, the study does not clearly indicate minorities to be targets of racial profiling on traffic stops because of several limitations in the data. First, the current study used members of enrolled students as a population baseline for comparison, consistent with previous research, using census data for comparison. Several scholars (Engel et al., 2002; Smith & Alpert, 2002) have argued that using census data is not reliable since only drivers get tickets and not everyone in the population drives. In addition, data for this study was derived from a survey completed by officers following each traffic stop. Thus, this data is based on police officers' perceptions of encounters with citizens during traffic stops. No method exists for comparing officers' perceptions of variables to confirm accuracy. For instance, race is based solely upon the perceptions of the officer. It is also difficult to gage pretext for traffic stops, since only the officer knows the motivation for each stop. Given that this state does not record race on the driver's license, it was not possible to validate race and/or ethnicity. Moreover, given the lack of a linkage to the university's registration system, it was impossible to trace license plates to identify vehicles stopped during traffic stops to determine the proportion driven by registered students, faculty, and/or staff.

Despite these limitations, the findings expand our understanding of racial profiling. The results show that black drivers are not the only minority who may receive unwarranted attention from the police. The study found that Asian drivers, who were often excluded or ignored in previous research, were stopped more often than expected and more likely cited than white drivers. Previous research on racial profiling was limited to the existence and prevalence of racial profiling, mainly comparing white and black drivers (Reitzel et al., 2004). Considering that Asians are one of fastest growing minorities in the United States, future research needs to examine the experience of racial profiling among Asian drivers (Meehan & Ponder, 2002).

While our findings do not indicate that police officers use race as an exclusive factor for traffic stops, race impacts both the decision to search a vehicle and issue a citation.

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Profiling and Terrorism

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The use of racial profiling to prevent terrorist attacks is simply ludicrous! Terrorists will simply use our focus on a particular racial or ethnic group and turn our vigilance on these groups against us. Scotland Yard said it best: "Terrorists will try to use our actions against us and will adapt their methods (use women or even children). Be aware that there is no specific racial, ethnic, sexual, or religious profile for terrorist[s]" (as cited in Balley, 2005, p. 2). If we limit our focus to those who "look like Muslim men," we are doomed to fail. This poses another interesting question. Do all Muslim men look alike? No.

In Israel, they are astutely aware that terrorists may not look like the enemy and that terrorists are willing to use unsuspecting victims as a vehicle to carry out a mission. A classic example is the case of Anne-Marie Murphy, a 32-year-old woman who was 6 months' pregnant traveling from Dublin, Ireland, to Israel to marry the father of her unborn child. Police found a bomb in her carry-on bag as she boarded a plane for Tel Aviv. Anne-Marie Murphy was used by her Palestinian fiancee' to carry the bomb he had planted in her baggage unbeknownst to her. Terrorists will sometimes use innocents to carry out an attack, as in the case of Ms. Murphy.

We can learn from the state of Israel, a country with a sound track record of success. No El Al plane has been successfully targeted by terrorists since 1968 when a flight to Rome was hijacked by members of the Popular Front for the Liberation of Palestine. Israel's success has to do with looking at the big picture, not falling victim to tunnel vision, and taking all factors into consideration.

As we have seen in recent times, the terrorists have moved from hard targets (i.e., airplanes) to soft targets (i.e., train and subway systems) used daily by thousands of people throughout the world. The train bombings in Madrid, Spain, and the underground subway bombings in London, England, have proven this reality. Our nation has failed miserably to provide adequate resources to protect rail and subway transportation. Mr. William Millar, President of the American Transportation Association recently noted, "The aviation industry has received more than $18 billion in federal security funding since 9/11 while the public transportation industry has received only $250 million." Millar further noted, "Americans take public transportation 32 million times a day—16 times more often than they travel on domestic airlines—and yet, when it comes to security, public transportation riders are treated as second-class citizens by the federal government" (as cited in Strohm, 2005). The Madrid bombings took the lives of 191 people and injured more than 1,800. The London bombings took the lives of 52 including the four bombers. Injured were approximately 700 (350 treated at the scene, 350 treated in hospital) (MI5, 2005).

Schools have also fallen victim to terrorist attacks such as in Beslan, Russia, with 334 killed including 186 students (Vladimir Sergevnin, personal communication, November 3, 2005). Our elementary and secondary schools as well as colleges and universities are soft targets and extremely vulnerable to terrorist attacks. Reflect

for a moment on the carnage at the Columbine High School massacre when Eric Harris and Dylan Klebold killed 12 fellow students and one teacher and wounded 24 others before killing themselves. Neither Eric Harris nor Dylan Klebold were young Muslim men. The attack took place on April 20, 1999, the 110th anniversary of the birth of Adolf Hitler. This terrorist attack did not result from a so-called Jihad—"an inward spiritual struggle to attain perfection to a political or military struggle to further the Islamic cause"—but out of a devotion to Hitler.

The bombing of the Murrah Federal Building in Oklahoma City, Oklahoma, took place on April 19, 1995. This date was significant to McVeigh for several reasons. It was the anniversary of Waco and the date Hitler suppressed the Warsaw ghetto uprising in 1943. Both events took place one day short of Adolf Hitler's birthday. The Oklahoma City bombing killed 168 people, 149 adults and 19 children. This was the largest terrorist attack and most costly attack in lives lost in the United States since Pearl Harbor. It was not carried out by dark skinned young Muslim men but by a white male born in the United States, who was a decorated army veteran holding a bronze star and army commendation medal. Additionally, McVeigh was not directly affiliated or connected to any of the hate groups that dot the landscape of the Internet. He was a "lone wolf"—an individual acting alone but in harmony with the ideology and causes expounded by these groups, in this case the extreme right of the ideological spectrum.

Ninety minutes after the bombing, an Oklahoma Highway Patrol officer stopped Timothy McVeigh for a minor traffic infraction—failure to have a state license plate. In the automobile driven by Timothy McVeigh were a number of pages from the *Turner Diaries*, which contained underlined passages. Those passages depict a terrorist attack on the United States Capitol and the bombing of an airliner bound for Tel Aviv. The underlined passages read as follows:

> The real value of our attacks today lies in the psychological impact, not in the immediate casualties. For one thing, our efforts against the System gained immeasurably in credibility. More important, though, is what we taught the politicians and the bureaucrats. They learned today that not one of them is beyond our reach. They can huddle behind barbed wire and tanks in the city, or they can hide behind the concrete walls and alarm systems of their country estates, but we can still find them and kill them. (Macdonald, 1978, p. 62)

The *Turner Diaries* was authored by Dr. William Pierce under the pseudonym of Andrew Macdonald. Dr. Pierce, a graduate of the University of Colorado and former physics professor founded the National Alliance, which at its apex, was one of the largest Neo-Nazi organizations in the United States. As noted previously, the bombing took place one day short of the birthday of Adolf Hitler.

The Intelligence Report published by the Southern Poverty Law Center reported that nearly 60 right wing terrorist plots have surfaced since the Oklahoma City bombing. At the time of the Oklahoma City bombing, only one hate site could be found on the Internet; we now have over 5,000 problematic sites.

In 1940, Mr. Earl Warren, Attorney General of California, delivered a speech in which he cautioned against bigotry, hate, and stereotyping predicated on race, religion, national origin, or ethic background:

> It should be remembered that practically all aliens have come to this country because they like our land and our institutions better than those from whence they came. They have attached themselves to the life of this country in a manner that they would hate to change, and the vast majority of them will, if given a chance, remain the same good neighbors that they have been in the past regardless of what difficulties our nation may have with the country of their birth. History proves this to be true . . . .We must see to it that no race prejudices develop and that there are no petty persecutions of law-abiding people. (Siggins, 2002)

After the attack on Pearl Harbor in early 1942, Earl Warren called for the identification of all land owned by those of Japanese ancestry. He also called for California district attorneys to enforce the Alien Land Law against owners of property of Japanese heritage. This same Earl Warren went on to become a committed advocate for civil rights when he became the 14th Chief Justice of the United States. The lesson we should have learned from Earl Warren and President Franklin Delano Roosevelt (who ordered the internment of Japanese citizens on the west cost of the United States on February 19, 1942, fearing them to be a national threat) is that anyone can fall victim to extreme action in time of panic and national crisis. We should never forget the dictum of United States Supreme Court Justice Thurgood Marshall: "History teaches that grave threats to liberty often come in times of urgency, when constitutional rights seem too extravagant to endure" (Marshall, 1989). We must not draw lines based on race, religion, or ethnic background or national heritage if we are to be successful in the fight against terrorism. If we racially profile, we will be doomed to failure! Are there justifiable occasions when race can be used as an identifier? I believe the answer to this question is in the affirmative. When police are given a description of the perpetrator of a specific crime (e.g., rape, battery, etc.) by the victim, they are immediately looking for an individual based on those identifiers (e.g., gender, skin color, height, weight, scars, tattoos, and so on). I believe most citizens would see this as acceptable, reasonable, and prudent law enforcement procedure. I see a distinct difference between racial profiling, identifiers received from a victim, and criminal profiling. According to the *Oxford American Dictionary* (2005), *racial profiling* is "the practice of substituting skin color for evidence as grounds for suspicion by law enforcement officials" (p. 1394). Criminal profiling on the other hand is when police use a number of behavioral patterns/traits to establish a criminal profile. An example would be an individual acting in a strange and erratic manner such as pacing back and forth, appearing to be nervous, wearing bulky and/or heavy clothing on a hot summer day, wearing a rain coat on a sunny day—succinctly, wearing clothing inconsistent with current weather conditions. Perspiring heavily when talking to officials, glancing to the left and right while walking slowly, refusal to make eye contact with officials, enlarged pupils, fixed stare, tunnel vision, moving toward large groups, fidgeting with something under clothing, wires protruding from back pack or luggage, odor of chemicals on clothing, bulges in clothing, heavy odor of cologne (many times used to mask the odor of chemicals), etc., would be considered in criminal profiling.

Some would suggest that criminal profiling was developed by the Federal Bureau of Investigation at their Behavior Sciences Unit at the FBI Academy in Quantico, Virginia.

A number of renowned psychiatrists and psychologists affiliated with Scotland Yard [London Metropolitan Police], however, established criminal profiles long before the FBI was formed in 1908. This technique was used during the investigation of Jack the Ripper in developing leads on the type of individuals on whom they needed to focus. Twelve women murdered in Whitechapel on London's east side from 1888 to 1891 were mutilated with a sharp knife or scalpel with the precision of a surgeon. Through criminal profiling, four main suspects were identified (Sugden, 1995). A half century later during the Second World War, the OSS (Office of Strategic Services, now the Central Intelligence Agency) used profiling in an attempt to understand the mind of Adolf Hitler in order to counter moves made by Nazi military forces.

I believe that racial profiling and criminal profiling are two distinct and separate issues. The former is reprehensible and should be outlawed in every venue and every jurisdiction; however, criminal profiling can serve as a valuable tool in the fight against terrorism and terrorists attacks against the homeland.

In summation, we should always remember the admonishment of Professor Brian Levin (2005), Director of the Center for the Study of Hate & Extremism at California State University, San Bernardino: "There are ticking time bombs in the community who have the capacity, skill, and hatred to carry out acts worse than that of Timothy McVeigh. The Internet is where law enforcement should be looking because that is where the next Timothy McVeigh probably is right now!" (personal communication, November 11, 2005)

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Preparing for the Illinois Traffic Stop Statistical Study

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Purpose

On July 18, 2003, Governor Blagojevich signed a new senate bill into law. This law establishes a 4-year statewide study of traffic stops to collect data to identify racial bias. From January 1, 2004, until December 31, 2007, Illinois law enforcement officers conducting a traffic stop as a result of an alleged violation of the Illinois Vehicle Code are required to record certain information, including the race of the driver. Each law enforcement agency is to turn in data collected to the Illinois Department of Transportation (IDOT) for analysis of indication of racial profiling. The purpose of this article is to explore practical methods of collecting the data, submitting it to the state, and conducting self-analysis in preparation for the announcement of the first year results in July 2005.

History

In response to allegations of racial profiling, some communities and states began to track and analyze the race of drivers stopped for traffic violations. This led to the Traffic Stop Statistical Study, 625 5/11-212 of the Illinois Compiled Statutes, which was a result of the July 18, 2003, Senate Bill. The statute requires all state law enforcement agencies conducting traffic stops to collect and submit data to IDOT for analysis.

When seeking to determine whether allegations of racial profiling are accurate, any analysis concerning the nature of the scope of the problem depends on the definition of racial bias used. For purposes of this article, the term *bias-based policing* will be used and is defined as any police-initiated action that relies solely on the race, ethnicity, or national origin rather than the behavior of an individual or information that leads the police to a particular individual who has been identified as being, or having been, engaged in criminal activity (Farrel, McDevitt, & Ramirez, 2000).

Collection

Data collection should be conducted in a way that has a minimal impact on patrol and traffic operations. IDOT has supplied a model, but not a mandatory form, for use by officers to document the required information for later entry. The problem with the form is that much of the information entered on a standard citation is duplicated in the IDOT form. On a typical traffic stop, the only additional information required by the state is race. There is usually not a search or drug detection dog involved. The optimal method for collection by most agencies would be to add a field for race on the current citation or written warning form. A supplemental form can be easily designed to fill in atypical information such as a search being conducted. On the vast majority of stops, the only impact felt by officers would be the additional field of race. Duplication need only occur in the infrequent use of the supplemental form, which would require entering information such as name and date to associate

it with a citation or written warning. The supplemental form could also be utilized for verbal warnings but would require more complete information, such as name, address, location, violation, etc.

To ensure the accuracy of data collection, departments should implement a mechanism for spot-checking or cross-checking the data. Several possibilities exist. Nearly all traffic stops conducted by officers in the United States involve an officer transmitting to the dispatcher that a stop is being made. This is normal police procedure in most communities. These stops are part of the Computer Aided Dispatch (CAD) file in most agencies and could be reviewed to ensure that all stops result in the completion of a traffic stop data form (Farrel, McDevitt, & Ramirez, 2000). Additionally, many agencies employ on-board video cameras to record traffic stops. These cameras can be set up to automatically activate, and not turn off, while emergency lights are turned on. Random documented reviews of these recordings can be compared against CAD stop records and the mandatory written documentation from the stop.

Data Entry and Submission

Some agencies have set up their CAD systems to accept required data. This is beneficial in that required data can be entered by the officer directly into the squad car's computer data terminal (CDT) and downloaded into the agency's Records Management System (RMS). From the RMS, the data can be put into an IDOT authorized file format and uploaded to the IDOT site. This removes all double entry by records personnel. The problem with this method is that it requires duplication by the officer in the police car. Officers must first write the citation and then enter much of the same information into the vehicle CDT. For most agencies, it would be best to avoid this method, leaving any extra work in the hands of non-line personnel, such as records clerks who may already be entering citation data rather than officers on the beat.

The state of Illinois requires that the following data be submitted to IDOT each year for the duration of the study:

Field Name	Acceptable Values
Date of Stop	MM/DD/YYYY
Time of Stop	HH:MM (Military Time)
Officer Name	60 characters
Officer Badge Number	10 characters
Name of Driver	60 characters (Last Name, First Name)
Address	60 characters (the driver's address)
City	50 characters
State	2 characters
Zip Code	5 digits
Vehicle Make	20 characters
Vehicle Year	4-digit year (e.g., 2001)
Driver's Year of Birth	4-digit year (e.g., 1957)
Driver's Sex	1: Male 2: Female
Driver's Race	1: Caucasian 2: African American 3: Native American/Alaskan 4: Hispanic 5: Asian/Pacific Islander
Reason for Stop	1: Moving Violation 2: Equipment 3: License Plate/Registration
Type of Moving Violation (If reason for stop is Moving Violation)	1: Speed 2: Lane Violation 3: Seat Belt 4: Traffic Sign or Signal 5: Follow Too Close 6: Other
Result of Stop	1: Citation 2: Written Warning 3: Verbal Warning (stop card)
Type of Roadway	1: Interstate 2: U.S. Highway 3: State Highway 4: County/Township Road 5: City Road
Beat Location of Stop	A string of up to 4 characters
Was a Search Conducted?	-1: Yes 0: No
Vehicle Search Type	1: Consent 2: Reasonable Suspicion 3: Probable Cause 4: Incidental to Arrest 5: Custodial Arrest 6: Drug Dog Alert 7: Other
Driver Search Type	1: Consent 2: Reasonable Suspicion 3: Probable Cause 4: Incidental to Arrest 5: Custodial Arrest 6: Drug Dog Alert 7. Other

Field Name	Acceptable Values
Passenger 1 Search Type (only if a search was conducted)	1: Consent 2: Reasonable Suspicion 3: Probable Cause 4: Incidental to Arrest 5: Custodial Arrest 6: Drug Dog Alert 7. Other
Passenger 2 Search Type (only if a search was conducted)	1: Consent 2: Reasonable Suspicion 3: Probable Cause 4: Incidental to Arrest 5: Custodial Arrest 6: Drug Dog Alert 7. Other
Passenger 3 Search Type (only if a search was conducted)	1: Consent 2: Reasonable Suspicion 3: Probable Cause 4: Incidental to Arrest 5: Custodial Arrest 6: Drug Dog Alert 7. Other
Passenger 4 Search Type (only if a search was conducted)	1: Consent 2: Reasonable Suspicion 3: Probable Cause 4: Incidental to Arrest 5: Custodial Arrest 6: Drug Dog Alert 7. Other
Passenger 5 Search Type (only if a search was conducted)	1: Consent 2: Reasonable Suspicion 3: Probable Cause 4: Incidental to Arrest 5: Custodial Arrest 6: Drug Dog Alert 7. Other
Passenger 6 Search Type (only if a search was conducted)	1: Consent 2: Reasonable Suspicion 3: Probable Cause 4: Incidental to Arrest 5: Custodial Arrest 6: Drug Dog Alert 7. Other
Was Contraband Found? (only if a search was conducted)	-1: Yes 0 : No
Were Drugs/Alcohol/Paraphernalia Found? (only if a search was conducted)	-1: Yes 0 : No
Was a Weapon Found? (only if a search was conducted)	-1: Yes 0 : No
Was Stolen Property Found? (only if a search was conducted)	-1: Yes 0 : No
Was Other Contraband Found? (only if a search was conducted)	-1: Yes 0 : No

(IDOT, Final Format as of 12/10/03)

Agencies have two options for entering data into the IDOT data collection system:

1. The agency can use the IDOT website to enter data on individual stops.
2. The agency will have the option to compile the data using its own data application. The data can be exported from this application into a text file that can then be uploaded to the IDOT website.

The method of manually entering collected data on the IDOT website is not optimal for most agencies. Data collection should be set up to have a minimal impact on the day-to-day operations of the agency. Most agencies currently utilize records clerks to enter citation information into RMSs. The IDOT database in no way replaces an RMS; therefore, records clerks are required to enter citation data into their own RMS and then re-enter much of the same data on the IDOT site.

The optimal method for entering and reporting data for most agencies is to utilize their current RMS. Many RMS companies are distributing versions that are set up to accept information required by the various states involved in data collection related to race. Any system should allow customization for an agreed upon price. Any additional cost would probably be worthwhile to avoid double entry. Once the data is entered by records clerks, it can be formatted into an IDOT authorized file and uploaded to the IDOT site. The only additional work required of the records clerks is the entry of additional fields required by the state that were not previously part of the RMS citation module. Examples of additional fields include reason for stop, type of roadway, search information, and contraband information. The additional fields can be set to a default if the information is not applicable.

Policy

It is recommended that an agency have a general order in place with policy that ensures compliance with the state law by agency personnel. Procedures for data collection, entry, submission, and internal data analysis should be spelled out. The order should include a strongly worded policy against bias-based policing.

According to Diamond, Fridell, Kubu, and Lunney (2001) of the U.S. Department of Justice, the policy, specifically, should . . .

- Emphasize that arrest, traffic stops, investigative detentions, searches, and property seizures must be based on reasonable suspicion or probable cause.
- Restrict officers' ability to use race/ethnicity in establishing reasonable suspicion or probable cause to those situations in which trustworthy, locally relevant information links a person or persons of a specific race/ethnicity to a particular unlawful incident(s).
- Apply the restrictions above to requests for consent searches and even those "nonconsensual encounters" that do no amount to legal detentions.
- Articulate that the use of race and ethnicity must be in accordance with the equal protection clause of the 14th Amendment.
- Include provisions related to officer behavior during encounters that can serve to prevent perceptions of racially biased policing.

Analysis

Agencies should not rest at simply collecting the data for submission to IDOT for analysis. Ultimately, the agency CEO is responsible for the actions of his or her employees. Therefore, it is important for the agency to conduct its own analysis of the collected data to search for any indication of bias-based policing by individual officers.

When implemented as part of a comprehensive early warning system, data collection processes can identify potential police misconduct and deter it. By detecting and addressing instances of disparate treatment of persons of color by the police, law enforcement organizations may be able to prevent the development of systemic pattern and practice of discrimination (Farrel et al., 2000).

One commonly used method of analysis used to search for indications of bias-based policing is internal benchmarking. Using this technique, officers who work the same assignment in the same general area at approximately the same time of day are compared with each other.

The strength of a carefully constructed internal benchmarking analysis lies in its simplicity and potential widespread availability. The types of analyses require only that agencies collect stop data on driver race, time, and location, which many do already. The analyses themselves are relatively simple to conduct and can be accomplished with ubiquitous spreadsheet programs. From a substantive standpoint, the logic of internal benchmarking is compelling. The racial stop patterns of officers who work the same assignments in the same areas and at the same times of day should be roughly equivalent. When stops are matched by geographic location, time, and assignment, internal benchmarking helps rule out race-neutral explanations for observed disparities and may be used to identify particular officers for further inquiry and/or intervention (Smith, 2004).

Commonly used statistical internal benchmarking systems include the following:

- T-Test – A test that determines whether a sample differs significantly from the population from which it was drawn.
- Binomial Distribution – A formula that indicates the probability of achieving a given number of outcomes, when only two different outcomes are possible, in a predetermined number of trials when the probability is the same for each trial.

Despite its advantages as a tool to monitor police behavior, internal benchmarking has weaknesses as well, such as the lack of any external measure indicating who should be stopped. If bias-based policing is pervasive throughout an agency, internal benchmarking may only identify the worst offenders, leaving others undetected. Because the comparative norm is developed from within the agency itself, internal benchmarking may overlook officers who engage in illegal bias-based policing but do so at lower levels than some of their peers. In that case, discriminatory behavior becomes the norm against which more egregious practices are judged, while the norm itself goes undetected (Smith, 2004).

Because of the weaknesses of internal benchmarking, it does not offer a complete search for indicators of racial profiling. A more thorough procedure to search for

indications of racial profiling is to conduct both an internal benchmarking analysis and an external benchmarking analysis.

External benchmarks involve developing an estimate of percentages of persons who are at risk for being stopped on roads that are patrolled by the law enforcement agency by racial or ethnic group. These benchmarks may be used to measure persons who are violating traffic laws on particular roadways or alternatively may simply be traveling on these roads (Farrel et al., 2000). This method allows agencies to set benchmarks for the agency as a whole. When accompanied by internal benchmarking, the agency CEO has a clearer statistical picture of who should be stopped and who is actually being stopped.

A common method of estimating percentages of persons who are at risk of being stopped is to use area census or adjusted census figures of the population over 15 years of age. This is the method that the State of Illinois is planning to use when analyzing the data submitted by agencies in the state. A problem with census data is that it does not necessarily reflect the actual driving population of an agency's jurisdiction. Other factors, such as area industry, shopping, main highways, and interstate expressways, can bring in a large population of drivers who do not live in the area and who do not reflect the residential demographics.

In Highland Park, Illinois, a "windshield survey" was conducted to obtain a more reliable estimate of the area driving population. In this case, the Northwestern University Center for Public Safety was commissioned to conduct the survey. The center hired and trained teams to position themselves at intersections in the city where the highest amount of traffic stops were made the previous year. A team member recorded the race of passing drivers as perceived by the team observer. The percentages were used to set external benchmarks.

Another group against which stop demographics can be compared are people who have been involved in vehicle accidents. A major advantage of this comparison information over census data is that it provides a measurement of poor driving behavior. This information is also available within the police department, if tracked, and includes both residents and nonresidents who are on the roads (Diamond et al., 2001). It is recommended that only the race of the driver who is not at fault be tracked. The not-at-fault driver is random; whereas, the at-fault driver is involved due to a driving behavior that caused an accident.

Follow-Up

When an individual officer falls outside of internal benchmarks, it should not be an automatic determination that the officer has been engaging in bias-based policing. It should only be an indicator that further examination of the officer's behavior is required. The following is an example of further examination conducted by the Highland Park general order.

Officers Outside of Benchmarks

1. *Further examination of the contact experience for an individual officer will be initiated if the number of contacts by an officer for a particular minority group falls outside the confidence interval limits (i.e., the number of contacts is greater than the upper benchmark).*

2. *It is not an automatic determination that an officer has been engaged in bias-based policing, or any other wrongdoing, if an officer is outside of an internal benchmark for a minority. It is only a determination that the officer's activity is not consistent with the rest of the work group, indicating that further review is necessary.*

3. *Further review will be conducted by the commander or immediate supervisor of the officer outside of a benchmark, utilizing the Data Collection Supervisory Report Form.*

   At a minimum, further reviews will include the following components:

   a. *Six-month audio/video review involving the racial group in which the officer appeared outside of internal benchmarks*

   b. *Six-month document review involving the racial group in which the officer appeared outside of internal benchmarks*

   c. *Citizen Complaint Review*

   d. *Six-month Citizens' Opinion of Police Services (COPS) feedback review*

   e. *Six-month Mobile Data Terminal (MDT) communications review*

   f. *Previous periods above internal benchmarks*

Conclusion

The collection and submission of data for the Illinois Traffic Stop Statistical Study calls for a solid plan in order to have a minimal impact on the day-to-day operations of an agency. It is also recommended that the plan include methods of analysis along with procedures to review and act on the analysis results. Strong policy should be written to support the plan.

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Equal Treatment for Equal Dollars in Illinois: Assessing Consumer Racial Profiling and Other Marketplace Discrimination

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Introduction

As the nation mourns the loss of Rosa Parks, Civil Rights pioneer and consumer activist, it seems appropriate for marketers, academic researchers, public policy makers, and the law enforcement community to continue asking the question that no doubt was on Rosa Parks' mind: Are African Americans and other minority consumers getting equal treatment for equal dollars? Similar questions were raised by Illinois residents as evidenced by consumer activism in Illinois history. For instance, the race riots in East St. Louis in 1917 and in Cairo in 1969 were both tied to issues of economic parity and consumer equity. Recently, we examined this question on a national level by analyzing 81 federal court decisions made between 1990 and 2002 involving customers' allegations of race and/or ethnic discrimination in the marketplace (Harris, Henderson, & Williams, 2005). Using a similar framework in this article, we analyze federal court decisions involving consumer racial profiling and other marketplace discrimination solely in the State of Illinois; however, we build upon our previous study by also analyzing state court decisions and complaints brought before the Illinois Human Rights Commission. Whereas our previous study provided a comprehensive look at federal cases across the entire country, the current ""drill-down" approach allows us to focus on a particular geographic location (i.e., Illinois) and gain some insight as to how the courts and the Human Rights Commission in this location have dealt with marketplace discrimination and to compare the results to the broader, national study. We also felt that a state focus would have greater relevance for law enforcement personnel, particularly in Illinois, who are more impacted by local court findings.

In this study, we examine 29 cases in Illinois, including state court, federal court, and Human Rights Commission cases. We begin with a discussion that explains the terminology frequently used in the literature and popular press—"Shopping While Black" (Gabbidon, 2003), consumer racial profiling (Williams, Henderson, & Harris, 2001), consumer discrimination (Harris, 2003), and statistical discrimination (Lee, 2000). Next, we describe the extent of marketplace discrimination and why we feel this topic is important for marketers, followed by a discussion of the legal issues and relevant legislation. The remainder of the article focuses on an analysis of the 29 cases.

Differentiating Consumer Racial Profiling (CRP) and Marketplace Discrimination

For many researchers, consumer racial profiling (CRP) is analogized to law enforcement racial profiling. This is the approach we take in this article. This typically occurs when law enforcement officers stop, question, investigate, detain, and/or arrest individuals based on their race or ethnicity rather than on probable cause or even reasonable suspicion that these individuals have engaged in criminal activity. Typically when this involves motorists, this phenomenon is commonly referred to as "Driving While Black or Brown" (DWB). When it involves consumers, the phenomenon is commonly referred to as "Shopping While Black or Brown" (SWB).

Many incidents of marketplace discrimination, however, do not involve suspecting customers of engaging in criminal activity. Hence, in this article, we use "marketplace discrimination" as a broader term to capture not only CRP but other types of marketplace situations in which consumers do not receive equal treatment for equal dollars. Essentially, whether there is criminal suspicion or not, we are concerned with any type of differential treatment of consumers in the marketplace based on race/ethnicity that constitutes denial of or degradation in the products and/or services offered. Our definition of marketplace discrimination covers consumption experiences beyond shopping in retail stores. For example, our analysis of federal cases demonstrated that marketplace discrimination frequently occurs in places of public accommodation such as hotels, restaurants, gas stations, and service providers, as well as retail establishments including grocery/food stores, clothing stores, department stores, home improvement stores, and office equipment stores (Harris et al., 2005). Furthermore, marketplace discrimination impacts members of minority groups beyond those classified as black/African American, such as Hispanics, Asians, and Native and Arab Americans. In fact, since September 11, 2001, there has been heightened interest and concern about CRP as it applies to anyone perceived as Middle Eastern, including South Asians, Latinos, and even Jews (Nakao, 2001).

Extent of Consumer Racial Profiling/Marketplace Discrimination and Impact on Marketers

Compared to DWB, for which one survey reports that 37% of African Americans feel they have been victims of racial profiling (Morin & Cottman, 2001; Valia, 2001), the evidence clearly suggests that SWB is a far more common experience among African Americans (Ainscough & Motley, 2000; Henderson, 2001). Williams and Snuggs (1997) conducted a mail survey of 1,000 households and found that 86% of African Americans felt that they were treated differently in retail stores based on their race. A 1999 Gallup poll reported that 75% of black men had been subjected to CRP (as cited in Knickerbocker, 2000). Since 1990, the popular press has reported hundreds of accounts of consumer racial profiling and marketplace discrimination against consumers of color.

Sociologist Feagin (1991) suggests that African Americans utilize several diverse strategies to cope with perceived injustices, including withdrawal, resigned acceptance, verbal or physical confrontation, and filing a lawsuit. In *Exit, Voice and Loyalty,* Hirschman (1970), the noted economist, described a similar set of strategies:

exit (leave store), voice (complain, file lawsuit, etc.), and loyalty (accept and continue to purchase from retailer). Our analysis focuses exclusively on the "voice" strategy through lawsuits. Our current analysis comprises published federal court decisions brought in Illinois and issued between 1990 and 2002 as well as Illinois state court decisions and decisions of the Illinois Human Rights Commission (IHRC). With respect to Illinois state court decisions and those of the IHRC, we searched for and analyzed all cases available through Lexis-Nexis without any time limitation.

Given that consumers of color comprise approximately one-third of the U.S. population and wield over $1 trillion of purchasing power (Selig Center, 2004), it is important to note that "exit" strategies due to SWB and other forms of Marketplace Discrimination can have a direct, negative impact on marketers. For example, sales at one Treasure Cache store fell by more than 50% following a SWB-related incident (Bean, 2001). Dillard's department store stock has undergone a significant drop in the past few years, which some link to the over 100 CRP lawsuits filed against the retail chain (Kong, 2003). A Denny's poll found that approximately 50% of African Americans said they would never eat at Denny's again following negative publicity surrounding a CRP lawsuit, although, in a subsequent poll that number fell to 13% due to aggressive efforts by Denny's to address CRP issues (Hood, 2004).

Legal Review of Consumer Racial Profiling Issues and Legislation

Claims of marketplace discrimination are typically filed under federal civil rights laws that stem from the Civil Rights Acts of 1866 and 1964. We describe these two laws and their application to cases of consumer racial profiling and marketplace discrimination. In addition, we describe the Illinois Human Rights Act and the Illinois Human Rights Commission, which was established to enforce the Illinois statute.

Civil Rights Act of 1866

Congress enacted the Civil Rights Act of 1866 pursuant to its 13th Amendment authority to eradicate involuntary servitude (*Runyon v. McCrary*, 1976). Among its goals, the Civil Rights Act of 1866 was designed to ensure "that a dollar in the hands of a Negro will purchase the same thing as a dollar in the hands of a white man" (*Jones v. Alfred H. Mayer Co.*, 1968). Plaintiffs who successfully prove intentional discrimination under this act are entitled to both equitable (injunctive) and legal (monetary) relief, including compensatory and punitive damages (*Johnson v. Railway Express Agency*, 1975).

Victims of consumer discrimination have advanced valid claims under two sections of the 1866 Act, codified at 42 U.S.C. §1981 and 42 U.S.C. §1982. Section 1981 provides that "All persons . . . shall have the same right . . . to make and enforce contracts . . . as is enjoyed by white citizens." The phrase "make and enforce contracts" includes "the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship." The U.S. Supreme Court has stated that the purpose of Section 1981 was "to remove the impediment of discrimination from a minority citizen's ability to participate fully and equally in the marketplace" (*Patterson v. McLean Credit Union*, 1989).

Only a small number of plaintiffs have alleged, in court, that their right to contract was violated during retail or other commercial transactions. To date, courts have narrowly interpreted the scope of Section 1981 by focusing on conduct that prevents the formation of the contract, as opposed to conduct affecting the nature or quality of the contractual relationship. Many federal courts insist that Section 1981 plaintiffs must produce evidence that they were denied an opportunity to complete a retail transaction in order to state a valid claim. This restricted interpretation of the statute has resulted in the dismissal of many plaintiffs' claims at the summary judgment stage prior to the presentation of evidence to a fact-finder (Kennedy, 2001).

Section 1982 provides the following: "All citizens of the United States shall have the same right as is enjoyed by white citizens . . . to purchase personal property." Personal property is any tangible or intangible property that is not real estate. Given that most courts interpret it similarly, this Section does not provide more effective relief than Section 1981 (Kennedy, 2001). Generally, the courts do not believe that defendants have interfered with a plaintiff's right to purchase personal property when that plaintiff is ultimately able to purchase the goods or services he or she sought (Harris, 2003).

Civil Rights Act of 1964

Title II of the Civil Rights Act of 1964 prohibits discrimination and segregation in places of public accommodation. This law aims to "eliminate the unfairness, humiliation, and insult of racial discrimination in facilities, which purport to serve the general public" (House of Representatives Report No. 914, 1964). It provides a guarantee that "all persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin."

While Title II does not require proof of intentional discrimination, it disallows plaintiffs from seeking monetary damages. The statute only permits a court to issue equitable or declaratory relief (*Newman v. Piggie Park Enters., Inc.*, 1968). Equitable relief, such as the issuance of a court order prohibiting the defendant from engaging in discriminatory conduct, is non-monetary. Declaratory relief is a binding adjudication of the rights and status of the litigants even though no relief is awarded.

Title II also requires a plaintiff to notify the state civil rights agency of the complaint before filing suit and within a certain timeframe from the alleged discrimination. In Illinois, that timeframe is 180 days from the date of the alleged discriminatory action. This notification requirement results in the dismissal of some claims because many plaintiffs are not aware of it and fail to meet the statutory deadline.

Under Title II filings, courts must make a threshold determination as to whether the place in question is a "place of public accommodation" which Title II(b) defines as follows:

- Any inn, hotel, motel, or other establishment that provides lodging to transient guests

- Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises
- Any motion picture house, theatre, concert hall, sports arena, stadium, or other place of exhibition or entertainment
- Any establishment that is physically located within the premises of any establishment otherwise covered by this subsection, or within the premises of which is physically located in any such covered establishment, and which holds itself out as serving patrons of such covered establishment

Most consumers are surprised to discover that retail stores are not considered places of public accommodation under Title II. There are some exceptions to this rule since the Act does cover retail stores that contain eating establishments (as well as eating establishments that are "located on the premises of any retail establishment"). According to the Supreme Court, "Retail stores, food markets, and the like were excluded from [Title II] for the policy reason [that] there was little, if any, discrimination in the operation of them" (*Newman v. Piggie Park Enters., Inc.*, 1968). Legal commentators argue that Title II should be amended to include all retail establishments among the list of covered entities—given their coverage in the Americans with Disabilities Act as well as many state public accommodations laws—and to provide for monetary damages before it can truly become an effective tool in addressing the discriminatory conduct that occurs in the marketplace (Harris, 2003; Kennedy, 2001).

Illinois Human Rights Act and the Illinois Human Rights Commission

State laws also provide relief for some victims of marketplace discrimination. Forty-five states, including Illinois, have enacted civil rights or human rights statutes similar to the federal Civil Rights Acts. In fact, many state statutes predate the federal laws. Most consumer discrimination claims, however, tend to be mediated and resolved out of court, leading some commentators to characterize state statutes as ineffective in terms of addressing systemic problems (Haydon, 1997). While settlements may efficiently resolve individual claims to the parties' satisfaction, they may also allow defendants to shield themselves from greater scrutiny and bad publicity. In addition, potentially valid claims are not adjudicated, thereby preventing the courts from establishing precedent with the force of law. State courts have decided only 89 cases of consumer discrimination involving state public accommodations laws, while federal courts interpreting state public accommodations statutes decided an additional 36 cases (Harris, 2004).

The Illinois Human Rights Act (IHRA) secures for all individuals within Illinois freedom from discrimination because of his or her race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental handicap, military status, or unfavorable discharge from military service in connection with employment, real estate transactions, access to financial credit, and the availability of public accommodations (IHRA, 775 Illinois Compiled Statutes, Article 5).

Unlike its federal counterpart, the Illinois law prohibits discrimination in retail stores. The Illinois Human Rights Act defines a "place of public accommodation" as a "business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities,

privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public" (IHRA, 775 Ill. Comp. St., Art. 5).

Forty-one states, including Illinois, and the District of Columbia have established specific agencies empowered to enforce their public accommodations laws. The role and authority of the civil rights agencies vary from state to state. All agencies are responsible for educating the public about its rights and the business community about its duties, studying the problem of discrimination, developing policies and procedures, advising the legislature, publicizing remedies available under the law, responding to specific inquiries, and publishing brochures/pamphlets for wide distribution (Lerman & Sanderson, 1978). Most agencies have regulatory and quasi-judicial authority, which allows them to process complaints of discrimination based on the state's administrative procedure act. Typically, this means that an investigation is conducted after an individual files a complaint, followed by persuasion and conciliation, a hearing, and judicial review (Lerman & Sanderson, 1978).

A majority of states (29), including Illinois, require individuals to file a claim within 180 days of the alleged discriminatory incident. As previously mentioned, the relatively short filing deadline precludes individuals from seeking and obtaining redress entirely in some cases. In Illinois, victims of discrimination may not bypass the state's administrative process and must first file a complaint with the IHRC before filing suit. In addition, complainants in Illinois are required to exhaust the administrative process before proceeding to court. This means that the IHRC must have issued a final order before the complainant may seek relief through the judicial process (*George Mendez v. Pizza Hut*, 2002).

The administrative process begins when an individual files a complaint with the IHRC. An agency investigator assigned to the case attempts to determine whether there is probable cause to believe that the complainant was discriminated against. Between 1999 and 2001, approximately 30% of all cases of discrimination filed with the IHRC were dismissed on findings of no probable cause.* This data includes all complaints arising in the employment and housing sectors as well as public accommodations. Specific data regarding public accommodations complaints are not available from the IHRC. Nationwide, 45% to 50% of complaints are resolved in this way (Harris, in press). In Illinois, as in most states, only a very small number of cases result in a probable cause finding. Across the country, during the 5-year period from January 1999 through December 2003, probable cause was found in 5% to 8% of public accommodations complaints. Similarly, probable cause was found in 9% to 10% of all complaints filed with the IHRC. When an investigation results in an agency finding that there is probable cause to believe that the complainant was discriminated against, the investigator typically attempts to negotiate with the respondent for a settlement of the complaint. Conciliation can begin while an investigation is still ongoing and before any finding is made; therefore, settlements are sometimes arrived at in cases in which probable cause has not been established (Harris, in press).

Approximately 30% of all complaints filed with IHRC are settled. Nationwide, 25% of public accommodations complaints are resolved via settlement. In most

* Data were requested for FY 1999 through 2004. The agency was able to supply only data for FY 1999, FY 2000, and FY 2001. Information relative to FY 2002-2004 is unpublished.

agency settlements, respondents agree to provide the complainant with access to their establishment and to compensate the complainant with monetary damages. Additionally, many settlements include an order for compliance with the statute. Settlements are formalized in a signed agreement, which is enforceable by the agency (Lerman & Sanderson, 1978). In addition, mediation of complaints is encouraged, but it is unclear to what extent such efforts are successful given the paucity of data. Generally, mediation is conducted by mediators outside the agency.

Public hearings are held in cases in which probable cause was found but attempts to conciliate failed. This is a fairly unpopular method of resolution. For the 5-year period beginning in January 1999 and ending in December 2003, approximately 8% of cases were heard by an administrative law judge or an agency hearing officer in public hearings nationwide. No data was available regarding the number of complaints that went before hearing officers in Illinois (Harris, in press).

If the finding is against the respondent, the Commission's hearing officer issues a recommended order for appropriate relief as provided by the Illinois Human Rights Act. Typically, this involves requiring the respondent to cease and desist from engaging in the discriminatory practice and to admit the complainant to the accommodation in question. Depending on the state, some agencies are authorized to award punitive damages as well as compensatory damages that may include damages for humiliation and embarrassment. In Illinois, the IHRC can order the respondent to pay actual damages, as reasonably determined by the Commission, for injury or loss suffered by the complainant; to pay a civil penalty to vindicate the public interest; to pay to the complainant all or a portion of the costs of maintaining the action, including reasonable attorney fees and expert witness fees incurred in maintaining the action in any judicial review and judicial enforcement proceedings; to report as to the manner of compliance; to post notices in a conspicuous place, which the Commission may publish setting forth requirements for compliance with the Act or other relevant information that the Commission determines necessary to explain the Act; and to take such action as may be necessary to make the individual complainant whole. On the other hand, if based on all the evidence, the hearing officer finds that a respondent has not engaged in discrimination, he or she issues a recommended order dismissing the complaint (775 ILCS 5/8A-102).

Judicial review of state agency decisions is available in every state to promote enforcement of agency orders (Lerman & Sanderson); however, very few public accommodations cases reach the courts, in part because of the common perception that plaintiffs do not fare well in state courts (Romero & Sanders-Romero, 2004). In fact, our search turned up only five cases of marketplace discrimination decided by Illinois state courts in which the state statute was at issue. Illinois law imposes civil penalties of $10,000 to $50,000 (depending on the number of prior violations) as well as compensatory damages, injunctive relief, punitive damages, and attorney's fees. Most states provide compensatory as well as injunctive relief. Only Nebraska, North Carolina, Virginia, and Wyoming do not provide prevailing plaintiffs with compensatory damages. In fact, North Carolina, Virginia, and Wyoming provide neither legal nor equitable relief (Harris, in press).

Thus, judicial opinions and IHRC decisions contribute to an understanding of CRP and marketplace discrimination. Yet, it is important to note that complaints filed

in court or with the Commission represent a "tiny and nonrandom fraction" of the actual incidents of discrimination (Siegelman, 1999).

Analysis of Illinois Cases

The Illinois cases reviewed include plaintiffs of any racial groups who claimed that they were treated poorly relative to white customers in commercial establishments. More specifically, we analyzed federal cases in which people of color alleged that defendants violated their rights under federal statutes covering "the making and enforcing of contracts" (Section 1981), "the purchase of personal property" (Section 1982), and "the full and equal enjoyment . . . of places of public accommodation" (Title II). Similarly, we analyzed state cases in which people of color alleged a violation of the Illinois Human Rights Act and any case brought before the Illinois Human Rights Commission alleging violations of the Illinois Human Rights Act. We report a total of 29 cases, including 5 Illinois state cases, 10 Illinois Human Rights Commission cases, and 14 federal cases. The defendants cover a range of marketplace providers, including major retailers, small retail establishments, restaurants, oil companies, food/grocery stores, car rental companies, lodging facilities, etc. It is important to keep in mind that the inclusion of a company in our database of cases is not an indication of guilt. This only means that a suit was filed against the company. (See Tables 1A-1C for a complete list of all 29 defendants for state, Human Rights Commission, and federal cases).

Table 1A
Illinois Federal Cases Filed

Company	Year (CRP or Discrimination Type – see legend)	Industry/Business Type
Ameritech	2000 (3)	Telecommunications
Amoco	2003 (2)	Gas Station/Oil Company
Baur's Opera House	1993 (1)	Entertainment/Amusement/Social Club
Café Kallisto	1997 (4)	Restaurant
Dave & Buster's	1996 (4)	Restaurant
Jewel Food Stores	1996 (3)	Food/Grocery Store
Kookies	1999 (2)	Bar/Restaurant
OfficeMax	1996 (1)	Large Retail Establishment
Pizza Hut	2002 (1)	Fast Food/Carry-Out/Delivery
Pizza Hut	1998 (2)	Fast Food/Carry-Out/Delivery
Shell Oil	1999 (2)	Gas Station/Oil Company
Sportmart Sporting Goods	1997 (3)	Large Retail Establishment
United Farm Bureau	1994 (3)	Services (Insurance Company)
Video Junction	1997 (3)	Small Retail Establishment
Total Number of Cases	***14***	

Table 1B
Illinois State Cases Filed

Company	Year (CRP or Discrimination Type – see legend)	Industry/Business Type
CC Grace Restaurant	1904 (3)	Restaurant
Charles Kuchan Theater	1926 (4)	Entertainment/Amusement/Social Club
Fern's Café Restaurant	1966 (3)	Restaurant
Illinois Central Railroad	1946 (4)	Restaurant, Services (Transportation)
Jennie's Restaurant	1957 (4)	Restaurant
Total Number of Cases	***5***	

Table 1C
Illinois State Commission Cases Filed

Company	Year (CRP or Discrimination Type – see legend)	Industry/Business Type
Cerro Gordo Jr. HS	1997 (2)	Services (Education)
Derby St. Restaurant	1998 (3)	Bar/Restaurant
Dominick's	1998 (2)	Food/Grocery Store
Enterprise Rent-A-Car	1999 (3)	Car Rental/Car Dealer
Orland Park Nissan	1999 (1)	Car Rental/Car Dealer
Salvation Army Store	1993 (1)	Retail Establishment
Sheraton Hotel	1994 (4)	Lodging
Steve's Old Time Tap	2001 (4)	Bar/Restaurant
University of Illinois	1994 (2)	Services (Education)
Vill. of Colp Municipality	2000 (3)	Services (Municipal Utilities)
Total Number of Cases	***10***	

Legend: 1 = Subtle Degradation; 2 = Overt Degradation; 3 = Subtle Denial; 4 = Overt Denial

Methodology

The framework used for analyzing the cases was the same framework used in our previous study (i.e., categorizing and aggregating cases with common themes under a common heading). For a detailed description of the content analysis methodology, the reader is referred to Harris et al. (2005). The three emergent themes employed in the content analysis are briefly described as follows:

1. Denial/Degradation

Discrimination can result in a level of service that is either an outright denial or a degradation of the products/services. In a retail environment, the denial of goods or services occurs when customers are prevented from participating in consumption experiences. Examples include refusing to wait on certain customers or to provide them information about goods or services that is available to other customers, denying customers access to the establishment, and removing customers from the store. In contrast, a degradation of goods or services occurs when customers of

color are allowed the opportunity to transact but are provided something less—in a variety of possible ways—than white customers receive. Degradation may take many forms such as extended waiting periods, pre-pay requirements, being charged higher prices, and being subjected to increased surveillance and to verbal and/or physical attacks including the use of racial epithets.

2. Subtle/Overt

"Overt" discrimination is very obvious and direct while "subtle" discrimination is more ambiguous and indirect (Harris, 2003). A landmark study by Blank, Dabady, and Citro (2004) on measuring racial discrimination identified two components in their definition of racial discrimination, namely, differential treatment ("overt") and differential effect, which the report actually refers to as being "subtle." Furthermore, recent research on measuring discrimination and prejudice has focused on constructs and techniques designed to tease out the differences between overt expressions of prejudice and more subtle forms (e.g., the symbolic racism scale, Modern Racism Scale, Implicit Association Test, stereotypic explanatory bias, linguistic intergroup bias, etc.; see Williams, Lee, and Haugtvedt (2004) for a discussion of these constructs and techniques).

The two dimensions of Level of Service and Type of Discrimination combine to form four different CRP and marketplace discrimination categories: (1) subtle degradation, (2) overt degradation, (3) subtle denial, and (4) overt denial. Subtle degradation of goods/services involves cases in which plaintiffs complain of not receiving what they expected in a particular consumption setting without direct evidence that this treatment was based on their race or ethnicity. In contrast, overt degradation occurs when it is clear that non-white patrons received less by way of goods/services than white customers. Subtle denial refers to situations in which plaintiffs alleged that they were outright denied access to goods or services; however, they were unable to identify white patrons who received better treatment. On the other hand, overt denial occurs when there is clear evidence of preferential treatment of white patrons relative to their non-white counterparts. Table 2 presents a summary of these prototypes in matrix form.

Table 2
The Consumer Racial Profiling (CRP) and Marketplace Discrimination Grid

		Extent of Discrimination		
		Subtle	Overt	Total
Level of Service	Degradation	5 (17%)	7 (24%)	12 (41%)
	Denial	10 (35%)	7 (24%)	17 (59%)
	Total	15 (52%)	14 (48%)	29 (100%)

3. Criminal Suspicion

The final dimension of criminal suspicion alludes to the common misperception that minority consumers engage in more criminal activity than majority consumers. The literature suggests that there is a predilection for singling out people of color

for increased scrutiny by criminal justice officials (Gabbidon, 2003). For example, due to increased concern over DWB, many states are now engaged in ongoing data collection to assess the validity of traffic racial profiling. Interestingly, some of the early results suggest that majority drivers have a greater propensity to engage in criminal activity. For example, in one recent study of Rhode Island traffic stops conducted by the Northeastern University Institute on Race and Justice, non-white motorists were 2.5 times more likely to be searched than white motorists (Farrell, McDevitt, Cronin, & Pierce, 2003). Furthermore, when the traffic stop resulted in a search, whites were more likely to be found with contraband—23.5% of white drivers who were searched were found with contraband compared to 17.8% of non-white drivers. Somewhat related to this result, Federal Bureau of Investigation Uniform Crime Reporting data indicates that the greatest percentage of arrestees are white (e.g., in 2002, over 70% of arrestees were white) (FBI, 2004); however, recent signal detection studies in psychology with blacks and whites in the roles of police officers and criminals suggest a perceptual sensitivity effect (i.e., blacks were incorrectly shot at more than whites, and guns held by blacks were less distinguishable from harmless objects than when held by whites) (Greenwald, Oakes, & Hoffman, 2003). Given this inconsistency of data on presumption and perception of involvement in criminal activity versus actual involvement, we felt that "presence" versus "absence" of criminal suspicion was an important categorization theme.

Thematic Intepretation

Below, we discuss the 29 cases based on our first two dimensions of Level of Service and Type of Discrimination represented in the Table 2 matrix, along with the third dimension of Criminal Suspicion. Table 3 provides a summary of the status of each of the 29 cases.

Table 3
Status of Federal Consumer Racial Profiling and Marketplace Discrimination Cases

Description of Category	Subtle Degradation of Goods/ Services	Overt Degradation of Goods/ Services	Subtle Denial of Goods/ Services	Overt Denial of Goods/ Services	*Totals*
Cases Settled	0	3	2	2	7
Cases w/ Finding for Plaintiff	0	1	2	3	6
Cases w/ Finding for Defendant	4	2	6	1	13
Cases w/ Partial Finding for Plaintiff and Defendant	1	1	0	0	2
Cases w/ Multiple Plaintiffs with Findings for Some Plaintiffs and Against Other Plaintiffs	0	0	0	1	1
Total # of Cases in Category	5	7	10	7	29

Subtle Degradation

This category contains five cases (two Human Rights Commission cases and three federal cases), representing 17% of the cases, and has the fewest number of cases of the four categories. This compares with our previous study, where subtle degradation represented the category with the most cases (35%) (Harris et al., 2005). Defendants include an entertainment/opera house, a restaurant, a large retail store, a car dealer, and a small retail store. Four of the five cases were adjudicated in favor of the defendant, suggesting that courts did not believe that the subtle degradation of goods or services occurred due to race or ethnicity.

One case that illustrates subtle degradation is a case brought against Pizza Hut in the federal courts. In that case, Geraldo Mendez, his wife Norma, and three children entered a Pizza Hut restaurant on February 14, 2002. The family stood at the entrance of the restaurant near a sign that read "Wait to be seated." The family was approached by a waitress who asked whether they wanted to dine in or carry out. They replied that they wanted to dine in. They waitress said she would clear a table for them. The family noticed approximately 18 other people in the restaurant at eight other tables. After waiting a few minutes, the family was approached by the manager, Rachel Jackson, who stated that the restaurant was no longer seating people and they would have to carry out. The family left the premises. As he was leaving, Mr. Mendez noticed a sign indicating that the restaurant was open until 10:00 PM. He re-entered the restaurant and asked the manager about the sign on the door. He complained about not being seated and stated that he was going to phone in a complaint. At that point, the manager offered to seat the family, but Mr. Mendez refused. The Mendez family sued Pizza Hut, alleging violations of Title II of the Civil Rights Act, deprivation of the right to contract and to purchase property under sections 1981 and 1982, and violations of the Illinois Human Rights Act. Pizza Hut filed a motion to dismiss, alleging that the plaintiffs had failed to state a cause of action. The court dismissed the claim arising under the Illinois Human Rights Act because plaintiffs had failed to exhaust state administrative remedies before filing suit. The court also dismissed the Section 1981 and 1982 claims finding that plaintiffs could not maintain such claims because they voluntarily left the restaurant. Lastly, the court denied Pizza Hut's motion to dismiss the Title II, a partial victory for plaintiffs.

Overt Degradation

This category contains seven cases (24%) and includes defendants such as gas station/oil company (2), bar/restaurant (2), school (2), and grocery store (1). Three of the seven cases were settled out of court, and two were decided in favor of the defendant. Only one of the cases, a federal case, was decided in favor of the plaintiff. In fact, many federal courts are interpreting very narrowly the statutory language of Section 1981 that evinces their failure to understand the experiences of consumers of color who are seen as lacking a valid claim of discrimination unless they suffer a complete denial of service.

Pizza Hut also was the defendant in an overt degradation case. The plaintiffs were in Illinois for a family reunion. They are all African American. On Sunday night, July 2, 1995, between 9:30 and 10:00 PM, Mary Ann Burton telephoned the Pizza Hut in Godfrey, Illinois, and ordered six pizzas. Mary Ann lived in the area and

was a regular customer of the restaurant, for both carry out and dining in. Mary Ann specifically asked whether it was too late to dine in and the employee of Pizza Hut, after checking with someone else, said she could still dine in. The pizzas were ordered for dining in, and a Pizza Hut employee called back to confirm the order.

There were five employees on duty at the Godfrey Pizza Hut that night. All of them are white. The restaurant's scheduled closing time that night was 11:00 PM. As of July 1995, the usual business practice of the restaurant was to take orders up until the closing time and permit dine-in customers to stay until they finished their meals.

Around 10:15 PM, Andrea McCaleb was the first member of the family to walk into the Pizza Hut with other relatives behind her. As she walked to a table, an employee said, "I am not serving those niggers." They sat down at a set of tables. Employees, however, began taking those tables down. Upon inquiry, an employee named Ponce told them it was okay to use some other tables. Adrian, Sr., another family member, inquired and was told by Ponce that the pizzas were not yet ready but would be ready in a few minutes. When Adrian, Sr. inquired again in five minutes, Ponce told him the pizzas were ready and pointed to six boxes on the counter. Adrian, Sr. stated the pizzas had been ordered for dining in. Ponce did not respond. Adrian, Sr. picked up the boxes, and he and Andrea took them to the tables. Adrian then paid for the pizzas; this occurred at approximately 10:23 PM.

At the time the first plaintiffs arrived, the only other customers in the restaurant were a group of four whites, two adults and two children. That group left after about 15 minutes. No further dine-in customers came in after that. The white customers had plates and silverware with which to eat, and they were served drinks after plaintiffs had arrived.

Plaintiffs were not provided any plates, utensils, or napkins. No one seated them, and no one waited on them to ask them whether they needed any plates or utensils or to ask whether they wanted drinks or anything else with their pizza. Adrian, Sr. went to the counter and asked for plates, napkins, and/or silverware. Ponce handed him a stack of napkins. Adrian, Sr. did not say anything further about plates or silverware.

After the white customers left, an employee began vacuuming around and under the tables at which plaintiffs were dining. When Adrian, Sr. complained, she continued to vacuum around the table for a little while and then moved away a bit. Then, for a few minutes, the employee left the vacuum standing still in an upright position with the motor running. After the vacuuming stopped, the jukebox in the restaurant was turned on at an extremely loud volume. Then, the volume was alternately turned up and down. When the loud music stopped, the lights were turned on and off a number of times. The lights were left off for up to 15 or 20 seconds at a time. When plaintiffs complained about the lights, this antic stopped.

Shortly after the white customers had received drinks, Andrea went to the counter to order drinks and was told that no drinks could be provided because the machine had been turned off. Thereafter, no other customers received drinks, but there were also no other customers who requested drinks.

Plaintiffs were in the restaurant until approximately 11:00 PM. When they decided to leave, they packed the remaining pizza themselves. At one point, Ponce told Adrian Sr. that it was time for him to leave. Otherwise, plaintiffs were never expressly told that they had to leave the restaurant. The treatment plaintiffs received, however, was a clear message that they were not welcome in the restaurant. At least some of the plaintiffs would have stayed longer and eaten more of their pizza at the restaurant if not for the treatment they were receiving. Most, if not all, of the adults were upset by the treatment they received, and some of the children became frightened and cried.

Upon departing, confrontations occurred in the restaurant's parking lot. While plaintiffs were in the parking lot, one of the female employees yelled at them something to the effect, "get out of here nigger." One of the female employees came up to Andrea, who was seated in her car with her children, and called her a "black bitch." Andrea felt threatened and feared that the employee might hit her. Andrea got out of her car and chased the female employee away. Andrea was also fearful because Ponce and another male employee were standing behind her car, one with a bucket and one with a stick, which may have been the handle of a mop. The employee was slapping the stick into his hand in a threatening manner. These same two also approached Adrian, Sr. and stated something to the effect: "Now you're going to get it." They, however, were distracted and did not follow through on the threat. Adrian, Sr. also saw Ponce throw something that just missed his face, though it might have only been a napkin.

Eventually, one of the employees said he would call the police, and Adrian, Sr. said, "Please do." Plaintiffs waited around for 15 minutes but left before the police arrived. The police did meet them at a gas station about a half mile from the restaurant. The police did not arrest anyone. After the federal district court refused to dismiss the plaintiffs' claims, the parties entered into an out-of-court settlement for an undisclosed amount.

Subtle Denial

This category, the largest of the four categories for the Illinois cases, contained 10 cases (35%) in which there was denial of service along with ambiguity as to whether this discrimination was based on race. Interestingly, in our previous study (2005), this category was the smallest. Establishments include a telecommunications provider, grocery store, large retailer, insurance company, small retail store, restaurant (3), car rental establishment, and municipality. Over half of the cases (6) were found for the defendant, compared to our previous study in which half were found for the plaintiff. Among the Illinois cases, two were decided in favor of the plaintiff, and two were settled.

An example of subtle denial of service involves a case brought in federal court against Sportmart Sporting Goods store. An African American man went to the defendant's store to purchase air rifle cartridges. When he entered the store, he was wearing a pair of Nike Air Jordan athletic shoes that he had purchased 4 days earlier at Marshall Field's. While he was shopping, one of the store security guards questioned Mr. Sterling about the shoes, accused him of shoplifting them and removed them from his feet. The security guard summoned the local police who arrested Mr. Sterling, charged him with retail theft, and placed him in a holding

cell until his bail was paid. At trial for shoplifting, Mr. Sterling produced his receipt from Marshall Field's and was found not guilty; however, in his challenge against Sportmart, Mr. Sterling's case was dismissed. Eventually, the parties negotiated a settlement whose terms are undisclosed.

Another subtle denial case was a Human Rights Commission case involving Derby Street Restaurant. Timothy Tomlin, Jerry Martin, and Robert Ledbetter are African-American males. On August 9, 1992, they attempted to enter Derby Street, a restaurant and bar. The men had been to other establishments earlier in the evening, as they were celebrating another friend's engagement. Both Martin and Ledbetter had been prior Derby Street customers. Tomlin, Martin, and Ledbetter alleged they were denied entrance to the restaurant due to their race. Derby Street admits it denied Tomlin and Martin entrance but states that it was due to their appearance. Martin was dressed in a collarless shirt with writing, which violated Derby Street's dress code. During the course of the argument about the denial of their entrance, Martin and bouncer Robert Ericson got into a physical altercation and exchanged words. The hearing officer took note that both men had failed to provide evidence that they had been denied entrance because of their race and dismissed the complaint.

Overt Denial

This final category contains seven cases, representing 24% of the Illinois cases and includes a restaurant (5), theatre, and lodging facility. It should be noted that three of these cases were among the five Illinois state cases, and all five of the state court cases were decided in a different era (i.e., 1904, 1926, 1946, 1957, and 1966). Two of the cases were settled, and three were decided in favor of the plaintiff, which is the highest percentage-wise among the four categories. Only one of the cases was decided in favor of the defendant, the lowest percentage among the categories.

This prejudicial conduct is exemplified by a federal lawsuit filed against Café Kallisto. Two Caucasian males and two African American females attempted to enter Café Kallisto, the defendant's business. Plaintiffs claimed that the Café manager allowed one of the Caucasian plaintiffs to enter the Café to look for a friend he was to meet there. The manager later allowed the other Caucasian plaintiff to enter the Café as well. Plaintiffs alleged that the manager of Café Kallisto refused to provide service to the two African American plaintiffs when he made it clear that the two Caucasian plaintiffs were welcome but the "blacks" were not allowed to enter. Plaintiffs further alleged that the manager later told one of the Caucasian plaintiffs that he "did not understand why [they] had brought those "niggers" into his place.

Two Human Rights Commission cases also typify overt denial. The first involves Steve's Old Time Tap restaurant. On June 17, 1999, Melvin Osborne and Robert Boudreaux entered Steve's Old Time Tap. Both men were from Burlington, Iowa. They planned to use the bathroom and then get something to eat. When they entered, there were four other individuals in the bar, all Caucasian. Mr. Boudreaux and Mr. Osborne walked to the rear of the bar toward the men's room. Mr. Boudreaux told Mr. Osborne he was going to use the restroom first. Mr. Osborne entered the restroom when Mr. Boudreaux returned. Shortly after he entered, the restroom door was kicked in by the cook who ordered Mr. Osborne to get out, using racial epithets. He threatened to call the police. The plaintiffs filed an action against the bar with the Illinois Commission on Human Rights. The Commission found that

the actions of the bar employees were racially motivated. Mr. Osborne received an award of $240.00 and Mr. Boudreaux an award of $400.00.

The second Human Rights Commission case involves the Sheraton Hotel. Complainant, Gail Walker, is an African American female. Ms. Walker had a confirmed reservation for a room at the Sheraton Inn on June 10, 1987. Ms. Walker arrived at the hotel at approximately 5:50 PM. She was refused a room and told that her reservation had been cancelled at 4:00 PM. Ms. Walker asked for assistance in locating another room, which the clerk refused. When Ms. Walker learned that the hotel had provided a room to a white male coworker, she complained to the manager. The manager, Mr. Ciesler, told Ms. Walker that the hotel had a policy under which management determines which "walk-ins" would receive rooms. Ms. Walker told the manager that the policy "had a very bad flavor" and asked whether he knew what she meant. He replied he did stating, "and if this gets out, it can be very bad for this hotel as well as the chain." Ms. Walker sued alleging a violation of the Illinois Human Rights Act. Complainant's motion for a default judgment was granted. At the damages hearing, Ms. Walker was awarded $622.72 in out-of-pocket expenses and $3,500.00 for emotional distress (damages totaled $4,122.72).

Criminal Treatment

Our analysis of the 29 Illinois cases reveals that eight (28%) of all CRP and marketplace discrimination cases involved allegations that customers of color were treated with suspicion or as if they were criminals (see Table 4), compared to 40% in our previous study (2005). Of the cases, one of five subtle degradation cases involved criminal suspicion, three of seven for overt degradation, three of ten for subtle denial, and one of seven for overt denial. Two examples are described below.

Table 4
Criminal Suspicion in Treatment of Customers in Consumer Racial Profiling and Marketplace Discrimination Cases

Description of Category	Subtle Degradation of Goods/ Services	Overt Degradation of Goods/ Services	Subtle Denial of Goods/ Services	Overt Denial of Goods/ Services	*Totals*
Criminal Treatment	1	3	3	2	9
Total # of Cases in Category	5	7	10	7	29

The first example is a federal case involving OfficeMax. When two black men entered an OfficeMax store, a store employee summoned police officers because the men "looked suspicious." The police officers questioned the men. After the men answered the questions, the officers apologized and left. In that case, the federal judge determined that the plaintiffs' allegations did not give rise to any civil rights violation; therefore, the court dismissed plaintiffs' claim. The Court of Appeals for the Seventh Circuit affirmed the district court's decision.

The second example is a Human Rights Commission case involving Dominick's. On September 11, 1995, Mr. McCormick was shopping in a Dominick's store when he was stopped by police and accused of pick pocketing a customer at another Dominick's store. Police officers were summoned by store employees who had been told about the pick pocketing at the other store. The employees had been told the suspect was a well-dressed African American male. Mr. McCormick was questioned by police and store employees who alleged that he was staring at another customer's purse. Mr. McCormick denied staring at the customer's purse and stated he had not been in the other store. Before leaving, he asked whether the pickpocket was a black man and he was told yes. Plaintiff's complaint was initially dismissed but was remanded after an appeal of the dismissal.

Conclusion

Through this research of Illinois cases, we demonstrate that race and ethnic discrimination remain vexing problems in places of public accommodation and retail establishments so much so that the results point to the need for further research. It is our observation that plaintiffs appear to be more willing to file lawsuits in federal court and with the Human Rights Commission within the past decade compared to previous eras. This may be because members of racial groups (especially blacks) have transitioned from being vulnerable (Hill, 1995) to being vocal (Hirschman, 1970). As they face the perception among African Americans and other people of color that they do not value their business as highly as that of white customers, defendants faced with charges of discrimination have financial and other incentives to settle such cases rather than subject themselves to the publicity a lawsuit could engender. For reasons we cannot explain, we were unable to find any recent era Illinois state court cases.

In terms of future research, we would recommend a more rigorous content analysis than the preliminary analysis we undertook mainly for purposes of categorization. For the current study, it is important to recognize that we were limited to making a category assessment based only on available information. In some instances, we could only assess the case at a particular juncture (i.e., who prevailed at that point, without considering what may occur later as the case continues through the judicial system or is appealed).

Also, in addition to placing each case in a cell with descriptive meaning, which was our main objective, it would be useful to derive some prescriptive meaning from each cell. Ultimately, additional research is needed to determine what prescriptive measures can address the problem or perception of consumer racial profiling and marketplace discrimination.

Lawful conduct and ethical treatment may require strategic policy changes to ensure a more diversity-friendly environment for customers of all races. One avenue is diversity training designed to sensitize employees to explicit or implicit prejudices that inhibit them from treating all customers with dignity and respect. Following such consciousness-raising, firms should actively monitor interactions with customers to ensure that both positive outcomes and negative incidents are consistent across diverse subgroups. For example, some retailers recently have begun employing "the demographic test" to detect and prevent discriminatory behavior among its employees by using U.S. Census data to determine the racial/

ethnic makeup of its store trade areas and compare that data with its store arrest and detention records (Fitfield & O'Shaughnessy, 2001). Regardless, people of color must remain vigilant to the remaining vestiges of segregation and discrimination, understand their legal rights, and make their voices heard by holding offenders accountable. In this way, consumers in Illinois, and across the nation, can ensure that they receive equitable treatment for equal dollars.

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Community Policing: Building Partnerships in Changing Communities

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> To maintain at all times, a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police: the police being only the members of the public that are paid to give full-time attention to the duties which are incumbent on every citizen in the interest of community welfare and existence.
>
> – Sir Robert Peel (18th Century Statesman)

Introduction

In the aftermath of the Los Angeles riots of 1992, commonly referred to by Koreans as "Sai gu," the Christopher Commission* recommended that the Los Angeles Police Department adopt a community policing approach. Although the Commission did not define what it meant by community policing, the assumption was that it would differ markedly from the "professional approach" that had long been the hallmark of a department whose practices had stood as a standard for police work throughout the nation and in several foreign countries. A new chief, Willie Williams, former police commissioner of Philadelphia, was hired to implement a community policing approach in Los Angeles, and for the next 5 years, he emphasized a philosophy of partnerships and problem-solving with the community playing an active role rather than the "Joe Friday, just give me the facts ma'am" approach for which the department had world-wide recognition.

The Pat Brown Institute (PBI) of Public Affairs of California State University, Los Angeles, assumed a role of leadership by providing instruction to law enforcement agencies in Los Angeles and surrounding counties. With generous funding from the Ahmanson Foundation, PBI has offered its community policing program twice annually since the summer of 1997 and has been funded through the fall of 2007. Since the beginning of the program, teams of law enforcement officers and personnel who are currently involved in the community policing efforts of their departments have attended a week-long, on-campus program designed to address the interests

* The Christopher Commission was established by Los Angeles Mayor Tom Bradley to examine the structure and operation of the Los Angeles Police Department following the highly publicized beating of Rodney King in March 1991.

of all community police officers—from introducing the fundamentals of problem solving and building community partnerships to finding ways to overcome current community policing challenges. To date, we have hosted more than 400 officers representing 35 police agencies from California.

Over the course of 5 days, participants have a unique opportunity to develop relationships and network with representatives of other law enforcement agencies, leading experts, community-based professionals, and community partners. The seminar is facilitated by community policing professionals using a team-teaching leadership model, blending their perspectives of law enforcement, academia, and community experiences into a comprehensive curriculum and discussion on community policing, partnerships, and collaboration. Relevant articles, extant research, and handouts are provided to support and expand participant perspectives on community policing, problem solving, and partnerships with internal and external stakeholders. Participants engage in highly interactive workshops, group activities, and discussions that examine key issues such as the following:

- Definition and state of the art of community-oriented policing
- Identification of stakeholders and collaboration with the public and private sectors
- Systems and organizational change in a community policing environment
- Problem solving and action planning in changing communities

The program concludes with the teams from each agency presenting a community policing action plan to the commanding officer(s) and/or local official(s) from their particular cities or counties, who participate in the critique of the plan along with the facilitators of the seminar. The purpose of the plan is two-fold: (1) to incorporate all of the learning domains into a meaningful real-life project and (2) to use the project to gain support for the problem solving effort from the managers who attend the presentations. The program is certified by the California Peace Officers Standards and Training Commission, and from 1997-2002, each participant who completed the seminar received 4 units of credit toward a bachelor's or master's degree.

The Team

Before describing the program, the participants, and the results, it is helpful to focus on the facilitating team, some of their attributes, and the unique contribution that the mix of their experiences brings to the seminar. First, Taffany Lim, the Director of the Community Policing Training Program, an expert facilitator in her own right, is skilled in areas of public affairs and coordination and serves as the recruitment and program follow-up link between the various departments and the institute. In a previous position at the Museum of Tolerance in Los Angeles, she created and launched the Tools for Tolerance for Law Enforcement Program. Her credibility as a coordinator of a highly successful, high-performance program ensures that participants are motivated, of high quality, and supported by their respective law enforcement agencies.

In addition, all members of the teaching team are skilled facilitators in addition to being expert in their content areas. Chief Garrett Zimmon attained the rank of commander during his 29 years with the LAPD and for 5 years led the Community Policing Group where he was responsible for coordinating the implementation

of community policing on a citywide basis. A graduate of the FBI National Academy, California POST Command College, and the John F. Kennedy School of Government's Program for Senior Executives in State and Local Government, he has an international reputation as an instructor in community policing. His lead responsibility is to set the context for understanding and defining community policing, with other team members in supporting roles.

Professor Alex Norman, a former faculty member of Command College, is an international scholar in community development and community policing and has conducted long-term, transatlantic comparative studies of best practices in community collaboration and police consultation since 1996 and 2002 respectively, with police departments in Los Angeles and Long Beach in California and with London Metropolitan Police and Avon/Bristol Constabulary in England. His 25 years of experience as an organization development and transformation consultant with systems undergoing change is enhanced by his participant-observation approach to studying and documenting the results of managing change. His lead responsibility is to set the context for community collaborations and partnerships and for managing the resistance to change, with other team members in supporting roles.

Mr. Alan Kumamoto, a founding partner of Kumamoto & Associates, has developed an international reputation for his more than 35 years of experience in management consulting, resource development, fundraising, and human relations. He has worked with private foundations, public agencies, nonprofit organizations, and businesses in a wide range of areas including proposal writing, strategic business-planning, community needs assessment, program planning, coalition building, and community outreach. He is responsible for moderating the seminar as well as ensuring that there is a focus on stakeholder partnerships and continuity between the content and process in participant learning. His lead responsibility is to provide continuity in the learning process, set the context for understanding community issues, and conduct stakeholder analyses with other team members in supporting roles.

This blending of talents, skills, and experiences creates a team that complements each other and each component of the curriculum, while at the same time modeling the behaviors that constitute best practices in successful teamwork.

The Program in Brief

Day one is devoted to defining community policing and its key components and discussing the advantages and disadvantages of different deployment models (IACP, 1997). It begins with an official welcoming of the participants and individual introductions of the facilitator team, after which the training program goals are presented and discussed in detail. The multiple goals are to . . .

- Build networks with diverse agencies.
- Create a common definition of *community policing*.
- Increase understanding of community policing philosophy.
- Enhance partnership building and collaboration skills.
- Develop and implement projects that engage community.
- Develop individual attitudinal change based upon community policing.

Participants are then paired off with someone they do not know and asked to interview and introduce their "new partner," their affiliation in their respective department, and what expectations they have for the week of the seminar. This activity serves to begin building a sense of community and to record expectations from which to chart the progress of realizing these expectations during the week. Next, the participants are grouped according to agency teams and given the assignment of introducing their particular agency in terms of the mission and structure of their organization, the demographics of the population they serve, the types of community policing efforts, and their agency definition of *community policing*. Each agency team posts its product on newsprint and presents their findings in a general report out session. This activity continues community building based on common ground issues, develops participant awareness of what other law enforcement agencies are doing, and provides the basis for developing a working definition of *community policing*.

The Community Policing Training Program is based on a seminar style, which recognizes that all participants are contributors to the learning process and that each participant has a fund of knowledge and a set of experiences from which all others can benefit. The context we use for *community policing* as a definition and as a practice is set in the concept of "Broken Windows" as introduced and developed by Wilson and Kelling (1982; 1989) and is the first reading assignment given to participants for group discussion. We recognize that definitions of *community policing* vary from *problem-oriented policing* (Thurman, Zhao, & Giacomazzi, 2001) in which residents give the police information and the police solve the problem, to partnerships with the community in helping to maintain social order (Carter & Radelet, 1999; Peak & Glensor, 2002). The working definition that we use is adapted from an analysis of the similarities of many other definitions in the United States: *community policing is a partnership with the community and other City entities in order to solve crime problems, reduce the fear of crime, and improve the quality of life, with three equally core components: (1) community partnerships, (2) problem-solving, and (3) organizational transformation.* The next 4 days end with participant feedback on what went well and what modifications or improvements they would like to see.

Day two begins the same as each of the next three days, with a debriefing of the previous day and an explanation of what lies ahead. Three content areas and accompanying group activities make up the day: (1) problem solving, (2) building relationships with community and stakeholders, and (3) creating collaborative relationships in diverse communities. Participants are introduced to the problem-solving process of Scanning, Analysis, Response, and Assessment (SARA) with which most are familiar. Crime problems are defined as two or more incidents of similar nature that are capable of causing harm and about which the public expects something to be done (PERF, 2005). The SARA model is discussed and applied to the Crime Triangle (i.e., victim, location, and suspect). Participants engage in a census of various problems of concern in their communities and are divided into teams in which they record and present the results of their use of the SARA model, which is then discussed and critiqued by the facilitators.

The lead facilitator conducts a general session in which participants define their individual communities, specific problems, the impact they might have on stakeholders, and how law enforcement can engage the community as partners in the SARA process. Participants are then grouped into agency teams and asked

to identify and post to newsprint, their internal and external stakeholders, how they are connected to the problem or organization, and how their engagement and support can be developed. Facilitators discuss and critique each team's report in preparation for the projects that will be assigned during the course of the training week. At the close of each day, participants are given reading assignments that will prepare them for the next day's focus; they are then discussed during the morning debriefing session.

This activity is followed by a presentation and discussion of how to create collaborations with stakeholders in diverse communities out of recognition of the cultural and demographic changes taking place in neighborhoods and communities. *Collaborations* are defined as partnerships that bring together two or more agencies, groups, or organizations at the local, state, or national level to achieve some common purpose (Backer & Norman, 1998, 2000). The objective of these two sessions is to help participants understand that collaboration takes place within a multicultural context and that a joint action of planning is dependent upon whether the collaborators feel they are in a safe environment where they can communicate freely, without fear or intimidation. Participants engage in an exercise that increases their understanding of the culture of another person as well as their own culture.

Days three and four focus the participants on developing a plan for the project that they will take back for implementation at their agency and present to the officials who attend the presentations on the final day of the training. Facilitators present an overview of the planning process, and teams are given time and technical assistance in the selecting of their projects and the methods they will use in their presentations. Interspersed in the planning discussions and activities are videos that correlate with successful planning in community policing in other cities and give some practical advice on ways to engage the community in partnerships. Participants are introduced to the change process and how they might overcome resistance to change in their organization or community by identifying the sources of resistance and using techniques for overcoming barriers to change.

A special feature of the planning days involves success stories that are told from a community perspective and another that is told from a law enforcement perspective. On the morning of the third day, a third generation Japanese business owner presents a video and holds a discussion of how his community of Little Tokyo, near Skid Row in downtown Los Angeles, developed a partnership with LAPD. He takes participants through a guided tour of how the Little Tokyo Public Safety Patrol worked with patrol officers in ridding the area of loiterers and criminals to create an environment where tourists and citizens could shop and work safely. Similarly, a lieutenant of the Monterey Park Police Department and a graduate of the program, conducts a *PowerPoint* presentation and discussion on how he used the project from the training program he attended to engage the community in helping to prevent the theft of automobiles in his policing area. He also tells of how engaging the community in the SARA process helped to improve understanding between a particular ethnic community and the police department. He candidly speaks of his initial reluctance to believe that community policing could be as successful as the "smash mouth" policing that he preferred when he first came to the training program.

During these two days, the director of the training program is involved in the scheduling of the presentations, the audio/visual equipment that will be needed, and confirmation of who and how many persons will be representing the different departments. The facilitators, some of whom have contacts within several policing agencies, play active supporting roles in ensuring that representation is at an appropriate level to be supportive of the desires and objectives of the presenters.

Day five is devoted entirely to 15- to 20-minute presentations by each team in which all members must participate actively. The presentations are scheduled so that the officials from the respective agencies and cities are present the entire time and, along with the facilitators, are encouraged to give their comments and critiques. Typically the chief or some other high-ranking officer attends from each agency, and some departments invite their mayor, the city manager, or council member. Some invite their community partners as well. The program ends with the presentation of certificates of completion to participants and the completion of an evaluation sheet, the results of which are used in the planning of the next seminar.

Special Programs

PBI also offers technical assistance as part of a follow-up to the Community Policing Training Program. For example, the Azusa Police Department, a force of 63 uniformed officers, had regularly sent some of its personnel to the week-long seminar. Their chief was so impressed with the positive impact of the projects on the agency and the attitudes of the officers who attended the seminar that he requested that we consider a modified program for his entire force. Under the leadership of the director, the team met with the chief and his command staff and crafted a 20-hour community policing training program for on-site instruction. In addition to the uniformed officers, the on-site training was attended by personnel from Human Relations, Code Enforcement, and the city council. The department now has a city-wide community policing program and continues to send officers to the PBI Seminar.

A direct benefit of the program that was developed for Azusa led to another program being developed for the Long Beach Police Department. PBI had been attempting to recruit Long Beach officers but without success; however, after the chief of police of Long Beach attended a meeting where the chief of police of Azusa was extolling the virtues of the program that was designed for his department, Long Beach sent its first team of two officers, both sergeants, to the training program. After completing the seminar, one of the officers was given the task of developing a strategy for taking the department's current community policing program to another level. One of the facilitators, who was also a member of the chief's advisory committee, began a series of meetings with the sergeant to respond to a draft of a *Community Oriented Public Safety (COPS) Handbook*, the community policing strategy of the department. At the same time, the director began talks with the chief around the development of an on-site training program for the Long Beach Police Department.

The director and the facilitators met with the chief of police and designed a 40-hour train-the-trainer program within the context of the community-oriented public safety document based on the strategy that these trainers would then conduct inservice training for the 900 plus uniformed and 500 civilian personnel. Although community policing operates within the context of the broken windows theory, the chief has

defined community-oriented public safety as ". . . a philosophy that promotes partnerships between the community and city departments to solve neighborhood problems and improve the quality of life" (LBPD, 2003). Twenty-two field training officers and four civilians attended a 4-day training program on community policing and public-oriented safety. A year and a half later, all uniformed personnel have undergone an inservice orientation in public safety and problem-oriented policing, and plans are underway to do the same with civilian personnel in the department and other selected personnel from other city departments. Thus, the department is slowly and methodically orienting the members of city departments in a philosophy of partnership with the community in solving problems.

Beyond the successful ventures of providing technical assistance and customized training to small and mid-size police departments, the team is engaged in deliberations that will increase community participation in the seminar as partners in the training and team projects. The team is also discussing funding for developing an online course of instruction for community policing.

Results

The institute has not initiated a formal evaluation of the results of the training program on officer behavior once they have completed the training. Since the beginning of the program in 1997, we have relied on impressionistic data collected from an informal evaluation sheet that participants complete at the end of the week to determine how satisfied they were with the instruction, facilitators, and environment. Those results have been used in planning further police seminars. Additionally, we have relied on word of mouth from those who have completed the program and informal feedback on the importance of the training and how helpful it has been in their police work. We also relied on the popularity of the training program as measured by the number of departments and officers on our waiting list and the increased requests to send more personnel from individual agencies.

In an attempt to collect more interpretive data on the impact of the training program on officer behavior and the degree to which we had achieved the program goals, Ali Modarres, Professor of Urban Geography and Associate Director of PBI, conducted an analysis of surveys of 123 participants who had attended training sessions between October 2001 and October 2003, a period that covered five training seminars. He also conducted 6-month follow-up surveys on 78 who responded, 49 of which could be used for comparative purposes. The lower follow-up numbers reflect the fact that it was easier to get respondents to complete the survey during the training program than it was to elicit a response after it was completed. Thus, the data reported in this article is for descriptive purposes only and for the identification of observed patterns that might inform a more formal evaluation or provide areas for further research.

The survey instrument was also modified over the 2-year period, but the language was not changed, making it possible to create a cumulative database of responses to each question. On the other hand, some questions were eliminated, and respondents chose not to answer other questions creating a variance from one question to another. In order to compensate for these changes and to improve the interpretive capability of the tables, a "total responses" column was added for each question. This assured that the observed patterns were strictly a function of how respondents answered

rather than representing a response rate to a specific question. The analysis was divided into two parts: (1) training session surveys and (2) follow-up surveys. It should be noted that while the follow-up surveys were shorter in design, a number of questions were identical to the training session surveys allowing for pre/post analysis of attitudes and behaviors.

Training Session Surveys

An overwhelming majority of the participants in the training program were males (82%) while females made up a much smaller proportion at 18%. Caucasians (50%) and Latinos (35%) were the most represented ethnic groups while African-Americans (8%) and Asian-Americans (3%) were the least represented. Others declined to state this information. A majority of the participants had some college education or an associate degree (62%), and 21% were college graduates. Approximately one-third of the participants indicated that they had some training in community policing prior to their participation in this program.

Attitudinal and Behavioral Aspects

The respondents were asked 13 questions that examined the activities of participants prior to attending the PBI training program. The survey indicates that slightly more than 50% of respondents analyzed calls for service and routinely relied on consulting officers in their community, reviewing police reports and following media coverage of relevant issues more than 70% of the time. In contrast, however, the respondents stated that they "rarely or never "surveyed community residents and business owners, participated in community meetings, consulted social service agencies, or involved stakeholders in problem solving.

Following the training, categories such as "participation in community meetings," "involving stake-holders," and "surveying community residents" improved significantly after the training was received. These results suggest that the training had a positive effect on officers' behaviors and improved their skills in the implementation of community-oriented policing in their policing areas.

Results Specific to Surveys Conducted During Training

While the majority of participants surveyed claimed that they were committed to community policing (94%), a significant number reported that their respective departments were ill equipped to support their efforts. Although nearly 50% of respondents agreed that they regularly formed partnerships with stakeholders and different police teams and worked well together, they reported that their departments lacked clear expectations, resources, and/or training in community policing.

As mentioned previously, respondents were asked to give their expectations during the training program. More than 90% indicated that the most important outcome for them during the training was learning the necessary skills to encourage community collaborations. They responded similarly on the importance of officers' ability to organize community groups and local businesses affected by community problems in solving them. High on their list of desired outcomes were "networking with other participants" and "learning about community policing in other communities." A puzzling response was participants' low ranking of learning how to overcome

resistance in their own departments, particularly in view of the reported commitment to community policing.

Perhaps the low ranking could be attributed to a belief that as officers, they have little control over the implementation of community policing in their departments and therefore are not optimistic that they can have much of an impact on changes in the organization. On the other hand, it could signify that they see community policing as something that takes place outside the domain of police departments and their bureaucracies. This response could also signal that in order for true change to occur, higher ranking officers will have to communicate their support for community policing and initiate incentives in the official reward system. Nonetheless, the overall pattern of responses indicates that while they may be unsure about their respective departments' level of commitment to community policing and some of the necessary structural changes, officers are individually committed to the idea of community policing and view their collaborations with the larger community as very important.

In spite of their reported lack of confidence in their departments' commitments to community policing, respondents expressed confidence in their community policing skills. More than 85% of respondents felt that they were capable of identifying neighborhood problems, and almost 70% believed that they could collaborate with local businesses to resolve problems.

Results Specific to the Follow-Up Surveys

In response to what effect the training had on them once they returned to their specific departments, respondents reported significant improvement in every category except in how to overcome challenges to community policing from citizens, businesses, and other officers. These were the same areas in which respondents had reported a high level of confidence during the training in the pre-training survey. While respondents reported increases in problem-solving skills and meeting community needs, they did not feel that the training had improved their leadership skills.

More than 75% of the respondents were in the same position 6 months after the training, and 88% of those who were not in the same position were still engaged in community policing. Respondents were asked to evaluate how well the training program accomplished its goals, particularly in areas of networking, learning new skills, and understanding aspects of community policing. A majority (73%) reported that except for the area of helping them to seek financial resources to support their efforts, the program had met their basic needs in developing and implementing a community-oriented policing program in their areas.

Summary and Conclusion

The PBI Community Policing Training Program has been providing week-long seminars to law enforcement personnel with an emphasis on building partnerships with community members and other municipal departments in solving crime problems, reducing the fear of crime, and improving the quality of life for businesses and residents in southern California. The assembling of a team of facilitators who are representative of community policing interests—law enforcement, the community, and academia—has enriched the learning environment by presenting a model of

collaboration and teamwork on which community-oriented policing concepts are based. A unique aspect of the program is the technical assistance and follow-up components that have led to developing and delivering on-site training to large and small police agencies. The latter program strategy has the added advantage of customizing the training to operate within the police culture and bringing the collaboration directly to law enforcement and responding to the individual needs of the specific police agency.

The component of bringing in community residents to interact and engage in discourse with participants puts them in face-to-face contact with successful community projects being carried out by ordinary people and provides further incentive to seek out partnerships at the community level. Credibility is strengthened in the program by bringing back participants in teaching and training roles to describe how they have successfully used what they have learned from the program to develop and implement community policing in their area.

Staff and participants have long believed that the program has been successful; however, until Professor Modarres's analysis of the training and evaluation surveys, we have had not hard data to support those beliefs. Those surveys reveal important information about the attitudes of participants about their commitment and the commitment of their department to community policing, about participant perception of their skills and abilities despite the fact that many have received no training in community policing, and about the willingness of participants to engage in new learning experiences that have a direct pay-off to their agencies and to their communities.

The overall pattern of responses to the surveys during the training suggests that while officers are somewhat unsure about the commitment of their respective departments to community policing, they are highly committed to community policing as individuals, and they see that their possible collaborations and partnerships with the larger community are necessary. While they are confident of their skills and abilities, they are understandably wary about how community policing will be received by the leadership of their department, the leadership at the community level, and business leaders as well. When attitudinal and behavioral aspects and activities of the surveys administered during training were compared with post-training surveys, the results show that the training had a positive impact on their community policing activities.

Even in post-training surveys in which there was no comparative data, the responses indicate that the training had significantly improved participant abilities in problem solving, involving stakeholders, and conducting community-oriented policing activities.

Implications for Training

Certainly one of the most obvious implications for the training program is to continue to conduct evaluation surveys of those who have completed the program to assess the impact of the training. Participant responses to the challenges and resistance to community policing by their departments, community members, and business leaders suggest a need for building partnerships with those in decision-making positions in the agency. This signals a need for including selected community and

business leaders in the training process so that they might become "enlightened collaborators" in the implementation process of community policing.

There might be an additional need to develop a command-level seminar so that law enforcement executives, political leaders, and policy makers can be apprised of the challenges, concerns, and problems faced by their officers in developing a community-oriented policing approach. This is particularly important when one considers the need for structural change in order to accommodate this different approach to policing and the elevation of the idea of community policing from the level of performers to the higher levels of responsibility.

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Can a Certified Police Officer Enforce the Laws Outside the Geographic Jurisdiction?: Indiana Cases

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Introduction

The complexities of police jurisdiction can be illustrated in the following bank robbery case. David Brankle, who lived in Vincennes, Indiana, was named by the police as the "Interstate Bank Mart Bandit" because he primarily robbed banks located inside supermarkets near an access to an interstate highway. Brankle was arrested by the Indiana State Police in Vincennes after he fled the scene of a traffic stop with a stolen license plate. Brankle was stopped after a short chase, and his car was searched. The trooper discovered Brankle's 5-year-old son in the car, and a robbery demand note, which was similar to ones used in other robberies. At the police station, Brankle confessed to the police that he had committed about 50 robberies across five different states (Indiana, Kentucky, Ohio, Missouri, and Tennessee). In Indiana, Brankle robbed banks in Fort Wayne, Indianapolis, South Bend, Michigan City, and Lafayette. According to Indiana State Police, Brankle usually picked banks along Interstates 65, 69, or 465 or the Indiana Toll Road.

According to laws and common practices, the Indianapolis Police Department, for example, has jurisdiction to detect and arrest the suspect (Brankle) once the bank robbery occurs in the city of Indianapolis. Soon after the completion of the robbery, Brankle flees from the Indianapolis police officers and enters the interstate highway with the intent of returning back to Vincennes. Undoubtedly, Indiana State Police has jurisdiction to pursue the suspect on the interstate highway. The trooper from the Indiana State Police stops Brankle for traffic-related violations but accidentally discovers that Brankle may be involved in several bank robberies due to the discovery of a robbery demand note. Indiana State Police, therefore, has jurisdiction to investigate bank robberies because of his confession of involvement in bank robberies across five states. The Federal Bureau of Investigation (FBI), however, has jurisdiction to investigate Brankle's bank robberies due to the fact that bank deposits are protected by federal laws, and the bank robbery is defined as a violation of United States Code (Title 18). The main focus of this article is to determine whether or not police officers have jurisdictional authority outside geographical boundaries. For example, does Indianapolis Police Department have extra-jurisdictional authority in Vincennes (Indiana) because Brankle robbed a bank in Indianapolis?

The Brankle bank robbery case involves jurisdictional issues in regard to police officers' authority to enforce laws outside geographically defined jurisdictional areas. A police officer's jurisdictional authority is generally limited to his or her primary jurisdiction within the city or the county geographical boundaries

(Brave & Ashley, 1996). Jurisdictional authority and limitation of police officers, however, are specifically determined by state statutes, and the officers' extra-jurisdictional power can be authorized by the state laws depending on specific situations. For example, the "fresh pursuit" doctrine generally extends a police officer's authority outside of his or her primary jurisdiction if the officer has probable cause to believe that the suspect has violated the law. Such extra-jurisdictional authority may only apply within the state because each state may have tremendously different statutory definitions or implementation procedures to regulate officers' law enforcement functions outside primary jurisdictional boundaries.

Undoubtedly, a police officer entering into a "neighboring" county or state to enforce laws in a nonemergency situation, who is not in a hot pursuit or is in plain clothes and an unmarked police car will create jurisdictional issues in terms of the officer's extra-jurisdictional authority and the legality of the arrest. The United States Court of Appeals for the District of Columbia Circuit, in the case of *Parker, et al. v. District of Columbia* (1988), upheld an award of $425,046.67 in damages to Mr. Parker for police shootings, which resulted from the failure of the police department to adequately train, discipline, and supervise its officers in matters of extra-jurisdictional arrest and disarmament.

Police jurisdiction, in itself, means police power. The "public trust doctrine," which provides protections in the public interest, is generally applied to establish the legal basis of police power (Patalano, 2001). Nevertheless, the police power has been constantly modified, both administratively and judicially, to respond to social needs or concerns such as crimes. Generally, a city or county police officer does not have law enforcement authority outside the city or county limit or in other states. Theoretically, the legality of police extra-jurisdictional authority may be recognized through the common-law-based fresh pursuit doctrine, the mutual-aid agreements (between cities, counties, or states), or the private citizen principle (Berman & Lippman, 1994). The "fresh pursuit" doctrine usually permits a police officer's extra-jurisdictional arrest authority in a close pursuit situation. The pursuing officer is generally required to "radio" the neighboring law enforcement agency to inform of the "hot pursuit" situation and seek permission to continue such pursuit while crossing the jurisdictional boundary. A "mutual-aid" agreement between law enforcement agencies can legally extend a police officer's primary jurisdiction into a neighboring city, county, or state. Nevertheless, the policies and procedures of granting such extra-jurisdictional authority to a neighboring police officer may vary significantly. Interestingly, some state laws permit a police officer, under the "private citizen" principle, to enforce laws extra-jurisdictionally as a private citizen. Such an extra-jurisdictional arrest has been frequently challenged in terms of the legality of the arrest (Fernicola, 1999).

Today, the Indiana police officer's extra-jurisdictional authority has not yet been clearly defined. For example, the Indiana law (i.e., Indiana Code 35-33-1-1) indicates that a law enforcement officer may arrest a person when the officer has probable cause to believe the person has committed or attempted to commit, or is committing or attempting to commit, a felony. Such legal mandates to enforce laws imply that a certified Indiana police officer has a state-wide jurisdiction without geographical limitations in the State of Indiana; however, Indiana laws (see Indiana Code 36-8-3-10) also specify that the police department shall, within the city, preserve peace, prevent offenses, and detect and arrest criminals. In other words, local government

(e.g., city or township) may have authority to establish its own policy or regulations to limit such state-wide extra-jurisdictional power. In order to further understand police jurisdictional power, this article employs the following two Indiana cases, which are related to police officers' extra-jurisdictional authority outside the city limit, to determine the legality of extra-jurisdictional authority in the State of Indiana.

Indiana Cases of Police Extrajurisdictional Authority

Case #1: *Lashley v. Indiana* (2001)

In the afternoon of November 29, 1999, Sergeant James Bolin of the Mooresville Police Department was driving his stepdaughter home from school on Highway 37 through Martinsville. He had just completed his shift, was in uniform, and was operating his marked police vehicle. Randall Lashley passed Sergeant Bolin in his car traveling at a high rate of speed. Sergeant Bolin drove behind Lashley's car and paced it going 70 miles per hour in a 55-MPH zone. Sergeant Bolin activated the lights of his police vehicle, intending to initiate a traffic stop and warn Lashley about his speed; however, Lashley did not pull over until Sergeant Bolin activated his siren. Lashley traveled approximately 1.5 miles before pulling over.

After coming to a complete stop, Lashley jumped out of his car and approached Sergeant Bolin's police vehicle, yelling profanities at the officer and demanding to know what he wanted. Sergeant Bolin asked to see Lashley's license and registration, but Lashley refused, asserting that Sergeant Bolin's police vehicle was from Mooresville and that he did not have any more jurisdiction than "that girl in the car with you there." Lashley told Sergeant Bolin, "I'm not showing you anything," hurried back to his car and drove away from the scene.

Sergeant Bolin proceeded to follow Lashley with his lights and siren activated. Lashley drove an additional two miles before pulling over again. He continued to challenge Sergeant Bolin's jurisdiction and refused to produce his license and registration. Deputies from the Morgan County Sheriff's Department arrived to assist Sergeant Bolin, who ultimately arrested Lashley for resisting law enforcement (a Class D felony) and refusing to identify himself (a Class C misdemeanor). A jury found Lashley guilty as charged. Lashley then appealed his conviction to the Indiana Court of Appeals.

Lashley first contended that Sergeant Bolin abused his authority under Indiana laws when he stopped and searched his car. Most importantly, Lashley claimed that Sergeant Bolin had no jurisdiction and authority to stop him because he was not committing a felony or misdemeanor and had no warrant for him. The Court of Appeals, however, ruled that there is no jurisdictional limitation on the authority of law enforcement officers, including city police officers, to detain or stop individuals for committing infractions such as speeding. Sergeant Bolin was within his authority to stop Lashley due to speeding under Indiana laws (i.e., Indiana Code Section 34-28-5-3). This statute clearly states that a law enforcement officer may, at any time, detain a person whenever the officer believes in good faith that a person has committed an infraction or ordinance violation.

Case #2: *Hart v. Indiana* (1996)

At approximately 4:50 PM on March 11, 1994, Deborah Morgan observed a black pick-up truck driving erratically near Clay City, Indiana. Morgan saw the truck cross the center line numerous times and nearly run another truck off the road. Morgan used a citizens' band radio in her car to call the police and request that the truck be stopped. She then followed the truck as it passed through the Clay City town limits.

Clay City Deputy Town Marshal Daniel Wheeler responded to Morgan's call and began following the truck outside the town limits. As Deputy Wheeler approached the truck, he observed the truck cross the center line. He also observed that the truck was traveling approximately 30 MPH in a 55-MPH zone. Deputy Wheeler then activated his lights and initiated a traffic stop. The driver of the truck made a right turn onto a county road and stopped the truck without incident. The driver of the truck, later identified as Hart, immediately exited the truck. Deputy Wheeler asked him to perform three field sobriety tests. He passed only one of the tests, and Wheeler then asked him to submit to a urine analysis to determine whether he was driving under the influence of a controlled substance. Initially, Hart agreed.

Deputy Wheeler asked Hart to remove a knife that he was wearing, which Hart then placed in the truck. Wheeler then asked Hart whether he had anything else he needed to leave in the truck, and Hart reached in his shirt pocket and removed a set of brass knuckles. Wheeler then asked Hart whether he had any other weapons. Hart responded that he did and lifted up his vest, which revealed a nine millimeter semi-automatic handgun. Hart assisted Deputy Wheeler in disarming the handgun. Wheeler ordered Hart to place his hands on the police car so that he could secure him for transportation to a local hospital for the urine analysis. Wheeler reached into the police car for his handcuffs, and when he looked up, Hart was pointing a gun at him. Deputy Wheeler retreated to a ditch and then ran a safe distance away. After a few minutes, Hart removed the keys from the police car and sped off in the truck.

Deputy Wheeler called for backup from a nearby house. Officers from the Clay County Sheriff's Department and the Indiana State Police responded and began searching the area for Hart. Later, the officers, joined by an Owen County Deputy Sheriff, approached Hart's house in Owen County. Hart was not home, but the truck was parked in the backyard. Hart had left the county, and he was running and hiding for the most part. He subsequently surrendered to the police. The State charged Hart with the following six charges: (1) escape while using a deadly weapon (a class B felony), (2) intimidation with a deadly weapon (a class C felony), (3) theft (a class D felony), (4) resisting law enforcement (a class D felony), (5) carrying a handgun without a license (a class A misdemeanor), and (6) operating a vehicle while intoxicated (a class A misdemeanor). A jury found Hart guilty of the first three charges. Hart appealed and contended that the detention was not a "lawful" detention.

The Court of Appeals in *Hart* stated that "a town marshal is a law enforcement officer" (see Indiana Code 35-41-1-17) and "a deputy marshal has the same powers as the town marshal" (see Indiana Code 36-5-7-6). Indiana laws authorize a town marshal's statewide power to arrest and detain a citizen, and such authority is not limited to the geographic boundaries of his or her town. As a practical matter of ensuring the security and protection of the citizens of Clay City, the Town of Clay City

could limit the deputy town marshal's activities outside the town limits. The Court of Appeals concluded that the limitations placed upon a deputy town marshal by the Town of Clay City did not render detentions outside the town limits unlawful.

Discussion

As the cases mentioned above indicate, the Indiana courts judicially recognize that law enforcement officers have the statewide jurisdiction to enforce the laws in the State of Indiana. Local police officers (sheriffs' offices, city police departments, and town marshals' offices) operate in Indiana through authority given to them by specific statutes.* Although many statutes use the same or similar language when defining the authority of these police officers, none specifically address a description of geographic jurisdiction for them. There is no jurisdictional limitation on the authority of law enforcement officers, including city police officers, to detain or stop individuals for committing infractions. The Appellate Court in *Lashley* clearly said that if no jurisdictional limitation is mentioned in the statute, then none is applicable.

This lack of statutory jurisdictional definition has created some misunderstandings among the citizenry of Indiana. Police recruits attending the Indiana Law Enforcement Academy are told that police officers that attend the academy and are certified by the state training board have statewide jurisdiction, for both the authority to arrest and to detain for traffic citations. Other citizens of the state, however, reasonably believe that police officers only have jurisdiction, authority to arrest or detain for traffic citations, within the confines of the municipality that they serve. The issue of police extra-jurisdictional power in *Lashley* and *Hart* is an example of the confusion about police jurisdiction shown by a member of the general public.

Additionally, the town (e.g., Clay City, Indiana), such as in *Hart*, can impose jurisdictional limitations on town officers by policy. The policy of the town stated "activity is *primarily restricted to the town limits*; an exception is made in those instances when the town marshal or deputy town marshal is aiding other law enforcement agencies or is in hot pursuit of someone engaged in *serious criminal activities* or in an emergency situation" (see *Hart* at 425). Since the detention of Hart took place outside the town limits and in violation of town policy, Hart argued that the action was unlawful. In response to this argument, the Court of Appeals stated, "Our courts have held that a town marshal's power to arrest and detain a citizen is not limited to the geographic boundaries to the town, but is statewide" (see *Hart* at 425). Regardless of the policy limitations on the duties of the police department, there was no legal limitation created by the town on police jurisdiction.**

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* Four different statutes outline the authority for these different law enforcement officers. The Indiana code sections applicable are I.C. 36-2-13-5 for county sheriffs, I.C. 36-5-7-4 for town marshals and deputies, I.C. 36-8-3-6 for city police officers, and I.C. 36-8-10-9 for sheriffs' deputies. Additionally, the authority for all law enforcement officers to detain a person for a traffic citation is defined in I.C. 34-28-5-3.

** In a discussion with the town attorney for the town of Clay City on May 25, 2004, he stated that the Town Board had created this policy to require the town marshal and deputies to perform their duties primarily within the town limits. The Town Board wanted to be sure that the funds expended for police protection were utilized primarily within the town limits with few exceptions. The Town Board had discovered that if the city police agency were allowed to perform police duties outside of the town geographic boundaries that those agencies responsible for police services in the surrounding area began to rely on the town police to respond to calls for service in that surrounding area. This became a problem for the town in that tax monies paid by citizens of the town were being used to provide police response to those outside of the town.

In this situation, a conflict may form in the police officer's mind, "If I have statewide jurisdiction, how can I ignore a situation that requires law enforcement action?" In *Hart*, the officer responded to a report of a person driving in a manner that violated traffic code. Some may have considered the actions of the driver as reckless and dangerous to others on the highway. Others may have considered the situation a minor traffic violation. This quandary places the officer in an untenable situation. Should the officer ignore the need to help others in favor of the department policy, or should the officer adhere to that policy and take a chance on someone being involved in an accident? The conflict created is not between the state statute and the department policy but within the mind of the officer.

It is interesting to note that this detention made by the deputy town marshal outside of the town limits was one factor that led to his termination. The Court of Appeals, in *Hart*, mentioned this possibility ". . . while Wheeler's [the deputy town marshal] detention of Hart outside the town limits may or may not have been in violation of the practical terms of his employment, it was certainly not unlawful." In an interview by a local reporter for *The Brazil Times* regarding the termination hearing for the deputy town marshal, the town attorney said, "town rules dictate that a town marshal can't patrol outside of municipal limits while on duty" (Shinske, 1994). The Safety Board subsequently terminated the deputy town marshall for the Town of Clay City. On appeal, his termination was upheld in the Clay Circuit Court.

Should Indiana take steps to address the consternation of officers and reduce the confusion for members of the public? If so, there are several options from the statewide municipal police jurisdiction that are limited to certain instances such as those adopted in Pennsylvania to the strict geographic limitations on police jurisdiction followed in Massachusetts. The state statute in Pennsylvania (see 42 Pa. Cons. Stat. 8953) outlines six circumstances in which a municipal police officer may make an arrest outside of the officer's primary jurisdiction:

1. The officer is acting pursuant to an order issued by a court of record or an order issued by a district magistrate whose magisterial district is located within the judicial district wherein the officer's primary jurisdiction is situated. The officer is otherwise acting pursuant to the requirements of the Pennsylvania Rules of Criminal Procedure, except that the service of an arrest or search warrant shall require the consent of the chief law enforcement officer or a person authorized by him or her to give consent, of the organized law enforcement agency that regularly provides primary police services in the municipality wherein the warrant is to be served.

2. The officer is in hot pursuit of any person for any offense that was committed or that he or she has probable cause to believe was committed, within his or her primary jurisdiction and for which offense the officer continues in fresh pursuit of the person after the commission of the offense.

3. The officer has been requested to aid or assist any local, state, or federal law enforcement officer or park police officer or otherwise has probable cause to believe that the other officer is in need of aid or assistance.

4. The officer has obtained the prior consent of the chief law enforcement officer, or a person authorized by him to give consent, of the organized law enforcement

agency that provides primary police services to a political subdivision that is beyond that officer's primary jurisdiction to enter the other jurisdiction for the purpose of conducting official duties that arise from official matters within his or her primary jurisdiction.

5. The officer is on official business and views an offense, or has probable cause to believe that an offense has been committed, and makes a reasonable effort to identify him- or herself as a police officer, and the offense is a felony, misdemeanor, breach of the peace, or other act which presents an immediate clear and present danger to persons or property.

6. The officer views an offense that is a felony or has probable cause to believe that a felony has been committed and makes a reasonable effort to identify him- or herself as a police officer (see 42 Pa. Cons. Stat. 8953).

In Massachusetts, the Supreme Judicial Court, in the case of *Commonwealth v. Grise* (1986), has stated that "the power of a police officer at common law to make an arrest without a warrant is limited to the boundaries of the governmental unit by which he [or she] was appointed, unless the police officer is acting in fresh and continued pursuit of a suspected felon who has committed an offense in the officer's presence and within his [or her] territorial jurisdiction." One can see that exception in Massachusetts is quite limited when compared with such in Pennsylvania. It is not clear that either of these interpretations of geographic jurisdictional limitations would serve Indiana. Either of these jurisdictional concepts would require a change in Indiana law. Both would require much training to overcome years of tradition of statewide jurisdiction. Even though some municipalities may favor a change in the legal definition of geographic jurisdiction in order to assure that tax monies are being utilized for police protection inside the jurisdictional boundaries, many officers would be hesitant to accept a reduction of geographic jurisdiction.

The problem in Indiana could be addressed in ways that do not require a major change in the law. The Indiana courts have already addressed the issue regarding any possible misunderstandings about statewide jurisdiction for police officers. With education, the public misconceptions could be alleviated. Additionally, the courts have addressed the ability of a municipality to limit the geographic primary jurisdiction by policy. Even though the municipality cannot legally restrict jurisdiction in a way that makes police action outside of the primary jurisdiction unlawful, the municipality can limit activities outside the municipal limits by its police officers.

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The Ku Klux Klan: America's Forgotten Terrorists

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Conspiracy in Carolina

Local and federal law enforcement officers in Johnston County, North Carolina, swooped in on July 19, 2002, to arrest Charles Robert Barefoot, Jr., a local Ku Klux Klan leader. Authorities claimed that he had been plotting to blow up the Johnston County Sheriff's Office, the sheriff himself, and the county jail. According to Sheriff Steve Bizzell, about a dozen people had been meeting at Barefoot's home and were gathering bomb-making materials, such as detonation cords and fuses.

When police searched Barefoot's home, they discovered a cache of at least two dozen weapons that included handguns, rifles, an Uzi, and an AK-47. They also found 4,500 rounds of ammunition, two homemade bombs, and bomb-making ingredients. Federal authorities charged Barefoot, the "Grand Dragon" of the Nation's Knights of the KKK, with weapons violations.

A confidential source had contacted the Johnston County Sheriff's Office about the Klan leader's alleged bomb-making activities. According to Sheriff Bizzell, the source said that about a dozen people had met several times at Barefoot's trailer home and were gathering bomb-making materials. This triggered the investigation that led to Barefoot's arrest. Charles Barefoot eventually pleaded guilty to federal weapons charges and was sentenced in June 2003 to 27 months in prison (Weigl, 2005).

The Forgotten Terrorists

The arrests in North Carolina highlight an overlooked danger in America. Since the September 11, 2001, terrorist attacks, the attention of the American public has been focused, understandably, on foreign terrorist groups such as al Qaeda. Even when domestic terrorism surfaces as an issue, the emphasis is often on flashy neo-Nazi organizations or weapons-fixated militia groups.

Yet the Ku Klux Klan, America's oldest terrorist organization, has never gone away. More importantly, it has never stopped trying to create terror. With eight major groups and around 40 minor ones, comprising roughly 110 chapters or "Klaverns," Klan groups are still the most common type of hate group in the United States. An estimated 4,000 to 5,000 Klan members, with greater numbers of associates, sympathizers, and those hanging on, perpetuate its history. Every year, people associated with Ku Klux Klan groups commit crimes ranging from minor acts of intimidation to major hate crimes and even terrorism. Perhaps because the Klan is universally familiar, Americans are apt to ignore or even to laugh at it, yet to underestimate the hatred inherent in the Klan's ideology and the violent and criminal acts that this ideology so often motivates its adherents to commit, is to make a serious error.

Despite its age, the Klan has demonstrated amazing resiliency, adapting to different times and situations and outlasting other like-minded groups. This resiliency has allowed the Klan to appeal to poor and working-class whites, addressing their economic and social frustrations, regardless of what those frustrations may be at any given point in history. Klan ideology and conspiracy theories provide members with scapegoats to blame for their failures and misfortunes, an enemy to absorb their attention, and activities on which to focus their energies. It also provides self-respect, pride, and empowerment.

The Klan's enemies are often minority groups in direct economic competition with the lower- and working-class whites who form the Klan's core constituency. Other perceived enemies are groups that in some other way threaten white control of society. At various times, Klan enemies have included African-Americans, Jews, immigrants, Catholics, anti-Prohibitionists, drug dealers, homosexuals, and others.

Klansmen (and Klanswomen) also have a strong sense of victimization. Many Klan members are motivated to commit acts of intimidation, murder, torture, and terrorism and to rationalize these acts as "self defense" because of a twisted perception that they are under attack and have to protect their "way of life." In the minds of most Klan members, the Klan never attacks innocent victims—it simply responds with vigor and righteousness to encroachments on the God-given rights of whites.

The Klan Today

Today, there is no such thing as *the* Ku Klux Klan. Fragmentation and decentralization are the rule, as is true for most of the extreme Right organizations. Many of the approximately 110 Klan groups or chapters (often known as Klaverns), comprising around 4,000 to 5,000 members and a greater number of sympathizers, remain at least nominally independent, although some are attached to national organizations—Klan groups that claim a national or multiregional reach (ADL, 2001).

Various Imperial Wizards, who set the tone for their subordinate chapters, lead these national organizations. The larger Klans sometimes have an intermediate level of organization, the "Realm," usually a regional or state collection of states. Both independent local Klaverns and national Klans tend to revolve around a central leader with a strong, charismatic personality, and the fortunes of the organizations typically rise and fall with those of their leaders.

Today's Klans generally adopt one of two public stances. Some, taking a cue from David Duke, have attempted to "mainstream" their image. They use euphemisms instead of racial epithets and proclaim pride in their "heritage" rather than hatred of other groups. Some attempt to participate in state-run, good-citizenship initiatives, like "Adopt-a-Highway" cleanup programs, which also attract free publicity.

Others, however, consider themselves "old school" and take pride in the Klan's heritage as a terrorist organization. They take a confrontational approach to law enforcement and make no effort to disguise or tone down their beliefs.

Most of today's Klans have also adopted beliefs from both the militia and Christian Identity movements. Klansmen fear the "New World Order," believe Jews and liberals are attempting to outlaw their religious practices, and consider homosexuals to be

"deviants" intent on forcing their lifestyles to be accepted by others. Although many Klan members receive food stamps or other forms of government assistance, they rant against African Americans and immigrants who receive "welfare" (Akins, 1998).

Klan Ideology

Today's splintered Klan encompasses a range of beliefs. While the ideology is categorized here into religious, political, racial, and anti-Semitic beliefs for the sake of clarity, Klan members do not necessarily make the same categorical distinctions.

Klan ideology, at its core, is centered on the idea that white Americans are threatened by nonwhite minorities and that most of these threats are arranged or encouraged by a sinister Jewish conspiracy. The Klan promotes itself as a way for white Americans to right these perceived wrongs, protect themselves, and strike back at their enemies. At the heart of Klan beliefs is the notion that violence is justified in order to protect white America (Chalmers, 1987).

Political Beliefs

One basic assumption behind the Klan's political ideology is that nonwhites and immigrants threaten whites; therefore, Klan members seek to remove those threats, either by themselves or through government action (IKA, 2002). Another assumption is that, because Klan members believe that the government sides with minorities and immigrants instead of with whites, the government itself has become an enemy. Specific political issues that concern Klan members include immigration, free trade agreements, "racial purity," affirmative action programs, foreign aid, gun control laws, gay rights, and what they perceive as an unconstitutional separation of church and state (WKK, 2005).

Because of its emphasis on an America "by, for, and of" whites, the Klan is also extremely anti-immigration and often calls for military forces to be deployed along U.S. borders. The National Knights of the Ku Klux Klan, for example, call for a halt to immigration on their website, suggesting that "unemployment, overcrowding, and crime are the results of our open gate policy" (Robb, 2001).

"Taking back" America is an important theme in Klan ideology. The Texas Knights make this clear on the Ku Klux Klan's website:

> Enemies from within are destroying the United States of America. An unholy coalition of anti-White, anti-Christian liberals, socialists, feminists, homosexuals, and militant minorities have managed to seize control of our government and mass media . . . We shall liberate our nation from these savage criminals and restore law and order to America. (Texas Knights, 2002)

Religious Beliefs

Traditionally, the Ku Klux Klan has held extremely conservative Protestant Christian beliefs. Since the early 1970s, many Klaverns have converted to strongly fundamentalist Protestant beliefs, Christian Identity beliefs, or an amalgam of the two.

Christian Identity

Christian Identity, which has become popular among many Klan groups, is a relatively obscure sect known primarily for its racism and anti-Semitism. Its core belief is that whites are actually descendants of the Biblical lost tribes of Israel and are therefore God's "Chosen People." Most Identity adherents believe that Jews, in contrast, are descended from Satan and that other nonwhite peoples are "mud" people on the same spiritual level as animals.

One of the main teachings of Identity Christianity is that all other Christians are "false" Christians, followers of corrupt "Churchianity" and duped by a Jewish conspiracy. This is clearly explained on the White Camelia Knights website:

> I understand that most people have been educated to believe that the jewish [sic] people are God's chosen people. Christians have even gone as far as to call themselves judeo-christians [sic], they become extremely hostile at the Klan whenever this subject is mentioned. But, we are followers of Christ and even if our beliefs are unpopular, they are still correct. I am constantly told that Christ was a jew [sic]. That Moses and Abraham were jews [sic], but, this belief is incorrect. (Lee, 2005a)

In effect, this belief system teaches that since they are animals, blacks are subhuman, do not have souls, and therefore do not deserve equality before the law, much less American citizenship. Jews, as the descendants and representatives of Satan, are considered the root of all evil in the world today. The White Camelia Knights explain, "Satan's children, 'jews' [sic] have worked long and hard to destroy White America."

Fundamentalism

While many Klan members have converted to Christian Identity, others have merely adopted some of its tenets, or practice instead one of several *extreme* variations of Christian fundamentalism. It is important to note that most fundamentalists in America in no way agree with or are sympathetic to the Klan, but there are three primary facets of extreme fundamentalism that are important in understanding Klan ideology (Almond, Sivan, & Appleby, 1991):

1. Fundamentalists in general are millennialists and believe that the world is fast approaching its end. Many fundamentalists expected the anticlimactic "Y2K" crisis to cause the downfall of civilization. Others foresee an economic collapse or a race war, and some prophesy the Battle of Armageddon. What they all have in common, however, is a belief that a final, major event of apocalyptic proportions will "purify" the Earth and leave only true believers behind in a perfect world. Klan members intermesh these beliefs with their racism and anti-Semitism; thus, the final battles may be against racial minorities or Jews.

2. Extreme fundamentalism is an essentially dualist belief system that offers black-and-white answers to all questions. Anyone who does not share the fundamentalist view is wrong; compromises would be capitulations to evil.

3. Most importantly, fundamentalists are conspiracists. Their interpretations of history and society hold that there are secretive, manipulative, all-powerful entities (such as the anti-Christ) operating behind the scenes.

Anti-Semitism

The Klan has traditionally viewed itself as a defender of white American Protestantism. Protestantism needed "defense," Klan leaders thought, primarily against Catholics and Jews. Over the decades, the Klan's anti-Catholicism waned, although never entirely disappeared. At the same time, the Klan's anti-Semitism grew as it added ideological anti-Semitic convictions to its religious ones.

The Klan sees Jews as the source of virtually all evil in American society—as secretive, hidden manipulators operating behind the scenes to control government, education, banking, and the mass media. Anti-Semitism was not an original Klan concern but became so in the early 20th century during a period of considerable Eastern European immigration. The Klan equated immigration with Catholicism and Judaism, both of which threatened Protestant control of society. During the middle years of the century, the Klan's antagonism toward Judaism slowly evolved, shifting from a concern about Jewish immigration and competition for lower-class jobs to a conspiratorial view of Jews as rich and powerful manipulators of government and media.

This is well summarized by the Alabama White Knights: "More than 62% of all the real estate, industrial plants, natural resources, and banks in the United States are either controlled by or owned outright by Jews. Of course the motion picture business and the clothing industry and a few others are owned and controlled exclusively by Jews . . . all important legislation passed by the Congress of the United States in the last few years was written by Jews" (Alabama White Knights, 2002). Such patently false statements are routinely accepted as fact by the Klan.

In the mind of the Klansmen, Jews are the hidden powers behind everything the Klan hates; even the U.S. government is run by Jews. Most Klansmen refer to this supposed secret Jewish cabal as "ZOG," or "Zionist Occupied Government," a phrase sprinkled throughout Klan literature and websites, as in this Southern White Knights example: "I hope this sight [sic] shows you who we truly are and at the least opens your eyes to the changes taken [sic] place . . . and how this Country and others are being ran [sic] by the ZOG" (Southern White Knights, 2002). Many Klansmen believe that Jews are behind the federal government's efforts to combat organizations such as the Klan. According to the White Camelia Knights' leader Charles Lee, "the jews [sic] tried to entrap Jesus in a conspiracy against the government, just as they do to Christian Klansmen today" (Lee, 2005a).

What is the ultimate goal of this alleged Jewish conspiracy? Jews, the Klan believes, are bent on first controlling and then destroying the white "race," primarily by encouraging miscegenation. One way Jews are encouraging race-mixing, Klan members claim, is by featuring African Americans in prominent roles on television. According to the White Camelia Knights, . . .

> We see more and more All-Black TV programs that pollute the airwaves. Where are the White people in these Black Sitcoms? You can be sure to find a majority of the credits for these Black Sitcoms belonging to the Jews. In a Country where

> the Majority rules, you would think that the White Man would be in control and therefore rid this land of the evil that plagues it. But instead you have the parasitic Jew at the Head of Government. (Lee, 2005b)

Jews also serve another function by reconciling a glaring inconsistency in Klan ideology. Klan members believe that blacks are unintelligent, lazy, and inferior. But if whites are so superior to blacks, how can blacks be such a monumental threat? The Klan answer is that Jews control the blacks. Jews manipulate African Americans, encouraging them to commit crimes against whites, and also manipulate the government to give blacks preference over whites. If the "Jewish problem" could be solved, therefore, all of America's other minority "problems" would become easier to deal with.

Klan leaders also insist that Jews are attempting to outlaw Christianity and often claim the Supreme Court's ban on mandatory prayer in public schools as proof. According to the Mystic Knight's website, "The Jews all over the world are doing everything in their power to remove every Christian symbol that there is! The Jews hate Jesus Christ and his people! White Christians of America and the whole world . . . don't fall prey to the wicked ways of the Jews!" (Walker, 2002). These teachings feed the Klan sense of victimization.

Race

Race has always been the central issue in Klan ideology. Klan activists believe that all nonwhite races are a threat to whites; most of the organization's history has revolved around its attempts to exert or retain white control over minorities. Today, many Klan leaders offer a perverse variation on this theme: not only have whites lost control of their country, but the future of the white race itself is now threatened. Only the Klan can save it.

African Americans

The typical Klan activist believes that African Americans are the cause of most crime in America. They also believe that blacks are intellectually inferior and have no moral sense, that they rely on welfare to survive, that they are drug users, and that black men are pathological rapists of white women. In other words, blacks are the focal point of lower- and working-class white fears.

Klan literature also blames the failure of whites to succeed or advance in their careers on "reverse discrimination." According to the National Knights of the Ku Klux Klan, for example, . . .

> Anti-White discrimination is official government policy through 'affirmative action' schemes such as minority scholarships, minority business grants, contract 'set-asides,' and the hiring and force fed promotion of less qualified employees. We demand an end to all government enforced race mixing such as busing and moving welfare recipients into Middle Class neighborhoods. (Robb, 2002)

According to the Klan, because blacks are so unintelligent and lazy, they are incapable of accomplishing any real task or even getting a job. If any African American does hold a worthwhile or important job, therefore, it was obviously the

result of affirmative action and cost a hard working "real" (i.e., white) American his or her job. This is a key part of the Klan sense of victimization, especially its belief that white males are the "real" victims. It also scapegoats blacks, allowing them to be blamed for economic failures that whites themselves experience.

C. Edward Foster (1997) wrote that . . .

> The Pennsylvania Ku Klux Klan recognizes the simple fact that ALL African niggers are all savage, bloodthirsty Satanic beasts . . . In the last 30 years these cannibalistic apes have fiendishly MURDERED over 50,000 White Christians. A nigger cannot be a Christian. Voodoo is the only appropriate religion for these depraved, demonic, vile, ape-like creatures of jungle darkness. (p. 2)

This sort of rhetoric attempts to dehumanize African Americans, to make them easier and more acceptable targets for violence and intimidation.

Among the people most hated by the Klan are interracial couples and the children of interracial unions. Such people—"miscegenators"—are believed to be contributing directly to the pollution and eventual extinction of the white race. As a result, they are frequent targets of Klan-related harassment and violence.

Hispanics

Fear of foreign "invasion" is a source of great anxiety among Klansmen. This fear demonstrates the Klan tendency to hate those who might compete with lower class whites in the job market and to seek scapegoats to blame for economic and educational failures. Klan websites and newsletters are replete with calls for the military to "seal the border." Hispanics, of whatever background, are simultaneously and paradoxically seen as direct economic competition (stealing the jobs of white men) and as lazy welfare recipients.

Klan Criminal Activity

The hallmark activity of the Ku Klux Klan is the perpetration of violence. From the early days of the original Klan when "night riders" terrorized former slaves, through the firebombing and murders of the Civil Rights Era, to the present day, the Klan has been America's most notorious and well-known domestic terrorist movement. Supreme Court Justice Clarence Thomas accurately characterized the Klan in 2003 as a "terrorist organization, which, in its endeavor to intimidate, or even eliminate those it dislikes, uses the most brutal of methods" (Thomas, 2003). The Klan is known for terrorism, murder, and assault, all stemming from its basic hate-based ideology, but Klansmen also commit a wide variety of non-hate-related crimes, largely because of the criminal milieu from which it draws portions of its membership.

Klan violence largely stems from a combination of Klan ideology combined with the lack of political power on the part of Klan members. Typical Klan members are poor, with low education levels and little or no access to political leaders. Moreover, their ideology is by and large unpopular—associating with the Klan is a stigma. Thus, Klan groups rarely experience success using normal political and social means of achieving their goals. This makes violence a more attractive option for some Klan members. Perhaps more importantly, because Klan ideology and identity stem from extreme

hatred of other groups, they feel urgently the need to strike out at those groups. Finally, Klan members are often recruited from among people with violent or criminal histories, and the Klan focuses their violence and crime on its perceived enemies.

Klansmen have committed, and continue to commit, acts of terrorism and major violence, weapons and explosive violations, arson, hate crimes, crimes against police officers, other crimes to further their cause, and a number of coincidental crimes.

Major acts of violence are the deeds for which the Klan has gained most of its reputation. Torture, bombings, and other assorted brutal acts gain massive publicity and create fear among minorities and non-racist whites; in its long history, the various incarnations of the Klan have been responsible for hundreds and hundreds murders, arsons, bombings, rapes, assaults, and other crimes.

Rather than being ashamed of the Klan's sordid past, many modern Klan members are quite proud of this history. Grand Dragon C. Edward Foster once said the following of the Klan:

> I'll tell you this, the Klan's here because we've been here for 131 years. The legacy is that, uh, we've had a lot of hangings, a lot of bombings, a lot of shootings. That don't bother me at all. If somebody wants to go out here and kill a nigger or something, I don't know . . . They're [African Americans] not our equal, they have got no right to breathe free air in America. This is not the Boy Scouts; this is the Ku Klux Klan . . . You know who we are, and you know what our history is. (Brummel, 1998)

Terrorism

Ku Klux Klan groups continue to be a major source of domestic terrorism. In 1996 and 1997, in one of the more spectacular cases, three Klansmen and a Klanswoman—Edward Taylor, Jr., Shawn Dee Adams, Catherine Dee Adams, and Carl Waskom, Jr.—plotted a series of terrorist acts in north Texas ("Three," 1997). The first target they chose was a natural gas processing plant near Bridgeport, Texas. This would merely serve as a diversion for a $2 million armored car robbery. With the proceeds from this robbery and from robbing drug dealers, the group would finance further acts of terrorism. The group conducted surveillance of the plant and the armored car, obtained bomb-making manuals and materials, and exploded two prototype bombs. While surveilling the natural gas refinery, the Klan members noticed children nearby and realized they would be likely victims of a blast. "But if it has to be," Catherine Dee Adams said, in words caught on tape, "I hate to be that way, but if it has to be . . ." Another Klan member had reservations and alerted the police, however, and the plot was foiled before it could be carried out. The four were arrested in April 1997 and eventually pled guilty (Schutze, 1997).

Weapons and Explosives Violations

Weapons and explosives violations are a common element in Ku Klux Klan criminal behavior. This is a reflection of members' fascination with firearms as well as a natural side effect of their self-conception as white warriors. In January 1994, for example, Connecticut authorities arrested four members of the Unified Klans in Wallington on weapons charges following raids on a number of residences. Among

the arrested was the New England leader of the Unified KKK, William Dodge. The police recovered a pipe bomb that had been delivered to Dodge during a sting operation. Wallingford police learned that Klan members in their area were seeking explosive materials, silencers, and automatic weapon conversion equipment. The other three arrested were Scott Palmer, Martin Regan, and Dean Hucal. Three more members were arrested at later dates—George Steele; Stephen Gray; and Edmund Borkoski, who conspired to purchase a silencer to use on his sister's black boyfriend. Dodge later pled guilty to possession of a pipe bomb and was sentenced to slightly over 5 years in prison; Steele committed suicide before sentencing; Gray was sentenced to 6 months in a halfway house; Regan was sentenced to a year in prison; Palmer received 63 months in prison; and Borkoski received 54 months in prison ("Prison Term," 1994; O'Leary, 1997).

The fixation of many Klansmen with weapons and explosives sometimes leads to potentially dangerous situations at Klan rallies and marches. At one rally in Fort Payne, Alabama, in June 1999, a police officer spotted a pistol in open sight in a car. Five Klan members approached the officer and began arguing. One man claimed the pistol, and police placed him under arrest and searched the car. They found two more pistols, but all five Klansmen denied ownership. Police arrested Scott Alan Lockamy, Howard C. Lockamy, Edwin Layfield, and two other Klan members on charges of possession of a firearm while attending a demonstration. A large group of robed Klansmen later tried to forcibly enter the jail but left after they encountered a phalanx of 20 police officers in riot gear. The Lockamys and Edwin Layfield received 6-month suspended sentences (SPLC, 2002).

Hate-Related Offenses

African Americans

Klansmen target blacks more often than any other group for a variety of reasons. The first reason, naturally, is that African Americans are easily recognizable. Especially in the South, Klansmen also often live in close proximity to blacks. African Americans are also typically Klan members' greatest competition for employment.

Historically, a primary focus of Klan violence has centered on resistance to integration. Even today, desegregation can spur Klansmen to commit violent acts. In the early 1990s, when officials attempted to integrate a public housing project in Vidor, Texas, various Klan factions used intimidation tactics designed to keep blacks from moving in and encourage those residing in the project to move out. These tactics included driving slowly through the area and brandishing automatic weapons, marching in uniform, and threatening residents.

U.S. District Judge Tucker Melancon emphasized the malevolent role that the Klan plays in the United States by saying, "While foreign terrorists would kill our bodies and destroy our buildings, the American Invisible Empire and the Ku Klux Klan and what they stand for and the type of conduct these defendants engaged in to rid themselves of their black neighbors, attacks our nation's very soul" (*U.S. v. David Anthony Fuselier*, 2004).

The case of Klanswoman Judith Ann Foux and her sons, David Carl Foux and Steven Joseph Foux, was typical of Klan involvement. The leader of a local church,

Reverend Dennis Turbeville, spoke out against the Klan's intimidation tactics in 1992. That evening, Judith Foux placed a card at his church that read, "You have just been paid a friendly visit by the Ku Klux Klan. Don't make the next visit your worst nightmare." One of her sons, Steven Foux, later allegedly gave false testimony to a federal grand jury about his knowledge of the event. Another son, David Foux, harassed one of the witnesses against his mother. In 1994, Judith Foux pled guilty to criminal violation of the Fair Housing Act, Steven Foux to being an accessory after the fact, and David Foux to obstruction of justice (Stewart, 1994).

Klan members often commit crimes after rallies, speeches, or other gatherings because the hate-filled rhetoric at those events builds up their courage and rage. This happened in October 1996 after Christian Knights of the KKK members Clayton Edward Spires, Jr., and Joshua Grant England attended a Klan-sponsored turkey shoot. Afterwards, they went to a Council of Conservative Citizens (CofCC) rally in Lexington County, South Carolina, to show their support of the state's flying of the Confederate Battle Flag. After the rally, the two Klansmen climbed into Spires' truck and drove past an African American bar, Club Illusion, where they fired at least 10 rounds from an SKS assault rifle into the crowd, wounding three. Police arrested the two men later that night and found Klan literature, the SKS rifle, and 100 rounds of ammunition in the truck. England received a 25.5-year prison sentence, and Spires received 26 years for three counts of civil rights violations and one count of using a firearm in an assault ("SC Klansman," 1999).

Biracial Couples or Individuals

Klan ideology is especially vicious toward interracial couples. Such couples are frequent targets of Klan violence. To Klan members, interracial couples are provocative signs of miscegenation and the future "disappearance" or "extinction" of the white race. The Klan gets particularly angered by white women who date or marry non-white men.

Anti-Semitism

Anti-Semitism is central to the ideology of the Klan, pervading its rhetoric and literature. Because of this, it is not surprising that Klan members are willing to target Jews.

The case of Donald Ray Anderson provides a stark example of the results of such anti-Semitism. In April 1997, Anderson, a Klansman since 1979, mailed a 30-page manifesto to a McKinney, Texas, newspaper that "exposed" a Jewish conspiracy to control white people through race mixing and the media. Ten minutes after mailing the manifesto, Anderson walked into the parking lot of the Baruch Ha Shem synagogue (ironically, a place of worship not for Jews but for formerly Jewish Christians) in Dallas, Texas, and fired dozens of rounds into the synagogue while screaming, "Die, Jews, die!" He was dressed in fatigues and alternated shooting with giving Nazi salutes. Luckily, Anderson failed to hit any of the hundreds of people inside. After being indicted on state and federal charges, Anderson pled guilty and was sentenced to 12 years in prison ("Shooter," 1998).

Gays and Lesbians

Klan literature and propaganda is rabidly homophobic and encourages violence against gays and lesbians. While homosexuality has not been a traditional concern of the Klan, society's growing acceptance of it, as well as growing legal recognition of the civil rights of gays and lesbians, has infuriated many on the extreme Right. Since the late 1970s, the Klan has increasingly focused its ire on this previously ignored population.

A particularly grisly example of what Klan rhetoric can inspire was seen in Alabama in 1999. Steven Eric Mullins and Charles Monroe Butler lured a gay man from his home, took him to an isolated spot near town, and savagely beat him to death. When they were through beating their victim, they placed his body atop a pile of old tires and set it afire, burning the body almost beyond recognition (Firestone, 1999).

Crimes Against Government Officials

Klan followers have also been involved in violence against police officers. Law enforcement officers are targeted for several reasons. Often, it is because they "interfere" with Klansmen attempting to commit crimes (or arrest them afterward). Some Klan members may target government officials and buildings out of long-standing frustrations and feuds with the government. On a more ideological level, though, policemen are seen as the "foot soldiers" or "jack-booted thugs" who enforce the New World Order's oppression of white men and carry out the will of the Jewish conspiracy.

One example from 1994 illustrates Klan reactions to law enforcement officers carrying out their duties. In Kentucky, Klansman Chris Connor was convicted for twice threatening the life of an ATF agent investigating an arson and for threatening to "shoot up" an employment services office in Bowling Green. The agent was investigating the burning of a church in Bowling Green, whose pastor had made anti-Klan comments. Two Klansmen, Earnest Glenn Pierce and Brian Grayson Tackett, were convicted for the arson (U.S. Court of Appeals, 1999).

A case of Klansmen attempting to murder police occurred near Waco, Texas, in 1999, when two visiting North Carolina Klansmen tried to kill two police officers during a high-speed chase down Main Street in Taylor. Police encountered Jimmy Ray Shelton and Eddie Melvin Bradley speeding through Taylor at 85 MPH and chased them. During the chase, Bradley fired 8 to 14 gunshots that shattered a police officer's windshield and struck a sheriff's department vehicle. A Texas State Trooper shot out one of the men's truck tires, which forced the truck to stop. The men exited their truck and surrendered to the officers. Inside the truck, officers found four high-powered rifles, a handgun, detonation cord, seven knives, $1500 in cash, a Bible, armor-piercing ammunition, four Confederate flags, a whip, brass knuckles, pepper spray, Klan literature, a copy of *The Poor Man's James Bond*, and methamphetamine. The Bible had an inscription identifying Shelton as "Reverend Jimmy Ray Shelton, Imperial Wizard of the Confederate Ghosts of the Ku Klux Klan" ("Klan Figure," 1999).

Coincidental Crimes

Other crimes committed by members of the Ku Klux Klan appear to have little or no connection to their ideology. These non-ideological, or what the Anti-Defamation

League's Dr. Mark Pitcavage has termed "coincidental crimes," are prevalent among Klansmen because, despite its religious and moral rhetoric, the Klan attracts many adherents who have violent or criminal backgrounds or tendencies.

Perhaps most noteworthy are the Klan leaders who have been convicted of sex crimes. Such activities have dethroned more than one Klan leader in recent years. One example is Tony Gamble, one-time Imperial Wizard of the Tristate Knight Riders of the Ku Klux Klan. Throughout the 1990s, Gamble led a fight each year at Christmas to erect a Klan-sponsored cross in Cincinnati's Fountain Square. Each year, he won the legal battle and placed the cross in the park. "What we try to do is just put Christ on Fountain Square," he once said to a reporter. "The only thing the cross is going to have on it is the John 3:16 verse . . . Ours is not a Klan cross; it's a Christian cross." While engaged in this battle, however, Gamble was repeatedly raping and sodomizing two young girls for at least the last two years of his struggle for freedom of speech. In March 1998, Gamble was convicted on eight counts of rape, sodomy, and sex abuse of a 13-year-old girl and sentenced to 55 years in prison ("Klan Leader Charged," 1997).

While Gamble's activities occurred in private, the actions of Eric Brandon Lane of Berleson, Texas, did not. Lane was the Imperial Wizard of the Dixieland White Knights, and in an initiation ceremony in October 1996, he blindfolded two 14-year-old girls, stripped them naked, ordered them to publicly perform sex acts on each other, and then to engage in sex with him. A court sentenced Lane to 10 years in prison in May 1998 for sexual assault (Pitcavage, 1998).

The Future of the Klan?

Unfortunately, despite its age, the Ku Klux Klan's presence in the United States is still strong. Though smaller than in the Klan's heyday in the 1920s, or its resurgence in the 1950s and 1960s, the Klan today is still the most common type of hate group in America, more than 130 years after it was first conceived. Looking at its recent past and its present state, it is possible to gain some insight as to what the Klan might look like in the near future.

Many racists and anti-Semites in the United States today choose other paths, such as joining neo-Nazi or neo-Confederate groups. This virtually guarantees that the Klan will not regain the stature it had half a century ago; however, the Klan continues to appeal to many angry whites, especially those coming from poorer socioeconomic backgrounds. This, plus the long tradition of the Klan in some parts of the country, unfortunately ensures that it will not wither away.

The Klan will continue to be strongest in the South and the Midwest. Klan groups are particularly numerous in these areas, where Klan rallies and marches occur frequently every year. These rallies and marches cost communities tens to hundreds of thousands of dollars in lost revenues, not to mention the non-monetary costs: hooded Klansmen are still one of the most well-recognized and feared symbols of hate in the United States.

As immigrants, particularly Hispanic immigrants, continue to move into the South and the Midwest in unprecedented numbers, creating Hispanic communities in many areas for the first time, the Klan will increase its anti-immigrant and anti-

Hispanic rhetoric. It is likely that crimes targeting such immigrants will also increase. Such immigrants trigger both the Klan's racism and its traditional enmity against people perceived to be in economic competition with poor whites.

The Klan is likely to become even more decentralized. Large, hierarchical Klan structures are more vulnerable to collapse than smaller Klan groups. The number of so-called "independent" Klansmen is also likely to rise, as people may identify with the goals of the Klan without formally joining any particular Klan group. The future may also see more "hybrid" Klan groups, like the Aryan Knights of the Ku Klux Klan, that combine Klan traditions and goals with those of newer white supremacist groups such as neo-Nazi groups.

The level of Klan criminal activity is likely to remain high. In addition to their rallies and publicity-gaining stunts, Klan groups routinely engage in more sordid forms of activity, from harassment and intimidation to hate crimes to acts of terrorism. The Klan was born as a terrorist group in 1865 and has never abandoned that image, despite the efforts of occasional Klansmen like David Duke and Thom Robb to "clean up" the Klan. Klan-related criminal acts are common and will remain so in the future. Because of this, law enforcement cannot afford to relax its vigilance against the Klan.

In the 21st century, the Ku Klux Klan still stands as a stark symbol of hatred in America—a symbol of racism, anti-Semitism, and anti-immigrant and anti-gay bigotry.

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The Legality of Canine Sniffs and Motor Vehicle Traffic Stops

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Police are currently celebrating the U.S. Supreme Court's 2005 decision in *Illinois v. Caballes*; however, that celebration may be a bit premature and, perhaps, unwarranted.

The topic of canine sniffs and subsequent vehicle searches in the individual states has garnered much attention in the last few years. In fact, it has garnered so much attention and seemingly conflicting decisions, that the United States Supreme Court finally accepted a case on the legality of canine sniffs and subsequent vehicle searches—the *Caballes* case. Perhaps the U.S. Supreme Court decided that it was time to weigh in on this topic, since it has not visited the topic of searches incident to a canine sniff since the case of *United States v. Place* in 1983. The key question now is "Does an officer need reasonable suspicion to have a trained narcotics dog sniff a vehicle on a traffic stop?" In many states, the answer has been "no"; however, Illinois had ruled in several cases, including *Caballes,* that a police officer does, in fact, need reasonable suspicion before calling for a drug-sniffing dog.

The United States Supreme Court first addressed the issue of canine sniffs in *United States v. Place.* In the *Place* case, police detained a person's luggage at an airport for the purpose of having the luggage checked by a drug-sniffing dog. The Court ruled that a canine sniff is not considered a search and held that the canine sniff was justifiable because a dog-sniff is not a search under the Fourth Amendment. Additionally, the Court claimed that the canine sniff was similar in nature to the plain view doctrine in that the person had no expectation of privacy to luggage openly displayed in a public place. In deciding *Place*, the Court also alluded that, since in this case, the police officer's observations provided him with reasonable and articulable suspicion that the traveler was carrying luggage that contained narcotics (the same principles as involved in *Terry v. Ohio*), it would permit a temporary detention to investigate.

Another point worth noting is that the Court in *Place* ruled that the 90-minute detention of the suspect was unreasonable, in spite of its holding on the dog-sniff issue. In other words, the Court in *Place* held that if a police officer has reasonable suspicion that the detainee is in possession of narcotics in his or her luggage, the officer may conduct a canine sniff, if done quickly after detention, and that may provide probable cause for a warrantless search of the luggage if the dog reacts positively.

Many states have carried over, at least parts of the *Place* rationale, to motor vehicle traffic stops in which there is no initial reasonable suspicion that the car contains narcotics so that when the drug-dog alerts on the vehicle or the suspect, it is then considered probable cause for a warrantless search of the car. If the officer conducting

the traffic stop is a canine officer, the sniff would be conducted immediately and not be considered an unreasonable delay; however, if a canine unit has to be called to the scene, the question of reasonableness could then be raised based on the time of detention factor. It would not be unreasonable for a canine officer working the same shift to be called to conduct the sniff. It may be considered unreasonable to call in a canine unit from another jurisdiction or a canine officer who is off-duty. As stated in the case of *Place*, the United States Supreme Court ruled that 90 minutes was unreasonable and constituted an unlawful detention.

In the leading Illinois case on this issue, prior to *Caballes,* the case of *People of the State of Illinois v. Cox*, a Fairfield police officer stopped Anne Cox for an alleged license plate light violation. During the officer's testimony in court, he admitted that he did not see or smell the presence of cannabis or other drugs. The officer called for a county deputy canine unit to respond to his location. The officer testified that it took about 15 minutes for the county canine unit to arrive. The dog sniffed the vehicle and alerted on the car. A subsequent search of the vehicle revealed the presence of cannabis residue and seeds in the vehicle. During the trial, the length of the detention became an issue, although not a critical one. The officer testified that it took no more time to have the canine unit respond than it took for him to conduct the stop and write the citation.

The main issue on appeal in the *Cox* case was the allegation that the search violated Cox's 4th Amendment right against unreasonable search and seizure. The State cited the *Place* case, as precedent, in claiming that a dog sniff is a not a search. In Illinois' final decision on this in the Illinois Supreme Court, it did note that a canine sniff of a vehicle is not considered a search pursuant to the 4th Amendment in the U.S. Supreme Court, as outlined in *Place*; however, the Illinois Appellate Court stated (at p. 1070) that a canine sniff may constitute a search under Illinois state law.

> Article I, section 6, of the 1970 Illinois Constitution states, "The people shall have the right to be secure in their persons, houses, papers and other possessions against unreasonable searches, seizures, invasions of privacy, or interceptions of communications by eavesdropping devices or other means" (Ill Constitution 1970, article I, §6). The 4th Amendment sets the minimum rights a person shall receive against unreasonable government search and seizure. The Illinois Constitution can give people more protection. The United States Supreme Court has ruled in *Place* that a canine sniff does not constitute a search under the 4th Amendment (*Place*, 462 U.S. at 707, 77 L. Ed. 2d 110, 103 S. Ct. at 2644-45). However, a canine sniff may still constitute a search under section 6 of article I of the 1970 Illinois Constitution.

In *Cox,* the amount of time the defendant was detained was not a real issue, as the length of the detention was minimal; however, the Illinois Supreme Court cited that the officer conducting the traffic stop did not have reasonable suspicion to believe that drug activity had or was taking place; therefore, the officer had no justification to call for a drug-sniffing dog.

In other words, the Illinois Court in *Cox* was saying that state courts can always give their citizens more protection from governmental intervention set out in a law or U.S. Supreme Court interpretation. In *Cox*, the Court basically said that Illinois chooses to go beyond the *Place* standard in protecting its citizens by holding that

the officer needs at least a reasonable suspicion of drug activity before a dog-sniff would be allowed on a traffic stop.

The *Cox* decision raised the seemingly apparent conflict with the U.S. Supreme Court holding in *Place.* Is reasonable suspicion of illegal drug activity a necessary element for calling a drug-sniffing dog to the scene of a traffic stop for the purpose of sniffing the vehicle for possible narcotics? Recently, defendants have been challenging the results of vehicle searches based upon canine sniffs without reasonable suspicion. In addition to the *Cox* and *Caballes* cases, Illinois has had several other such cases, including *People of the State of Illinois v. Easley* and *People of the State of Illinois v. Edwin Ortiz.* Prior to accepting *Caballes*, the U.S. Supreme Court denied hearing the appeals of *Easley*, *Cox*, and *Ortiz*, even though *Place* had been decided in 1983 and these decisions were seemingly in conflict with *Place.*

At the state level, the Illinois Appellate Court relied upon the *Easley* case when deciding *Cox*. The facts of *Easley* involved him being stopped by police for having no rear license plate light and failing to signal when required. The officer asked the driver, Easley, for a valid driver's license. While Easley was looking for his license, the officer observed a business card with a marijuana leaf on it in Easley's possession. The officer ran a criminal history check of Easley and learned Easley had prior drug charges. When the officer returned to Easley's car, the officer observed that Easley had closed the ashtray. Easley also appeared very nervous. The officer called for a drug-sniffing dog, and the dog alerted on Easley's car. A subsequent search revealed the presence of marijuana. The Court in *Easley* reasoned that the drug sniff and subsequent search were justified based upon the officer's reasonable suspicion of drug activity. The Court in *Cox* cited and distinguished *Easley*, claiming that the officer needed reasonable suspicion in order to conduct a drug-sniff and that the officer in the *Cox* case had no such reasonable suspicion.

The facts in the *Caballes* case involved an Illinois State Police trooper stopping Caballes for speeding on Interstate 80. The trooper called out the traffic stop but requested no back up. A second trooper, a canine unit, heard the traffic stop being called out and responded on his own. The original trooper making the traffic stop did not request the canine unit, nor did he have reasonable suspicion of drug activity. When the canine unit arrived, the canine officer conducted a canine sniff of the vehicle. The original trooper did not refuse the sniff by the dog. Caballes had been originally told that he would only be receiving a warning ticket for speeding. During the canine sniff, the dog alerted on Caballes' vehicle. Caballes was tried and convicted of drug possession, and an Illinois Appellate Court affirmed the conviction.

The Illinois Supreme Court in the *Caballes* case reversed and ruled that the troopers did not have reasonable suspicion to conduct the canine sniff; therefore, the contraband found during the subsequent search was inadmissible in court. That ruling was seemingly in direct conflict with the *Place* decision, even though *Place* arguably was different in that it was an airport/luggage situation and the officers had reasonable suspicion of possession of narcotics. The *Caballes* decision focused on the reasonable suspicion necessary to conduct a canine sniff of a motor vehicle. As stated, the Illinois Court in *Caballes* ruled that the trooper did not have reasonable suspicion to conduct a canine sniff and therefore had no grounds for a search of the vehicle.

The dissenting opinion in the Illinois' Supreme Court's *Caballes* case, argued that if a sniff is not a search pursuant to *United States v. Place*, then the police do not need reasonable suspicion to conduct canine sniffs. The dissent went on to state that allowing a canine to sniff a vehicle that has already been lawfully stopped and detained does not transform the subsequent seizure into a 4th Amendment search. In the *Place* decision, the Court stated that an exterior sniff of luggage does not require entry and is not designed to disclose any information other than the presence or absence of narcotics and that the same should be true in the motor vehicle stop situation.

A related policy issue is the question as to the reliability of canines in regards to drug sniffs. Dogs are tools used by police, and each dog is unique. The reliability of a drug-sniffing dog depends upon the training of that particular animal, as well as its intelligence and smelling ability. Dogs are able to detect the odor of drugs that are no longer in the vehicle. A drug sniffing dog can detect the odor of narcotics and cannabis up to 72 hours after the drugs are removed from a vehicle (Hurley, 2004). If a drug-sniffing dog alerts on the odor of drugs that are no longer in the vehicle, is that still probable cause for a search of the vehicle? Any other contraband found during the search of the vehicle is still admissible in court as it was found during a lawful search (Hurley, 2004).

There are also a number of police roadblock cases, decided by the U.S. Supreme Court, that use the same or similar rationale. These cases involve the use of police roadblocks without any reasonable suspicion or probable cause. The first case of *United States v. Martinez-Fuerte* was decided in 1976 and allowed roadblocks at border points to check for illegal aliens even though there was no specific suspicion for each car stopped. The Court balanced the minimal intrusion with the need to stop illegal aliens from coming into the United States and said it was an acceptable practice. The second case involved stopping cars at roadblocks to check for vehicle registration and safety defects. In 1981, *U.S. v Pritchard* was decided along the lines of *Martinez-Fuerte*. The third roadblock case involved DUI checkpoints. *Michigan v. Sitz* was decided in 1990, and again the U.S. Supreme Court accepted the balancing test even though there was no particularized or reasonable suspicion. This line of thinking changed, however, in 2000 in the *Indianapolis v. Edmond* case. This involved the use of roadblocks and drug-sniffing dogs in an attempt to locate and stop drug usage and possession. The Court held that these types of roadblocks were not acceptable without some sort of individualized and reasonable suspicion. This decision certainly affects police policy decisions and is seemingly in conflict with *Caballes.*

In deciding *Caballes*, the U. S. Supreme Court reaffirmed their position on canine sniffs as set out in the *Place* case to make its decision. The U.S. Supreme Court maintained its position that a canine sniff is not a search under the 4th Amendment and extended that rationale to vehicles. On face value, that appears to be a victory for law enforcement; however, as was already noted in the *Caballes* decision at the state level, states are allowed to make U.S. Supreme Court holdings more restrictive, in order to better protect their citizens. It is, therefore, possible that states, such as Illinois, may still require reasonable suspicion before calling a drug-sniffing dog out on a traffic stop, despite the U.S. Supreme Court's ruling in *Caballes.*

The bottom line? The *Place* decision established that a canine sniff is not a search pursuant to the 4th Amendment. The most recent decision by the U.S. Supreme Court in *Caballes* reaffirmed *Place* and extended that rationale to vehicle stops. There are, however, very conflicting holdings in the U.S. Supreme Court, as well as the individual state's rights (federalism) issue regarding following U.S. Supreme Court decisions. Police can avoid the debate by having a minimum standard of reasonable suspicion to conduct a drug sniff of a vehicle on a traffic stop. In the many cases that followed *Place*, the courts have often looked at whether or not the officer had reasonable suspicion to conduct a drug-related canine sniff of a vehicle; therefore, police administrators would be well served to develop and institute a policy governing the use of canine sniffs on vehicle stops. A key element of that policy should include reasonable suspicion in order to assist with the successful prosecution of criminal cases, avoiding appeals, re-trials, and possible civil litigation. The best way to do this is for police agencies to institute a specified policy governing the use of canine sniffs and the subsequent searches of vehicles.

The key to successful prosecution is good police work. If police officers suspect drug activity, they should build a good case and properly document it, just as they would in any criminal case. The people should have a right against unreasonable search and seizure, as guaranteed by the Constitution; however, if criminal activity is or has taken place, police officers should intervene and investigate, as long as their actions are within the scope of the law. A sound policy will provide officers with proper direction, strengthen prosecution, and help avoid costly litigation.

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Internal Police Systems for Officer Control: A Strategic Focus Area for Improving Civilian Oversight and Police Accountability in South Africa

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The following was adapted from Workshop 10: Police Oversight, Accountability, and Discipline presented at the National Criminal Justice Conference on February 7-8, 2005.

Introduction

My argument is that there is a particular shortcoming in relation to the current oversight architecture of the police that if focused upon will provide the biggest impact on solving some of the challenges facing our policing agencies.[1] Essentially, the area that requires greater focus is internal police systems of control and accountability of individual police officers. While such systems typically include performance management and public complaints systems, for the purposes of this presentation, I will focus specifically on the internal disciplinary system of the South African Police Service.

A Framework for Civilian Oversight of the Police

Police accountability is a complex and often difficult concept whether one focuses on ensuring internal accountability of police officials or external accountability of police agencies through civilian oversight mechanisms. Indeed, ensuring effective civilian oversight of the police as a means of enhancing police accountability remains an ongoing challenge internationally, and at some point, most democracies will try to strengthen it—usually after a particular public scandal involving police abuse of power has erupted. Given the large and often complex domain of modern policing, however, civilian oversight structures will typically find themselves at sea in terms of how to effectively hold the police accountable unless they are given a focused mandate. In recent times, a number of analysts have tried to assist various police agencies and civilian oversight structures by proposing a basic conceptual framework for police accountability.[2] This model has emerged following the recognition of two key realities facing policing everywhere in the world:

1. Police officials are often the most visible face of government and are given special powers and weapons to enforce the law, investigate crimes, arrest criminal suspects, and maintain social order. The failure to do this effectively and legally will undermine many citizens' respect both for the rule of law and the government. This will serve to strengthen the confidence and position of those who already have no respect for the rule of law or the government.

2. As many decades of international experience and research have demonstrated, the special powers granted to police officials are easily abused by individuals and groups in the police service who are more interested in self gain than working toward the goals of the police agency and serving the community. This happens to some extent in every police agency in the world and appears to be particularly problematic in countries undergoing democratic transitions as old systems of control are weakened while new systems are still in the process of being developed.

Consequently, it has been proposed that effective police accountability requires a particular focus on how the policy, procedures, practices, and structure of a police agency affects the following:

- **Police performance** – police activities and the direct impact of these activities
- **Police conduct** – police behaviour such as ill-discipline, misconduct, brutality, and corruption

While police performance is an important element of any police reform initiative, weak internal controls governing police conduct will ultimately undermine the extent to which the police can perform effectively and efficiently. Indeed, the need for strong internal disciplinary systems has been recognised internationally. As Rachel Neild has argued following an analysis of police reform of Latin America, . . .

> The early establishment of functioning internal controls is all the more important for police reform processes where a large number of personnel are retained from the former [security structures]. In these cases, there is a clearly increased risk that old and abusive practices will continue. It is undoubtedly important, if the reform process is to be at all credible, that police leadership clearly demonstrate that abuse will not be tolerated by developing the mechanisms to confront it.[3]

It is necessary to recognise that civilian oversight can never be the primary mechanism for holding individual police officials accountable. Indeed, the argument has been repeatedly made that "it is clear that [external mechanisms of police accountability] can only be effective if they complement well developed internal forms of control."[4] Consequently, the success of civilian oversight of the police really depends on the strength and nature of internal police systems. Internal systems are more likely to become strengthened, however, if external oversight bodies start to focus on these systems to ensure that they indeed are adequate and working as effectively as possible.

Indicators of Police Conduct in South Africa

In South Africa, one of the primary challenges facing our policing agencies (both the SAPS and municipal police services) is that of effective internal control. This is not to say that there is an absence of internal control. Certainly, there are internal disciplinary and performance management systems that have had positive developments over the past few years. Indeed, many police officials are disciplined and dismissed each year. Moreover, from my experience working with police agencies, most police officials are honest and dedicated people. It is apparent, however, that there are still a significant number of officials whose conduct has a severely negative impact on the effectiveness and public respect of our police

organisations. The next section will briefly focus on some of the information that reveals the extent of this challenge.

Police Corruption and Crime

Fortunately, the SAPS has recognised the challenge of police corruption and has identified it as one of the national priority areas since 1996. Recently, a National Prevention of Corruption Strategy has been finalised, and this should be implemented during the course of 2005. Moreover, many localized initiatives have been implemented at various levels within the SAPS to deal with the problem; however, currently our municipal police agencies have yet to develop strategies to deal with the problem effectively.

The first indication of the extent of the problem within the SAPS emerged from the work of the previous SAPS Anti-Corruption Unit (ACU). Given that police corruption is accepted as an under-reported phenomenon, the figures provided by the ACU are astounding. Apart from the sheer numbers of cases reported, what is striking is the extent to which these numbers increased consistently over the life span of the unit. Whereas 2,300 cases were reported during 1996, this figure had almost tripled to 6,480 for the year 2000. The most recent figures released by the SAPS reveal that between January 1, 2001, and December 31, 2003, a total of 2,370 corruption related cases were investigated of which 1,332 resulted in criminal prosecution and 641 in internal disciplinary hearings.[5]

Recent data from national surveys suggests that the problem is still significant. In the latest South African National Victims of Crime Survey in 2003, police officials asking for bribes was identified as the second most common experience by almost one-fifth of respondents (19%). Traffic officials taking bribes was the most common form of public sector corruption experienced by almost one-third of respondents (29%).[6] A recent survey undertaken by the CSVR reveals that 92% of police officials agreed with the statement, "Police corruption is a serious challenge facing the SAPS." A majority of 54% thought that police corruption was increasing, with only 23% of the opinion it was decreasing and 19% with the belief that it was "staying the same."[7]

Apart from corruption, other forms of police official criminality are also cause for concern. The Independent Complaints Directorate (ICD) annual report for 2004 states that "there was a substantial 47% increase in reports of serious criminal offences allegedly committed by SAPS members" from the previous year.[8]

Public Complaints and Police Misconduct

SAPS records indicate that complaints against the police have continued to increase since 1994. While in 1994, a total of 11,651 complaints were brought against members of the SAPS, this figure had risen to 17,526 cases in 1997. In the 2004 SAPS annual report, 19,253 complaints were recorded by the national complaints hotline, and 2,030 were recorded by the National Complaints Investigations telephone line. It must be noted that these 21,283 complaints are only those recorded by these two mechanisms. A vast number of public complaints received against police officials at the station level are not officially recorded.[9]

While the SAPS do not provide a breakdown in their annual reports as to the nature of the public complaints that it received, the ICD states in its 2004 report that it received a 27% increase in allegations of police misconduct from the previous year.[10]

The activities of these police officials certainly have an impact on the public perception of the police. The National Victims of Crime Survey found that 45% of all respondents thought that police were doing a "bad job in their area." Failure to respond on time" was cited as the most common reason for dissatisfaction; a number of conduct-related problems, such as "corruption," "laziness," and "harshness to victims" were also cited prominently. An earlier 2002 study of 44 priority stations around the country found similar results.[11]

Indicators of Police Discipline

It is clear that the disciplinary system in the SAPS is being used to some effect. Between April 2002 and March 2003, a total of 4,623 disciplinary hearings were instituted of which 7.8% (362) resulted in dismissal, 25% (1,176) were withdrawn, 19% (880) were found not guilty, and 25% (1,181) concluded with a verbal warning.[12] During this year, almost half (44%) of disciplinary hearings instituted resulted in no sanction being taken against the officer concerned.

More recently, between April 2003 and March 2004, the number of disciplinary hearings almost doubled to 9,117. Interestingly, however, a far smaller number of 260, or only 2% resulted in a dismissal. A greater proportion of 28% (2,596) were withdrawn, 18% (1,677) were not guilty and 22% (2,022) ended in a verbal warning. During this year, almost half (46%) of the disciplinary hearings resulted in no action being taken against the subject officer.

While it is not expected that all disciplinary hearings will result in action being taken against officers facing allegations, it is of concern that such a high proportion result in very light or no sanctions whatsoever. This should be of particular concern, especially given the substantial amounts of time, energy, and resources that are required in setting up and running such hearings. Within law enforcement, a general perception is likely to emerge that disciplinary hearings are not really a threat, as only a small proportion of the time will they actually result in any serious sanction.

Other research among police officials on the internal disciplinary systems suggests that the current system does not pose much of a concern to police members. In a 2003 study conducted among three large police stations in Johannesburg, participants were asked what type of disciplinary sanction a police member would receive if caught taking a R100 bribe in order not to make an arrest. Six choices were given to the respondents of the survey, and the results were as follows:[13]

- None – 5.9%
- Verbal warning – 15.5%
- Written warning – 32.2%
- Suspension, no pay – 21.7%
- Demotion – 6.7%
- Dismissed – 18%

The large variation between expectations of what the likely outcome of a disciplinary procedure would be reveals that there is no common perception of the SAPS response to corruption. Of more concern is the high proportion (82%) of police officials who thought that even if they were caught taking a bribe, they would not be dismissed following disciplinary procedures. Clearly, for many police officers, the risk of taking a bribe is worth it, as most do not believe it will threaten their continued employment in the SAPS.

In 2001, a climate survey of station-based police officials at a priority station found that 45% thought that discipline in the SAPS had generally worsened since 1997. A small proportion of 16% thought that discipline had remained the same while 39% thought that discipline had improved.[14] In a more recent police survey, a substantial proportion of 32% disagreed with the statement, "Most police members are disciplined and follow the rules and procedures of the SAPS."[15]

The qualitative research on the functioning of the internal disciplinary system of the SAPS reveals that there are a number of ongoing challenges including the following:[16]

- A reluctance by supervisors and commanders to take disciplinary steps against members
- Disciplinary procedures that take too long to finalise
- Inconsistent application of disciplinary procedures
- Inadequate recording of disciplinary steps
- Inadequate experience of station-based presiding officers
- Inadequate training of police managers in the practical application of the disciplinary system
- A general perception from lower level supervisors that discipline is the responsibility of senior officers

Conclusion

While much has been achieved by the SAPS in the past 10 years of organisational reform, it is clear that the most important management tool to ensure control and accountability of individual police officials, namely the disciplinary system, is not working effectively enough to deal with the extent and nature of challenges related to police conduct.

Nevertheless, none of the civilian oversight structures in South Africa has adequately focused on or monitored the internal systems of control of the police. Neither the portfolio committees, nor the secretariats have played any meaningful policy or monitoring role in relation to improving the internal disciplinary system of the SAPS as a whole. As of yet, the SAPS has not provided these structures with its own analysis of trends and patterns relating to police misconduct nor clear strategies as to how these problems will be addressed.

The ICD plays an important role in terms of individual police accountability, as its primary role is to investigate specific allegations against individual police officials. Indeed, it could be playing a larger role if the challenges they have identified could be overcome. For example, they have no explicit mandate to conduct proactive oversight into trends and patterns relating to police misconduct; there are delays

in the finalisation of police disciplinary hearings; and their recommendations for disciplinary steps are not always acted on by the SAPS.

Moreover, the ICD only receives a relatively small number of complaints against police officials compared to the SAPS. A total of 5,903 cases were received during 2004 while the SAPS received over 21,200 official cases during the same time period. If the ICD was to take over the investigations of all complaints, it would need to increase its capacity by at least 3.5 times. Handing over all the responsibility for dealing with police misconduct to an external agency, however, increases the risk of those who have the most ability to effectively and quickly deal with misconduct, police managers, ceasing to take responsibility. Ideally, a police agency will have strong and effective internal systems for dealing with officer misconduct while external agencies will complement rather than replace these.

A greater focus of the civilian oversight structures on this key area could lead to greater attention being paid to it by the SAPS. If the internal systems of control (including the systems of recording public complaints) and the disciplinary system are strengthened, it is likely that there will be substantial improvements in the conduct- and service-related shortcomings experienced by the SAPS.

Endnotes

[1] This includes the South African Police Service (SAPS) and the various metropolitan/municipal police services that have been established since 2000.

[2] Stone, C. (2004). *The double demand on police and the role of police oversight in democratic societies: An international perspective*. Address to the Conference for Policing Oversight in Africa: Accountability and Transformation, Johannesburg, South Africa, 26 – 29 January 2004. See also Bayley, D. H. (1994). *Police for the future*. New York: Oxford University Press, who simply states that police need to be held accountable for "what they do and how they do it."

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[4] Jones, T. (2003). The governance and accountability of policing. In T. Newburn (Ed.), *The handbook of policing* (p. 605). United Kingdom: Willan Publishing.

[5] SAPS Annual Report for 2003 – 2004.

[6] Burton, P., Du Plessis, A., Legget, T., Louw, A., Mistry, D., & van Vuuren, H. (2004, July). *National victims of crime survey South Africa 2003. Monograph No. 101*. Institute for Security Studies, p. 112.

[7] Newham, G. (2005). *The South African Police Services Johannesburg police area transformation survey, 2004*. Centre for the Study of Violence and Reconciliation.

[8] *Independent Complaints Directorate annual report 2003 – 2004*, p. 47.

[9] This was revealed during a series of interviews with 60 senior station-based police officials as part of the Police Integrity Management Project undertaken by the CSVR during 2003.

[10] *Independent Complaints Directorate annual report 2003 – 2004*. p. 47.

[11] Burton et al. (2004)

[12] *South African Police Services annual report 2002 – 2003*. p. 134.

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Aurora Police Department Staff Study: Response to False Burglar Alarms

Gregory J. Anderson, BA, Area 2 Police Commander, Aurora Police Department

The Aurora Police Department (APD), as well as many other law enforcement agencies, struggles with available resources to meet ever increasing demands. The public wants to see more police cars in their neighborhoods performing crime deterrent functions, proactive patrolling, and other community policing activities. Public demand for services is what drives much of the decision-making process in many police organizations, making law enforcement administrators largely accountable to the community they serve.

> Managers need an account of the value their organizations produce. Each day, their organizations' operations consume public resources. Each day, these operations need to produce real consequences for society—intended or not. If the managers cannot account for the value of these efforts with both a story and demonstrated accomplishments, then the legitimacy of their enterprise is undermined and, with that, their capacity to lead. (Moore, 2001, p. 57)

Recent trends have produced demands on police agencies for different and increased service levels. One of the most prevalent changes in service demands and a frequent call for police service within most communities is the burglar or intruder alarm. The history of APD is to respond to these alarms and place a high priority on the response; however, the vast majority of these alarms are not caused by any criminal activity, resulting in a significant impact to police resources when a crime has not actually occurred. This article will examine the response procedures of APD and the financial ramifications to the public and consider options to improve the performance in responding to these calls for service.

Current Policies and Practices

APD has three levels of priority dispatch based on the type of call for service received. The dispatch system has discretionary preset priorities, which are established based on APD assumptions. Burglar or intruder alarms are set as a priority one dispatch designated with a two-officer response. This is the highest priority dispatch, and examples of other calls that fall in this priority include accidents with injuries, crimes in progress, disturbances, etc. If no police units are available, a general dispatch is given to alert units of a pending priority one call. APD's General Order 7.9.2(D)(1) does address the proper patrol response to a burglar alarm, and states "respond and handle as a burglary in progress"; however, this is not the practice by the officers in the field. Because of the number of false alarms, officers do not normally respond in an emergency fashion.

By category, there are many different types of alarm systems including burglary, fire, hold-up, panic, and medical alarms. The City of Aurora has adopted ordinance Chapter 36, Article IV dealing with alarm systems. The ordinance generally deals exclusively with police alarms, the issuance of permits, and the assessment of fines for false alarms. The permit process requires the following:

- An alarm user permit to be on file with the department
- The alarm installer to gather the necessary information for and submit the permit

No permit fee is required. Currently, however, while APD collects the information for alarm permits, there is no database established to determine whether an address has had an alarm permit completed by the alarm installer. There are currently 49 known alarm installers/monitoring centers providing services within the city. The ordinance relies on these service providers, even though most are not from Aurora, to provide valid alarm permit information. APD currently responds to all alarms whether the location is properly permitted or not.

In an attempt to reduce the number of false alarms, the city has developed graduated false alarm fees. The ordinance allows for the graduated process to renew each calendar year regardless of the number of false alarms in the previous months. The false alarm fees collected, as summarized below, go into the city's general fund and are not directly reimbursed back to the APD. False alarm fees are only calculated on actual alarm responses by officers. If the alarm company cancels a call prior to police dispatch, it is not counted as a false alarm even though there are costs to APD, which will be discussed in a later section.

False Alarm Fees Collected

2002	2003	2004
$125,805	$113,500	$81,400

Scope of Issue

In 2000, there were 36 million false burglar alarms in the United States with costs approaching $1.8 billion dollars in law enforcement services. Approximately 35,000 officers could be shifted to other duties and respond to other calls for service if not burdened by false alarms (Blackstone & Spiegel, 2002). Of all burglar alarm alerts, 95% to 98% are false and do not indicate any actual or attempted intrusion (IACP, 2005). "The staggering costs to law enforcement are only expected to increase" (Spivey, 1997, p. 46). The issue with APD, as well as most other law enforcement agencies, is to work more efficiently and effectively with ever dwindling budgets and manpower. The drain of responding to false alarms makes this difficult.

> According to Sampson (2002), . . . the recent trend of wiring new residential construction with alarm capacity has the potential of significantly increasing the number of alarm calls in the coming decade. Consequently, even those police agencies which recently enacted false alarm policies and ordinances should revisit their approach; otherwise, they might find their workload further consumed with false alarm calls. (p. 2)

The more systems that are installed, the more false alarms there are likely to be, and more police resources will be wasted responding to these alarms (Spivey, 1997).

False alarms are defined in the city ordinance as "the activation of any police alarm device by other than a forced entry, attempted forced entry, unlawful entry, or actual

hold-up or attempted robbery on the premises" (City of Aurora, 2005). An activated burglar alarm does not necessarily indicate criminal activity. Alarms can be falsely activated by the owners of the alarms, bad weather, animals, or malfunctions, which, if known, should not require a police response.

The following table identifies the number of burglar alarm calls that have been handled by APD as well as the average length of time that officers are on the call. The average time does not include time spent on the call if a criminal report was filed.

Table 1
City-Wide Alarm Calls, 2002 - 2004

	2002	2003	2004	Total
Total Alarm Calls Not Resulting in a Report	8,303	8,026	7,360	23,689
"Cancel"-Related Alarm Calls	1,057	1,182	1,114	3,353
Calls Not Including a "Cancel"-Related Field	7,246	6,844	6,246	20,336
Average Length of Time on Alarm Call	0:14:04	0:13:58	0:13:55	0:13:59

The total number of burglar alarm calls in 2004 amounted to almost 5% of all calls for service. This percentage would actually be much higher except APD calculates all officer activity (e.g., traffic stops, cancelled calls, etc.) as calls for service. Undoubtedly, the percentage would increase significantly if this could be calculated utilizing just citizen calls to the police for services. Still, the statistics show that 1 out of every 20 activities performed by an officer involves responding to a false alarm.

What is the frequency that burglar alarms actually indicate criminal activity and arrests made because of the alarms? Many agencies have found that burglar alarms do not significantly lead to the identification of criminal intent or to the arrest of offenders on the scene. As an example, in 1999, the Salt Lake City Police Department responded to 8,213 alarm calls, and in 23 of those, criminal reports were taken with only a few of those being for burglary. The following chart shows that at APD, there are few criminal offenses committed as recognized by an alarm activation. Upon an in-depth analysis of those 170 reports taken during the last three years, many were not for burglary but for criminal damage to property where no intent at entry could be determined. Based on the averages, APD responds to 1,692 burglar alarms for each arrest.

Table 2
City-Wide Frequency Valid Alarms/Arrests

	2002	2003	2004	Total
Total Alarm Calls Not Resulting in a Report	8,303	8,026	7,360	23,689
Alarm for Which a Criminal Report Was Taken	42	60	68	170
Percentage of Valid Alarms	0.51%	0.75%	0.92%	0.72%
Alarm for Which an On-Scene Arrest Was Made	4	3	7	14
Percent of Arrests on Valid Alarms	9.50%	5%	10%	8.20%
Percent of Arrests on All Alarms Received	0.01%	0.00%	0.01%	0.60%

As identified by the statistics of APD and other agencies, "police response to false alarms yields no benefit to the community . . . the effectiveness of burglar alarms in capturing or deterring burglars is modest, and the cost per arrested burglar is high" (Blackstone, 2002, p. 16).

Financial Considerations

There are obvious costs for APD to provide services to respond to burglar alarms. Many of the costs of handling false alarms involve the private alarm companies selling services and passing the response services on to the police (Butterfield, 2003). Rana Sampson (2002), through the United States Department of Justice, has identified several factors to consider when determining costs for false alarm response by the police:

- Personnel costs of call-takers and dispatchers
- Personnel, equipment, and training costs of responding officers, along with those of any backup personnel
- Personnel costs associated with analyzing false alarms
- Software, hardware, office space, and equipment costs for false alarm management
- Administrative and staff costs of notifications, permitting, billing, and educational programs
- Costs of developing, printing, and distributing publications to educate the public and alarm companies about false alarms
- Lost-opportunity costs, since police are unavailable for actual crime problems
- Costs associated with call displacement because other 911 calls take longer to respond to

When examining these costs to APD, some can easily be calculated; others cannot. The following costs are based on 2004 figures. A brief summary for each category is included to ascertain how costs were determined.

Telecommunicator

$37.49 per hour = $0.62 per minute
10 minutes per false alarm call (7,360) = **$45,632**
$6.20 per alarm

Call-taking and dispatch time can vary greatly depending on the alarm and what the officer or caller requests. The dispatcher takes the call from the alarm company, gets the necessary information, inputs the information into Computer-Aided Dispatch, dispatches the call to the officer, adds any notes to the ticket as the officer relays, possibly contacts the alarm company for additional information, contacts an owner or contact person for the property, and then closes out the call. This same information will be needed for all calls, even alarms that are cancelled prior to an officer being assigned. Costs are based on salary and benefits. The 10-minute average is a subjective average based on the above information.

Police Officer

$51.49 per hour = $1.72 per minute (2 officers)
14 minutes per false alarm call (6,246) = **$150,403.68**
$24.08 per alarm

This is based on an officer's salary with benefits and calculated for a two-officer response to each alarm call as per the procedures APD.

False Alarm Analysis

Part-Time Annual Salary = **$18,824**
$3.01 per alarm

This is based on one part-time employee who analyzes false alarm data. This employee cost is only for APD's analysis. All billing is done by the city's finance department, and this amount does not reflect those costs.

Squad Car Operating Costs

$.093 per mile
4 miles (2 squads) per false alarm (6,246) = **$23,235.12**
$3.72 per alarm

Finding exact costs for this calculation is difficult. The city does not calculate costs per mile or break down specific costs for analysis. Nels Olson, a fleet analyst, advised that consideration for purchase, fuel, maintenance, and accidents need to be considered. Based on statistics and information provided by Olson, the above is a cost estimate per mile for the operation of a squad car (personal communication, March 2, 2005).

Costs Not Calculated

As stated above in the Department of Justice report, many other costs should be considered but cannot be estimated at this time. Such costs include software, hardware, lost police opportunities, and call displacement. These costs should not be underestimated or eliminated. While officers are responding to false alarms, they are taken away from preventative patrol, traffic stops, arrests, etc.

Based solely on the costs that can be readily calculated, APD's cost for responding to false alarms is $238,094.80. The average cost per false alarm response is $37.01. The costs for APD false alarm responses exceeded recovered false alarm fees by $157,000 for the year 2004.

Alarm Response Options

There are generally three options that are enumerated relative to the false alarm issue.

1. Verified Response
2. Enhance Call Verification
3. False Alarm Ordinances with Fines

Verified Response

The general theme for verified response is an independent corroboration that a burglar alarm is or was caused by criminal activity. The amount of verification can vary from each agency. The Eugene (Oregon) Police Department dispatches "to intrusion alarm calls only upon eyewitness verification that a crime appears to be taking place" (Swenson, 2004, p. 1). The Tucson Police Department has a broader determination including multiple-zone tripped alarms, audio monitoring by the alarm company and audio evidence of criminal activity, and video feed by the alarm company who can visualize criminal activity or by a guard service that has responded and found criminal activity. There is an ever growing number of major police departments that follow verified response procedures including Las Vegas, Milwaukee, Salt Lake City, Salem (Oregon), Lakewood (Colorado), and Fremont (California).

Opponents of verified response are generally the alarm companies and the customers that rely on police response to their alarms. In 2003, when the Los Angeles Police Commission voted for verified response, there was significant opposition to the proposal, which caused the city council to override the commission (Butterfield, 2003). There are some in the alarm industry, however, that have seen positive results from verified response. In Tuscon, alarm companies have noted that verified response has "been wonderful . . . has not taken away from that effectiveness" (Newell, 2003). The Wisconsin Burglar and Fire Alarm Association (2004) has identified several points in oppositions to verified response including the claim that communities that have adopted similar policies have experienced a substantial increase in burglary rates.

A review of several of the communities that have verified response does not indicate that this claim is accurate. Eugene (Oregon) implemented verified response in 2003 and had an overall nominal increase of six burglaries over the previous year to alarmed buildings out of 1,311 burglary reports (Swenson, 2004). Salem (Oregon) implemented verified response in 2004 and had an 8.5% decrease in burglaries (Lawrence-Turner, 2005). Salt Lake City initiated verified response in 2001, and burglaries were consistent from the previous year and even decreased by 24% since 1998. According to the Salt Lake City Police Department, verified response "made no significant impact on the number of burglaries." Lakewood (Colorado) initiated verified response in 2004, and over the first 6-month period, burglaries decreased by 16.5% (Camper, 2005). Although no communities could be located in which increases significantly occurred, it is probable that there are some. This information indicates that verified response has had no positive or negative effect on burglary rates.

The Wisconsin Burglar and Fire Alarm Association (2004) also indicates that communities that have studied the issue have decided to reject verified response and have not consulted the public on these decisions.

Several cities that have examined the false alarm issue have rejected verified response. The emphasis has been placed on rising burglary rates (addressed above) and the lack of public support and expectation of police response. Los Angeles is one example of public review of the false alarm issue. The Los Angeles Police Commission overwhelming voted to require verified response to burglar alarms. The

Los Angeles City Council, after much public scrutiny, established a Burglar Alarm Task Force to review the Police Commission's Policy. The task force was comprised of the alarm industry, neighborhood councils, citizens, police advisory boards, and city department representatives. In summary, the task force recommended the following:

- Continued police dispatch to the first three alarms at an address and software development to track and coordinate with dispatch software
- A modified verified response protocol that on the fourth alarm, verification of criminal activity be made before dispatch of police
- Implementation of new false alarm fees including the elimination of "free" false alarms
- Implementation of an initial alarm registration fee and renewal fee
- Enhanced public education of false alarms

Of particular interest in this report is the lack of responsibility of the alarm companies themselves to reduce false alarms. Other than providing the customer database lists to the City of Los Angeles, until the fourth alarm comes in and requires verification, alarm industry improvements were not generally cited.

The Department of Justice and the Office of Community Oriented Policing Services has rated verified response as a "best response" to handle false alarms (Sampson, 2002).

Enhanced Call Verification

The alarm industry has recognized the strain that false alarms place on law enforcement, and many have initiated Enhanced Call Verification (ECV) (Mowrey & Rice, 2004). ECV is the practice of the alarm company contacting, by telephone, the alarm user when an alarm goes off to ascertain whether the alarm is valid. ECV involves the alarm company calling a second number, either a work telephone number or cellular number, of the alarm user to ascertain the validity of the alarm. This has been met with limited success.

"During 2003, Alarm Detection Systems (ADS) of Aurora, Illinois, advised its 23,000 customers that effective January 1, 2004, the company would not dispatch police in response to an alarm signal until it had called the premises and a second number. ADS's new system resulted in nearly a 25% decrease in calls to 911 centers during the first 7 months of 2004" (Mowrey & Rice, 2004, p. 15). The statistics previously listed indicate that APD had an 8% decrease in false alarm calls in 2004. One of the drawbacks to this program is that Aurora currently has 49 known alarm installers/monitoring companies, many of which are outside the governmental range of the city. Although there is a trend in the alarm industry to adapt ECV, it is voluntary at this time. ECV also increases the response time by law enforcement, which indirectly effects response time and the ability to apprehend an offender (FARA, 2002).

False Alarm Ordinances with Fines

False alarm ordinances with fines are the preferred method advocated by alarm companies to reduce false alarms. As with the city's ordinance, escalating fines are assessed to recurring false alarms with the understanding that driven by financial

concerns, repeat abusers will have an incentive to stop false alarms. One study found, after a similar false alarm ordinance was enacted, an initial drop of false alarms, but the next year, alarms again increased to almost the previous level (Salt Lake City Police Department). If fees are not significant enough to the user, he or she may just budget for the false alarms thus not changing the cause. This can also cause citizen and political resistance from those who think that taxes cover the police response (FARA, 2002).

This response leaves cities with the brunt of the responsibility for fulfilling a private civil contract between the alarm company and customer (Diaz, 2005).

> Increased fines alone are not the right solution. More fines don't do much to put the cop on the street where he or she belongs. Private alarm companies don't have the right to use our public safety professionals as an added-value service for their businesses. In many states, alarm companies supplement their service with personnel who respond to an activated alarm. (Schwartz, 2004)

Since the alarm industry has been slow to strongly address the issue of false alarms, some police agencies have instituted a policy of assessing fees directly to the alarm companies. In Toronto, the police charge a fee of $83.50 for each false alarm to the alarm company. The Toronto Police saw an immediate 50% drop in false alarms. Their policy also has provisions to suspend an alarm company for non-payment (Toronto Police Service, 2004). Phoenix also has a similar program (City of Phoenix, 2005). The effects of this program are obvious as the alarm companies become more interested partners in solving false alarms before they reach the police.

The Department of Justice and the Office of Community Oriented Policing Services has rated imposing fines as a "response with limited effectiveness" to handle false alarms (Sampson, 2002).

Recommendations

Mark Moore, in his book *Creating Public Value* (2001), identifies the "strategic triangle" in sustaining current programs and developing new strategies for government agencies, which would apply to altering false alarm responses:

- This is substantively valuable in the sense that the organization produces things of value to overseers, clients, and beneficiaries at low cost in terms of money and authority.
- Be legitimate and politically sustainable and able to continually attract both authority and money from the political authorizing environment to which it is ultimately accountable.
- Be operationally and administratively feasible, and ensure that it can be accomplished by the organization with help from others who can contribute to the goal.

Based on these principles, the following recommendations will enhance APD's role in reducing the costs of responding to false alarms. Undoubtedly, some of these recommendations will meet with opposition. Essentially, there are two sections to the recommendations. The first set of recommendations includes measures that APD can begin to institute immediately without outside authority. The second set

must be politically attainable and marketed to include community and political involvement. Including stakeholders in the process should foster better relations with the public and the alarm industry.

Immediate Initiatives

1. **Reduce dispatch from Priority One to a Priority Three for nonverified alarms.**
   The Department of Justice and the Office of Community Oriented Policing Services has rated responding to alarm calls as a Priority One dispatch as a "response not recommended." The research does not support this level of response due to the high rate of false alarms and does nothing to address the underlying issues of false alarms (Sampson, 2002). APD found similar results in the data collected. Burglar alarms that are verified as described previously, should remain a Priority One and receive the appropriate response.

   A departmental information campaign, based on data in this staff study, must be made available to officers responding to alarms. With the burglar alarm being reduced to a Priority Three and based on the data, responding to such an alarm with two officers is not fiscally sound and legitimately does not pose an increased officer safety issue. As with verified response, if a solo officer arrives and locates criminal activity, as with many other calls, the officer should wait for assistance before proceeding further.

   Although verified response appears to be a viable option, the political and public environment in Aurora may not support it in its purest form. This recommended change can be done at APD with little or no outside influence, as APD would still respond to burglar alarm calls. Even as a Priority Three dispatch, officers may be available to respond to a burglar alarm immediately; however, with a lower priority, other higher priority calls can be handled first. As stated previously, a burglar alarm is not an indicator of criminal activity; it is a signal of disruption in the service to the alarm company.

2. **Change General Order 7.9.2(D).**
   This order mandates officers to respond to a burglar alarm as a burglary in progress. This order should be changed immediately, as the statistics do no warrant such a response, and in fact, it is not currently being followed by officers.

3. **Develop a database of valid alarm permit users.**
   APD has no such database of valid permits for alarm users. Although individual permits are kept in cabinets, there is no immediate confirmation that an address for which an alarm is called in, has a valid permit under the current ordinance. A database would also ease administrative work and the process of billing and serving renewal notices (FARA, 2002). In the future, this database could be linked to Computer-Aided Dispatch, and if no valid permit has been established at an address, police may not respond unless criminal activity has been verified. This database maintenance and software enhancement would have significant costs, and the user fees and false alarm fees should be utilized to pay for these costs.

Further Initiatives

4. **Form a Burglar Alarm Committee to review city policy.**
   The Burglar Alarm Committee (BAC) should include representatives of the alarm industry, alarm users, community groups, APD, and the city council. BAC should focus on many issues as they relate to false burglar alarms. All options of handling burglar alarms should be considered by the committee, including verified response.

   Specifically, the BAC should consider recommending change to the current city ordinance. Although this ordinance, at least in part, was written to reduce false alarms through financial penalties, this obviously has not had significant results. The following are recommendations that have been gleaned from research and are appropriate for false burglar alarm policies.

   a. Fees – Currently allowing three false alarm responses per calendar year. **Change to a nominal fee for the first false alarm, which increases for each false alarm; eliminate the language "per calendar year" and base on previous 12-month period.** A calendar year date should not be utilized, as a location could have three false alarms in December and another three in January and never incur a fee. The purpose of these fees is to encourage compliance and recoup losses for service by the police for calls which are noncriminal in nature (FARA, 2002). All "free" false alarms should be eliminated (City of Los Angeles, 2003). Perhaps the most important point in assessing fees for false alarms is that all taxpayers take the brunt of the cost of responding to false alarms, when a smaller portion can afford alarms and the police are providing a service to a smaller group who can afford it (Blackstone & Spiegel, 2002).

      Typically nationwide, fees are allocated to the general fund and not to the police budget (Sampson, 2002). This is the case in Aurora. More money needs to be allocated for personnel to track and bill false alarm fees.

   b. Alarm Equipment Supplier – **Change to include enhanced call verification by both the supplier and monitoring center before assigning a permit for address.** Enhanced call verification, prior to contact with APD's Telecommunications Center, at some level can reduce false alarm calls. This should be mandated for the installer, user, and monitoring center.

   c. Notice to Police of Alarm Installation – This notice states that the alarm supplier will get the information for the alarm permit, and there is no fee associated with this permit. As with other permits within the City, **a registration and renewal fee should be utilized to pay for administrative costs.** As an example, Seattle utilizes a $40 per year fee for each alarm system. **Any alarm user who has not paid the annual fee should not get a police response unless verified criminal activity has occurred**. Additional fees could be made to the alarm companies themselves as "it works best if both the alarm companies and the abusers are charged for costs" as this provides the impetus for the alarm company to change (Sampson, 2002). Los Angeles, however, has found that permits and fines have not worked to reduce alarms (Butterfield, 2003).

Conclusion

False burglar alarms are a considerable drain on police services, both nationwide and in Aurora. Police executives must strive to provide the greatest public value with limited resources. In the effort to provide services in an efficient and effective manner, APD must continue to examine practices on a regular basis and make changes to enhance public safety in general. Burglar alarms statistically offer little chance of apprehending an offender or even indicating any criminal activity. The alarm industry is utilizing APD to provide a "free" response to the interruption of service. Police agencies have utilized a variety of responses to the false alarm problem with varying success. The alarm companies have also responded by the use of ECV, but it is not enough. APD must take the lead and change the immediate practices within the department's purview and facilitate open dialogue with other stakeholders to achieve a fiscal, public safety, and public relations solution.

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Electronic Recording

Donald Barber, Sergeant, Criminal Investigations Unit, Bradley (Illinois) Police Department

In today's society, with constant advancements in technology, the introduction of video technologies in law enforcement is a logical step towards enhancing the professional image.

One does not need to look far to see that this topic is worth pursuing. The media constantly reports issues of police conduct, often insinuating that the conduct of the police today is reprehensible in making arrests and the treatment of prisoners during a confession or interrogation.

Reasons for Implementation and Training

Videotaping would ensure the accuracy of recording statements. Taping leaves the impression that police interrogators are being honest with the judges, jury, and the public. This would also record the conditions under which the suspects are interviewed, and it discourages the suspects' claims of coercion. Not to mention, videotape is cheap and easy. Most people own their own camcorder. They will believe what they see, and videotape recordings are among the most credible evidence that can be presented in court. There is also a new law that was signed in July 2003 that mandates videotaping confessions for all murders in Illinois by July 1, 2005.

Reasons Against Implementation

There are also some cons to videotaping. Suspects are less likely to talk before video cameras. In Illinois, police must notify suspects before taping and then obtain consent. This hurdle is sometimes insurmountable, since even cooperative suspects will not agree to talk before a camera (much like some criminals are willing to give oral statements, but not written ones). There is also the issue that videotaping will give less room for police to use strategies to elicit confessions. Tapes that record truths or lies employed by the police to encourage statements may be misinterpreted later by defense attorneys in court as police misconduct. Also if the taped interview is done badly, the perception in court will be that police have doctored the tape or are hiding something. In addition, if the police fail to ask the right questions or get the right answers, a tape will leave gaps. Taping also forces prosecutors to present the entire statement to judge or jury. Statements that are irrelevant or unfavorable to the prosecution often cannot be retracted from tape, and finally, taping requires interrogators to develop competence in conducting videotaped interviews. At a minimum, they must know how to use the equipment. Additionally, they should know how to make interviews look good for the camera. Jurors and judges watch television, and they expect taped confessions to be like the ones they see on television.

Recommendations

I support the videotaping of confessions. The courts and public expect the best technical evidence to be gathered and presented. There will come a time, perhaps it is already upon us, when the public will be very suspicious of confessions that have

not been taped, especially in the more serious crimes such as murder and rape. I feel I should add, however, that along with supporting videotaping of confessions, I also support repeal of the two-party consent law in Illinois (eavesdropping statute, 720 ILCS 5/14-1). Illinois is in a tiny minority of jurisdictions that require both parties to consent to the recording. One-party consent should be sufficient. With one-party consent, police would be much more likely to get good taped confessions, since suspects would not be "scared silent" when confronted with legalistic forms to sign. Finally, though videotaping should be used whenever possible, it should not be mandatory. In other words, the admissibility of a confession should not be affected by the failure of police to record it. There will be times when taping will be impractical or impossible. Unrecorded confessions should go to the jury. The question in the future will be whether unrecorded statements will be taken seriously.

Introduction

The intent of this article is to explore issues related to changing the suspect interview and interrogation procedure for the Bradley (Illinois) Police Department. The research will explore the experiences of other identified jurisdictions that currently videotape suspect interviews, and assessments will be made on the feasibility of changing current policy and procedure.

Should suspects involved in all cases be subjected to being interviewed or videotaped? What criteria are used to determine the circumstances under which an interview should be taped?

Some of the legal issues surrounding the implementation of videotaping of suspect interviews will be analyzed. Specifically, are there laws that might affect the implementation of this practice? Does the process differ in requirements between adult and juvenile interviews? What view have the courts taken regarding this procedure? With the constant advancements in technology in today's society, the introduction of videotaping into law enforcement practices appears, on the surface, to be a logical step towards enhancing the professional image. Currently, there are many police departments that use videocameras mounted in police cars to record traffic stops of violators, yet it appears that not many police departments have invested in video equipment for the police station itself. In answering some of the questions raised, it is hoped that much can be learned about whether or not a policy change would be beneficial to the end work product of the Bradley Police Department and what impact the effect might have.

Serious concerns about police conduct are broadcast through various media sources when it comes to making arrest. The treatment of prisoners after the arrest, including the interview, interrogation, and confession in high-profile cases are major issues. Four cases were found to be of particular interest in this area.

Research

The first of these cases highlighted in the media, is the case of Rolando Cruz in Dupage County, Illinois. Rolando Cruz was acquitted 3 years ago of the murder of Jeanine Nicarico and was set free after having spent 12 years in prison and being convicted of the murder twice.

This case has now turned the tables of justice around, and instead of a murder being solved years ago, a trial of the officers involved in the investigation and the subsequent arrest of Mr. Cruz, was recently conducted. The prosecution of the investigating officers and prosecutors in the case is due primarily to a controversial "vision" statement Mr. Cruz made to investigators on May 9, 1983. The two detectives are now charged with falsely making up the statement that was instrumental in the conviction of Mr. Cruz. The officers testified that this statement made during the confession implied that he had knowledge of the crime that only the perpetrator could have (Rodrigues & Rrozek, 1999).

Another case found to directly bear on the subject of videotaping suspect interviews, is the murder of Ryan Harris in Chicago. This case differs from the Rolando Cruz case in that the two defendants in this case were both juveniles, ages 7 and 8 years old, making them the youngest murder suspects in America. Both were accused of murdering the 11-year-old Ryan Harris based on statements they made to the police. Their statements were never corroborated with any type of physical evidence linking them to the crime. This case is touted as possibly being the catalyst for the videotaping of confessions in the Chicago Police Department (Mills & Possley, 1999).

The third noteworthy case involved a teenager who spent a year in jail after confessing that he stabbed a woman to death in Chicago. The suspect, who is now 18-years-old, was acquitted of the charges at trial when it was found that the victim was not stabbed but beaten and strangled to death. The defendant's attorney, R. Eugene Pincham stated that "this was an egregious miscarriage of justice" ("Teen Freed," 1999).

The fourth and last case to be discussed, is a case in which Anthony Portor spent 16 years in prison for a conviction in a double homicide case and was the center of media attention when he was released from prison on February 5, 1999. Portor's release was the result of work conducted by Northwestern University journalism students who conducted an investigation of their own, finding another man who confessed to the crime, in a videotaped interview with the journalism students.

These are but a sampling of decisions being reversed. All of these are cases in which the defendants recanted their previous confession or raised the issue of police misconduct during the interview or interrogation procedure. While there are many more cases such as these across the nation, these were of particular interest, due to the close proximity, geographically, to Bradley and the extreme consequences of the police action or inaction in the interviews and interrogations of the suspects. In the society we live in today, we can well expect that the reversals in these convictions will prove to be very costly. Cook County recently agreed to a settlement of $36 million when four men who had served years in prison for a 1978 gang rape that evidence later showed they did not commit, were released from prison (Cassell, 1995).

In 2002, the *Chicago Tribune* reported the problems that Cook County has had with cases, which showed how dubious confessions had marred hundreds of Cook County cases. The series of articles found that police tactics ranging from coercion and brutality to illegal arrests had produced confessions so tainted that they were thrown out or defendants were acquitted. Because the interrogation process takes place behind close doors, legal battles over the validity of confessions often boil

down to the word of police versus the word of the suspect, but videotaping, some advocates say, could help clarify those issues because the tape could show what really went on during the interrogation. In that way, taping might help police and prosecutors as much as it aids defendants. Police departments that regularly tape interrogations report that the change was for the better. "If you're really in a quest for justice, you ought to be continually looking for superior ways of determining the truth . . . and taping the interrogation is superior," said William Geller, a national expert on police practices and the author of a U.S. Justice Department report on video taping interrogations (as cited in Mills & Possley, 1999). According to Geller's study of departments that tape interrogations, it cuts down on claims of coercion and abuse and often leads to guilty pleas because a videotape of an interrogation and confession is powerful evidence. Geller goes on to say, or caution, that everything that leads up to the confession needs to be taped (as cited in Mills & Possley, 1999).

Closer to home, a town just south of Bradley, which is called Kankakee, has been taping or videotaping interrogations on serious felonies since 2000. The crimes include felonies such as murder, armed robbery, and home invasion. In 2004, about 45 cases fell into that category, said Commander Larry Osenga, who supervises interrogations. He said about 60% of the defendants agreed to be videotaped; 30% refused but gave written statements; and 10% refused to talk at all. Osenga states that when the policy was new, "the guys were a little apprehensive because they didn't know how it was going to work out in court." Osenga goes on to say that now the officers are pleased with the results: the convictions the videotaped confessions help secure.

The Kankakee County State's Attorney Edward Smith, echoed Osenga's commitment to videotaping and said that videotaping interrogations can help in the courtroom, especially given the growing popularity of home video recorders. Smith said that the tapes usually "corroborate and bolster the police version" of an interrogation and confession. We feel a common question in a juror's mind might be, "why didn't they tape it, if it's so important?" said Smith.

Smith went on to say that an airtight case is not always airtight. Witnesses renege on you, move away, even die. Judges who should know better actually think you did something wrong and exclude your evidence. Lawyers come up with differing theories to explain away your case. If you've seen enough of your cases go down the tubes, you realize that "Not Guilty" is not the same as "Innocent." One means the case wasn't proven; the other means the guy didn't do it. It's tough when you see the guy you know did it walk out of the courtroom with a "Not Guilty" verdict.

Videotape is an important tool in both avoiding coerced confessions of allegations or coerced confessions, and it is important for both law enforcement and prosecutors to have this additional hard evidence to make their case.

The law enforcement profession today has been the target of many liability issues. *Liability* is defined as "a legal obligation incurred for an injury suffered/complained, which results from failure to conduct a specific task/activity within a given standard." There is no greater "injury suffered" than those of innocent persons being imprisoned based on less than desirable standards of proof in criminal cases (Soto, 1998).

The police profession of today is touted as having the highest quality of law enforcement officers in the workplace. We are expected to be highly trained and able to solve the most complicated cases through the use of high technological devices (e.g., advancements in technology in crime scene processing, through DNA evidence, or any other of a variety of processes that the public has come to expect). They have seen cases solved within an hour when watching their favorite television show. One could reason television, in part, has had an impact on the public expectation of police today. The fact remains, however, that despite all of the advances in technology, in the United States, confessions or incriminating statements are needed to obtain a conviction in about 24% of cases.

Talking to suspects is of the utmost importance in our profession. The subject matter of this research needs to be examined for many reasons. The conduct of the police investigation has to be above reproach. Police are constantly being scrutinized about the way in which they go about the business of identifying and arresting suspects and then gaining convictions in the courts. If conducting themselves in a proper manner, police officers will have nothing to hide.

If implementing a policy of videotaping the interviews of suspects serves the purpose of enhancing the public trust of the agency and building more concrete cases for the prosecution of offenders, then it is a topic worthy of research. To better explain the reasons for this topic becoming an issue at this time, it is necessary to describe the existing facility, conditions, and anticipated expansion project at the Bradley Police Department. The existing facility is approximately 3,000 square feet of total space. The working environment within the police department does not currently allow for any type of efficiency in terms of suspect interviews. The investigation office within the police department houses the supervisor of the investigations division in one office and two other detectives in two individual offices. Hiring a fourth detective for the division has been discussed. The problem is that the offices that currently house the individual detectives are about 7'x7' square; as you can imagine, this does not give an officer any room or privacy to conduct an interview within his own office. Detectives are currently using a room that is used for a break room and a meeting room for the Police and Fire Commission to hold interviews. It is not remotely close or set up to be that of an interview room, not to mention a videotaping room, and is a target for a lot of interruptions from various noises, like officers walking down the hallway and phones ringing.

The Village of Bradley is currently in the process of adding on to their existing building. The new section of the police station, when completed, will hopefully be equipped with two dedicated interview rooms. One question regarding the use of these dedicated interview rooms is whether or not to equip them with video recording equipment. With the current facility improvements underway, now seems to be the optimal time to determine whether changes in procedure will serve to enhance effectiveness, efficiency, and the professional image that the Bradley Police Department has worked hard to achieve and maintain.

In conducting the research on this subject, little existing research was found, and it appears that the practice of videotaping suspects and or confessions is still in the pioneering stages of the law enforcement profession; however, the subject of videotaping interviews by use of electronic equipment was found to be discussed as early as 1975 in Australia. At that time in a case titled *Mallard vs. the Queen*, reference

was made to a number of cases in which the court had "repeatedly stressed the desirability of the use of video equipment where it is available, and criticized the practice of using the video equipment as means to obtain corroboration of a confession or admission previously made in an earlier recorded oral interview."

According to the case, his Honor Malcom also stated, "it was a matter of great regret which left the criminal justice system open to significant criticism." As a result, his Honor said police evidence continued to be open to challenges that would not otherwise be available. He pointed out that the commissioner for police guidelines for videotape recordings of interviews with suspects, which took affect from May 1, 1993, expressed the desirability of audiovisual recording of police interviews in the case of major indictable offenses carrying a term of imprisonment exceeding 14 years and that it was apparent that this was not applied in practice.

It appears that it was the court's opinion in Australia that the preferred method of conducting police interviews was to have them documented in the form of a video recording to be introduced into evidence.

This article also cites Section 570D(2) of the Criminal Code as providing the following:

> (2) On the trail of an accused person for a serious offense, evidence of any admission by the accused person shall not be admissible unless . . .
>
> a. the evidence is a videotape on which is a recording of the admission; or
> b. the prosecution proves, on the balance of probabilities, that there is a reasonable excuse for there not being a recording on videotape of the admission; or
> c. the court is satisfied that there are exceptional circumstances which, in the interest of justice, justify the admission of the evidence.

This section of the Australian Criminal Code deals with offenses committed by a person over the age of 18 years for which the person has been detained. The article further defines *admission* ". . . as an admission made by a suspect to a member of the police force, whether the admission is made by spoken words or by acts or otherwise."

The article covers several Australian court decisions, but it is summed up best at the end of the article by Malcolm CJ who stated, "I am of the opinion, that police officers should in the future take note that where video facilities are available and use is not made of them, the evidence obtained in an oral interview is likely to be held inadmissible in the exercise of the Court's discretion."

The article does not state specific details about the cases discussed or the reasons for the decisions; however, it appears that the justices' opinions in Australia, demand as evidence any interview to be introduced as evidence (Karstaedt, 1997).

Analysis

In a personal interview with The Honorable Judge Kathy Bradshaw, Twenty-First Judicial Circuit, Kankakee County, Illinois, several questions regarding videotaping

were discussed (personal communication, March 3, 2005). Judge Bradshaw agreed with the opinion of the Australian Judicial system. Judge Bradshaw was asked whether interviews with suspects should be recorded on videotape? Her answer was "yes." She stated that this procedure would ultimately alleviate any claims by a defendant that he or she was the victim of brutality or coerced into confessing or an officer made promises of leniency in exchange for cooperation. Judge Bradshaw went on to make this point by stating that the interview of a suspect should be conducted on videotape from the very start of the interview until its full conclusion. She makes the observation that if this was not the practice, the issue of the actions prior to the suspect being introduced to the video would always be susceptible to suspicion by the defense attorney's questions.

Judge Bradshaw also commented on the application of law that would apply in the case of videotaped interviews. The Illinois compiled Statutes concerning "Eavesdropping" 720 ILCS 5/14-2 (a) states in part, "A person commits eavesdropping when he or she uses an eavesdropping device to hear or record all or any part of any conservation unless he or she does so with the consent of all of the parties to such conversation." She stated that her personal belief was that the state legislature needed to address or at least look at changing the law creating an exemption to the eavesdropping rule, which is applicable in the State of Illinois. Her rationale for this was that too many times, suspects, knowing that they are being videotaped play up to the camera. Her suggestion was an exemption such as the one addressed in the Illinois Compiled statutes 720 ILCS 5/14-3 (h): "Recordings made simultaneously with video recording of an oral conversation between a peace officer, who had identified his or her office, and a person stopped for an investigation of an offense under the Illinois Vehicle Code." Judge Bradshaw reasoned that suspects being brought to the police station for questioning already know why they are going there. Thus, they should have less expectation of privacy, negating the need for a consent to be signed authorizing the audio recording.

Judge Bradshaw's interview concluded when she was asked about the effect on criminal cases brought into her court, having as one piece of evidence a videotaped confession, rather than the standard written statements signed by the defendant, when a confession is obtained. Judge Bradshaw responded that she felt that an officer offering evidence in the form of a videotaped confession, showing that there was no police misconduct or promises being made to the defendant by the police officer, would have a significant impact by way of increased plea negotiations being sought by defense attorneys. She also stated that the defense attorneys would not be able to wave their magic wand and manipulate and turn words around because the facts would be coming directly from the client's mouth (Bradshaw, 2005).

It was perceived from this interview that Judge Bradshaw would give great weight to videotaped evidence of a suspect confessing. She cautioned, however, that the confessions would have to be evaluated on a case-by-case basis. This would be based partly on what questions were asked, how they were asked, and the response given. It was also Judge Bradshaw's opinion that jurors would relate more readily to the defendant confessing to them on a television by the playing of the videotaped confession, rather than the officer's testimony as to what the officer's interpretation of the confession was at the time that it was given. It seemed clear that Judge Bradshaw is in support of having all interviews conducted on videotape and would welcome the procedural change. She also gave her opinion that the

impact of having the defendant confess on videotape would be significant in cases in which a jury was the trier of fact in the case.

The Bourbonnais Police Department began the practice of videotaping suspect interviews in 1999. An interview with Lieutenant Greg Kunce, Chief of the Investigations Division, revealed that their department has experienced great success in videotaped interviews with suspects (personal communication, March 29, 2005). Kunce stated that there was some initial reluctance in beginning the practice due to not only having to advise the suspect of his or her Miranda rights but also of the fact that a video- and audiotape recording of the interview was going to be conducted. This presented a slight change in the normal process to which investigators were accustomed. It was felt that by informing the suspect that he or she was "on candid camera," the suspect would not be as willing to confess. Kunce stated that to everyone's surprise, this was not the case. He noted that much like the Miranda warnings, which people are so use to seeing on television, suspects really didn't pay attention to the fact that the conversation they were having with the investigator was being videotaped. In fact, he said, that many times, it seemed as though the suspects had forgotten all about the waiver they had signed.

Kunce also stated that in the past year since they had began the policy of videotaping interviews, his investigators spent less time in court because defense attorneys were banging at his door trying to get the best possible deal for their clients. Kunce strongly recommended that any agency implement the procedure of videotaping interviews with suspects.

Suspects interviewed on videotape at the Bourbonnais Police Department include those suspects involved in crimes constituting Class 2 felonies and above or at the discretion of the chief of investigations in those cases that are extremely controversial in nature.

According to the September 5, 1999, issue of the *Chicago Tribune*, it should be noted that New York and Philadelphia only videotape suspects after they have obtained a signed confession and then only when a prosecutor request that it be done; whereas, Minnesota and Alaska laws compel police to record all interrogations (it is unclear if this relates to audio taping only or videotape) (Mills & Possley, 1999).

A need to address differences in interviewing adult suspects versus juvenile suspects seemed crucial to this article since the Bradley Police Department has a large case load of juvenile cases. Assistant State's Attorney (ASA) Kim Donald, Kankakee County State's Attorney, Juvenile Division, spoke about this issue (personal communication, February 1, 2005). Mrs. Donald informed that there is no difference in the process. ASA Donald cautioned about the setting in which the interview is conducted. She said that police officers did not want to give rise to suspicions regarding coercion; specifically, she said that there should not be an officer with his gun out standing over the top of a small youngster asking him or her questions. She also informed that the parents of the juvenile should be present during the interview and that the officer conducting the interview should allow their presence. When asked about parents being present, Donald indicated that the juvenile could sign the consent as long as he or she is able to read and understand what is being signed. Donald also stated that it would be a good idea to have the parents witness the form if they

were present during the admonishment of the Miranda warning and consent to video- and/or audiotape the interview.

Donald's overall assessment of the practice of videotaping suspect interviews was that the practice would be well received by the courts, and she herself was in favor of any policy change that would improve the quality of interviews resulting in confessions to be presented as evidence but also cautioned and encouraged in-depth training of officers who would be involved in the videotaping process to obtain the proper techniques employed to do a great interview.

The heart of this issue seems to be obtaining voluntary confessions to be presented in court as evidence of guilt. John E. Reid and Associates are deemed to be the leading authorities in the field of interview and interrogation. Their training makes the point that this voluntary principle is attributable to the protection of the innocent. A quick review of the training provided by this company reminds officers of the many dos and don'ts in suspect interview and interrogation techniques. The company provides thousands of police officers with valuable training in this important evidentiary procedure; they also state that about 49% of their confession consultations are for the defense. This being said, it is felt that officers must be trained and practice proper interview techniques before they engage in videotaping interviews (John Reid & Associates).

Training is another positive aspect of videotaped interviews that seems to be obvious. Officers could make use of the obtained video statements as training aids. This would allow for a completely objective view of their performance during the interview, and any problems could be easily recognized and corrected to enhance their interviewing techniques and or abilities.

Conclusion

In conclusion, the research supports the change in the policy of simply taking typewritten confessions from defendants in criminal cases to the videotaping of suspect interviews. I don't necessarily think it should be mandatory; there are advantages to not taping, but they are outweighed by the advantages. Locking a defendant into a recorded confession is the last nail in the coffin for many defendants. When a tape is good, defendants almost always plead guilty without reductions; therefore, it is felt that engaging in this procedure will provide better evidence for the courtroom presentation of cases. It will increase officer credibility with the judiciary, as well as, enhance the public trust. The practice will improve, or at least maintain the professional image of the police department as a whole. Allegations of police misconduct will be silenced before they can become an issue, thus reducing liability risks to the officers and their respective departments. It is also anticipated that once defense attorneys view a properly conducted interview, an increase in plea negotiations will be realized and should reduce the need for officers to spend countless hours at the courthouse waiting to testify at suppression hearings and subsequent trials. It is estimated that 99% of the people committing crimes will confess to them under the right circumstances. Those who won't have already been through the system too many times, invoke their rights before you've had a chance to interrogate them, or are pathological liars and don't have it within themselves to confess to anything. A video precursor will not change that result. The percentage of confessions officers get right now is close to only

10-20%. We won't always have the time or inclination to get confessions on every case for which we have a suspect, but overall, we can bring our percentage up by employing good interview techniques and locking suspects into videotape confessions (Bolling, 1999).

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CCTV and the Future of Policing

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Law enforcement administrators must always seek ways to improve their operations. We live in a world that is rapidly changing and that is driven by technology. One of the technological advances that law enforcement executives need to review and consider is the combination of policing and closed circuit television (CCTV).

CCTV is a visual surveillance technology in which a number of video cameras are connected in a closed circuit or loop with the images produced being sent to a monitor or recorder. It is designed for monitoring a variety of environments and activities. The term *CCTV* originally was used to describe a system that was hardwired from the camera to the monitor. In the past, CCTV cameras were attached to a multiplexer, which would split multiple camera pictures onto one CCTV monitor. The multiplexer would then send the images to a time lapse video player, which would then record. This is still used today for simple CCTV installations, but the quality of the picture is low. The preferred systems today are digital. Digital CCTV takes the camera images and compresses them into a computer friendly format. This new technology has changed the way CCTV is defined, and now CCTV is used to refer to any form of monitoring system that uses video cameras as a means of surveillance.

The history of CCTV can be traced back to the 1960s. In 1969, police cameras were installed in the New York City municipal building near city hall. The practice of installing the surveillance cameras spread to other cities with officers monitoring them at all times; however, the CCTV systems only allowed viewing until analog technology was made available and video cassette recorders hit the market. The 1970s saw an explosion around the world in the use of video surveillance in everything from law enforcement to traffic control. England installed video surveillance systems in four major underground train stations in 1975 and began monitoring traffic flow on major highway arteries. In the United States, the use of video surveillance was not quite as prevalent until the 1980s. Private security professionals, however, quickly learned the value of CCTV and started implementing it in their security plans.

CCTV in the United States was widely used in banks and by store owners in the 1980s. Any business that was prone to thefts or acts of vandalism began putting up cameras. It was common to see cameras in banks, mini-marts, and gas stations. The insurance industry and private investigators also used CCTV in the 1980s. In addition, CCTV was found useful in fighting workers' compensation fraud, bogus accident claims, cheating spouses, and poor parenting (Wilkerson, 2004). For private investigators, tape recordings were more useful than still pictures.

In the 1990s, CCTV made its greatest stride in practicality with the use of digital multiplexing. Digital multiplexers became affordable and allowed several cameras to record at once. Digital multiplex also added features like time-lapse and motion-only recording, which saved a great deal of videotape. By the mid-1990s, ATMs across the United States and in most parts of the world had video cameras installed to record all transactions. After the first attack of the World Trade Center in 1993,

the New York Police Department, FBI, and CIA installed numerous cameras throughout the area. This was one of the first uses of surveillance cameras to monitor for terrorist activity in the United States. As the 1990s progressed, the technology continued to improve and became more affordable. Rather than change tapes daily, the user could record one month's worth of surveillance on a hard drive because of the compression capability and low cost. The images recorded digitally were so much clearer than with analog. This greatly improved the police uses of CCTV. The clearer pictures made the use of surveillance concerns for identification purposes a reality. Police were able to use computers to add lighting, enhance the clarity, and zoom in on frames. Police departments across the country began placing cameras in public buildings, housing projects, and in areas where people gather. Police departments across the United States began installing and experimenting with CCTV in the 1990s. Baltimore, Virginia Beach, Dover, Tacoma, and Hollywood Police Departments have experimented with CCTV. After the events of September 11, 2001, CCTV has taken on a new approach. Cities across the United States are focusing on homeland security objectives, and CCTV is a major tactic being used. Software developers have redefined programs that enhance surveillance to include behavior and facial recognition. The Chicago Police Department is probably the leading department in this area with the installation of 200 new "smart" cameras that use behavior recognition software. Other cities are following in its footsteps. New Orleans has just installed 240 new cameras and plans to install up to 1,000. The Philadelphia Police Department reviewed Chicago's camera network and is in the process of planning its own. As technology improves and becomes cheaper, CCTV will continue to evolve and be used for various purposes in policing.

The equipment capabilities of CCTV today are only limited by the amount of money a department wants to spend. There is a wide range of equipment from the in-home cameras to the homeland security cameras installed by the Chicago Police Department. Features include night vision, computer-assisted operation, and motion detection that allows the operator to instruct the system to go on red alert when anything moves. Some cameras have infrared capabilities so that the pictures at night are clear. They can also have zoom capabilities that allow users to see large objects, read a license plate, or identify a pack of cigarettes at 400 meters. Besides the technical components of the camera and computer capabilities, some of the greatest gains have been made in software.

Behavior recognition software will be the norm on all CCTV systems in the near future because of its capabilities. The threat of terrorism as well as the rise in street crimes have made the task of watching a CCTV screen almost impossible. In the past, motion detection was the only way to limit the amount of visual information the officer had to view at one time; however, with behavior recognition, this has improved. Behavior recognition software utilizes complex mathematical algorithms to track pedestrians and vehicles as they pass in the field of view. It then records the activity of the area and classifies it. Then, if anything changes, the software notifies or alerts the officer monitoring the screen of the abnormal behavior. Behavior recognition programs are designed to detect behaviors such as someone lying on the floor, erratic pedestrian motions, a person or vehicle staying in one place for an extended period, a person or vehicle traveling against the flow of traffic, someone running, someone dropping a bag or other item, objects newly appearing, etc. The behavior recognition software improves the efficiency of officers assigned to monitor the cameras because they don't have to try to monitor them all. The software

program will alert the monitoring officer if there is a certain type of behavior being detected.

The Chicago Police Department is taking behavior recognition software and adding features that will detect gun shots and monitor biochemical sensors. The gunshot detectors are capable of triangulating the location of a shooting within 20 feet. Within 5 seconds of a gunshot, a high pitched alarm will sound alerting the 911 center to the number of shots fired and to the address within 20 feet of the location. Traditionally, someone would have to make up his or her mind to call the police, find a phone, dial 911, and report the information to a dispatcher who would then notify a patrol unit. Depending on several factors, this could take anywhere from 5 to 15 minutes before dispatch is notified. With this technology, the 911 center in Chicago has the information in 5 seconds.

The Chicago Police Department will also add biochemical sensors to their cameras. If a sensor detects an agent, the 911 center will be able to view the area with the camera to determine what is occurring. This will be a valuable asset for the Chicago Police Department in the event of a terrorist attack.

Another software gain for CCTV is facial recognition technology. Facial recognition is a form of biometrics that analyzes facial features and landmarks called nodal points. There are approximately 80 nodal points on a human face. Some of the nodal points measured by the software include the distance between the eyes, width of the nose, depth of eye sockets, cheekbones, jaw line, and chin. The computer scans the face and then assigns values. If the computer recognizes enough facial features, it alerts the officer who reviews the image with the stored picture in the database to see whether they match. This software would work with subjects who have outstanding warrants or are on a terrorist watch list. Photographs can be scanned into a database and if surveillance cameras identify the subject walking down the street, the software will alert, and the monitoring officer will compare the CCTV images to the picture in the database. If the officer feels that he or she has a match, he or she continues to monitor the location of the subject and sends units to arrest the subject. This software has not yet been perfected or improved to the point that it can be used in crowds. Currently, the software is appropriate for one-on-one facial scans at a restricted access point. It was tested at the 2001 Super Bowl and found not to be as effective as needed. The software would either alert on everyone or no one depending on the sensitivity of the settings (Dotinga, 2002). Even so, it is promising and will probably be ready in a few years.

The cost for using CCTV varies from department to department. Chicago spent $32,000 per camera and is spending up to $5.1 million overall, and New Orleans is spending $4.5 million. For smaller departments, the costs for cameras can start as low as $15,000 plus installation, maintenance, and behavior software. As technology improves, the costs will start coming down, and all police departments will be able to participate in a CCTV system. New Orleans has set up a website (www.iseecrime.com), which allows citizen groups, neighborhood organizations, businesses, churches, and other community organizations to adopt a camera. The program allows organizations to pay for a camera and place that camera in the location of their choice. This is just an example of the many ways a police department can receive funding to get the project up and running.

CCTV has many uses for policing including resource management in beats or districts, surveillance, intelligence gathering, and physical security. Police executives should view CCTV as another tool they have to combat crime. CCTV can help a beat or district commander manage his or her resources more effectively. For example, if a police department identifies a high crime area, it could place numerous cameras in that area. The police department would then have constant surveillance over that area, and the officers that were assigned to that area to observe and monitor activity could be given more meaningful tasks. If something happens in a particular area that is monitored by the cameras, dispatch can observe the scene providing the officers responding with detailed information. For example, if dispatch looks at the scene and observes 15 to 20 people fighting, more officers could be sent. Supervisors are notified of the incident immediately and can monitor the scene. A supervisor can monitor activity to determine the leaders, keeping them under constant surveillance until a plan is developed. CCTV not only assists supervisors in determining how many officers are needed, it helps them protect their officers. In the case of the Chicago Police Department's cameras with the biochemical sensors, it alerts the supervisors and officers of hazards before they rush to the scene of a terrorist attack.

Another use for CCTV in policing is surveillance and intelligence gathering. Cameras can be directed at hot spots to monitor activity coming and going from a particular location. It used to take a lot of resources to monitor a location 24 hours a day, 7 days a week, but now CCTV can be directed to monitor and record all activity for a specific location. CCTV capabilities are now technologically advanced, and cameras can read license plate numbers and zoom in and watch drug transactions, etc. Officers can be two blocks away monitoring the activity on their in-car computers. This not only makes intelligence gathering easier, but it also reduces the risk of compromising officers working undercover.

Police departments should also consider CCTV for use with physical security efforts. One of the targets for terrorists in our country is our emergency services. The Chicago Police Department has the Office of Emergency Management and Communications Center where all of their communication sources are located and CCTV monitoring occurs. What if terrorists target that building? What will that do for the Chicago Police Department and other emergency services? Almost all communities have implemented some sort of joint communication system such as a 911 communication center. CCTV can be used for target hardening of key buildings and resources. The behavior recognition software would identify vehicles and people who were stopped for extended periods of time. It would also identify items that don't belong. Another key area that CCTV could monitor would be drinking water facilities, which most communities take for granted.

All in all, CCTV has numerous uses for policing and protecting our communities; however, certain groups such as ACLU disagree. The power and reach of the Chicago Police Department CCTV system brings out the "big brother" concerns in people. The spokesman for ACLU, Edwin Yohnka, stated, "We know that there is huge potential for abuse and little oversight. The question is whether appropriate controls are in place to make sure this technology is not abused" (Smith, 2005, p. 150). Police executives who implement a camera system in their community should be prepared for groups like ACLU to question the controls the department establishes. In 1998, researchers at Hull University in Great Britain found that male camera operators honed in on 1 in 10 women merely for "voyeuristic reasons" (Goold, 2004). Even though such

research exists and groups like ACLU are against CCTV, 69% of the people surveyed in Chicago approved of authorities placing surveillance cameras in public locations (Smith, 2005). Chicagoans and other citizens in the United States don't seem to mind the cameras. I believe that most people are happy to have them in public locations, and most people see the positive effect they have had. I believe that the key is in a "public" location. As long as it is not used to violate the 4th Amendment or violate an individual's rights to privacy, CCTV will continue to have support.

An area that will come to be questioned in the future is the selection of targets with CCTV. Who becomes a target, and how are they chosen? Police executives should look at this when considering training for CCTV monitoring officers. This may not create a problem initially, but in the future as the technology improves, the public will want to know that their privacy rights are being protected. In the future, day-to-day monitoring and those targeted by monitoring officers could become part of the Freedom of Information Act. If the information is not part of an ongoing investigation, the public may be able to view the activity.

A study was done in Great Britain by Norris and Armstrong in which a total of 376 targeted surveillances were recorded (as cited in Goold, 2004). It was deemed a surveillance if the operator zoomed in on an individual for more than 30 seconds. The reasons to target were broken down into behavioral, categorical, personalized, protectional, routine, transmitted, and voyeuristic categories. The main reason an individual was targeted was due to personalized suspicion, which is defined as suspicion based on prior knowledge of previous criminal behavior or association with other known offenders (Goold, 2004). This study was very interesting, and it addressed concerns of race being a motive. (The recorded number of black and Asian targets in this study were considerably higher than their percentage of the population.) There are many factors that could have influenced the results, such as the percentage of minorities in the section where the cameras were installed. The issue or point is that as more cameras are installed, there will be more challenges to CCTV, and police executives should strive to protect the privacy rights of their citizens.

CCTV has experienced success stories in just about every community where they were installed. Most of the locations where CCTV was installed compared crime rates before and after installation. Baltimore, for example, had a 25% reduction in crime from 2001 to 2002 in the location of their cameras.

In 2004, the Chicago Police Department installed 30 cameras on corners in high crime neighborhoods. During the first 7 months, calls for service in the area of the cameras dropped 44%. Narcotics calls for service dropped 76%. Serious crime went down 17% and other crimes went down 46%. In areas with cameras, drug arrests spiked 61%. The statistics are similar to these in other large cities where cameras were installed. Chicago Police Department just had another success story with their new cameras and its zoom capability. On February 9, 2005, a CCTV monitor observed subjects making a hand-to-hand drug transaction and notified officers in a nearby precinct. The officers responded, and in 20 minutes, the subjects were caught without incident ("Surveillance Cameras Aid in Drug Bust," 2005).

The future of policing and CCTV will always be in a mode of technological upgrade. As technology for CCTV improves, so will its possible applications for policing.

The positives outweigh the negatives when it comes to using CCTV in policing. Most of the negatives deal with personnel and issues that management will have to solve. CCTV technology is advanced to the point now that it can do almost anything needed if programmed correctly. The problems or negatives usually refer back to the individuals using the system. Either the operators are targeting people in locations where they shouldn't or the police officers themselves are not taking advantage of the resource. All in all, CCTV is here to stay and could be the future of policing.

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Early Warning Systems for Problem Officers

Carl Bock, Special Operations Commander, Tactical Intervention Unit Commander, Skokie Police Department

In my experience, there have been two officers who committed crimes while on duty and in uniform. These officers were considered good officers, one of them having been assigned to a specialized unit. At the time they were caught, it came as a complete surprise that they were involved in the type of activity that led to their termination. One of the officers, while working the midnight shift, was caught by an employee of the country club in town going through the members' lockers and removing items. The subsequent investigation revealed that this officer was returning, for money, items at local businesses for refunds. The second officer was caught when an elderly woman called the station to ask whether it was customary to pay $50 for a warning citation.

In both of these cases, it came as a complete surprise that the officer was involved in these activities. Could there have been warning signs that they were on this self-destructive path? Both officers had survived the selection process, which included a rigorous background check and a physiological test. The department had invested a considerable amount of money and time into their training. Could a system have been implemented that would have alerted these officers' supervisors that there was a problem brewing? Is there a way to identify those officers who are having problems—financial, emotional, or professional—that would lead them to do the things that would end their careers in law enforcement and bring disrespect to the entire department? Can such a system be implemented without intruding on officers' lives? Should a department worry about these issues or just discipline the officers when they break their oath? Do the departments invest too much money and time to allow officers to fail in such a way if a mechanism can be set up to keep them from these kinds of problems?

What is an early warning (EW) system? According to a Department of Justice report, EW systems are "extremely complex, high maintenance operations that require considerable ongoing administrative attention" (U.S. Department of Justice, 2000, p. 1.10). The report goes on to state the EW systems should not be understood as "alarm clocks" (p. 1.10). In other words, these types of systems are not designed to automatically ring when a problem is first noted. The report also states that these systems are "complex administrative procedures that require close and ongoing human attention" (p. 1.10). As in all areas that involve human factors in our departments, these systems are the most complex and ever-changing challenges that face the administration. In today's world, the leaders in any department must deal with the problems of officers but in the light of union representation and ever tougher case law, which always seem to protect the employee over the rights of management.

In a research brief by the National Institute of Justice, an EW system is defined as a "data-based police management tool designed to identify officers whose behavior is problematic and provide a form of intervention to correct that performance" (National Institute of Justice, 2001, p. 1). In this definition, I like the fact that the

term *tool* is used. A tool is a device used by a person to fix or build something. That is the way an EW system should be viewed. The real power is not in the system's development but in the people who are making use of it and how they are applying it.

When evaluating an EW system, what should the managers of the department expect? In the report from the National Institute of Justice, three areas were covered: (1) the effect on the officer involved, (2) the effect on the supervisors of that officer, and (3) the effect on the department as a whole. In the Minneapolis Police Department, the report indicates that there was a dramatic effect on reducing citizens' complaints against the particular officer in the study. The report states "that the average number of citizen complaints received by officers subject to early intervention dropped by 67% one year after the intervention" (p. 3). In New Orleans, the number dropped 62% one year after the intervention, and in Miami-Dade prior to the intervention, only 4% of the officers involved had no use-of-force reports, but after the intervention, that number had risen to 50%. These reports indicated that these types of intervention strategies do work and with a significant level of success. The study could not determine which of the program components was the most effective (e.g., counseling regarding personal issues, training in specific law enforcement techniques, stern warning about possible discipline in the future) (National Institute of Justice, 2001, p. 4). It would seem logical that when dealing with different officers, different methods or even a combination of methods would be needed to reach the desired result.

The report also covers the impact on the supervisors. The report states, "Nonetheless, the qualitative component of the research found that these systems have a potentially significant effect on supervisors" (p. 4). In most departments, there is a feeling that when a supervisor, most notably the sergeant, has a problem officer, he or she may not have a clear path of action. By setting up a system that all supervisors could follow that was supported by the upper command staff, it gave a clear direction to the sergeants. A clear system that supports the idea of making the department more professional while assisting officers makes it easier to sell it to the rank-and-file officers. Also, a consistent way of dealing with officers that crosses all lines of management would lessen any failure to take proper corrective action when needed because the leaders on the department did not cross their *T*s and dot their *I*s. The report also states that in Miami-Dade, the supervisors are required to attend to potential problem officers under their command because of the reporting requirements set by the system. "Furthermore, the system's database can give supervisors relevant information about officers newly assigned to them and about whom they very little" (p. 5). This is important because in most departments with rotating shifts, there are different shift hours for different work groups (e.g., officers working 12-hour shifts while the supervisors are working 8-hour shifts). The interaction between officers and supervisors can, in reality, be very limited. This is also true due to the fact that most officers answer a majority of their calls, and interaction with the community is conducted without the presence of a supervisor. In my own department, because we realign our squads every year and with other personnel reassignments, a sergeant may only be supervising an officer for a few weeks before an evaluation is due.

According to the NIJ report, after having identified a problem officer, a department may have to change its procedures. The intervention with an officer may indicate a

training failure or a policy failure. Through an EW system, a department may learn that it is not doing the best job with its own officers and that the problem may not be with the officer but with the methods of the department.

The main purpose of an EW system is to ensure the orderly functioning of your department. The EW system is there to identify any problem officer before he or she drastically affects your department. An EW system has to be tied into a discipline procedure that benefits both the department and the officers. According to Bennett and Hess (2001), "the purpose of discipline is to promote desired behavior, which may be done by encouraging acceptable behavior or punishing unacceptable behavior" (p. 357). The way an EW system ties into discipline is identifying the problem that the particular officer is having and correcting that behavior. It is a way for the department to address the problem and find a positive solution before it gets to a point that negative discipline is the only answer. An EW system considers not only the officer's behavior but also any underlying causes. This could be a personal problem at home, alcohol abuse, or any other type of crisis in an officer's life that would negatively impact his or her job performance.

What type of officers would an EW system pick up on? According to Bennett and Hess (2001), "problem performers are often dedicated, career-long non-performers. These officers can sometimes survive for over 30 years in departments without performing to standards because they either have not been held accountable by supervisors, or when confronted, they know how to manipulate supervisors" (p. 365). EW systems should be able to identify those types of officers earlier in their careers before they are impossible to change for the better. If the department uses the same type of system to identify noncompliance throughout the entire department regardless of division and the supervisors are well trained in its use, then the department should not end up with a 25-year veteran who is essentially retired on the job. This would be the main benefit for the department and its supervisors. They would not have to deal with an officer who has learned the system and knows how to just get by. It is these types of officers that bring the entire department down because other officers can see that they are not pulling their load and become discouraged. This type of system would also force front-line supervisors to deal with officers and their problems before they get out of control. It is easy for a front-line sergeant not to pay attention to an officer who is having problems because most people, even police sergeants, do not like confrontation. It is the most difficult part of the job of supervision to deal with behavior issues, and it is easier to let sleeping dogs lie. The sergeant may not take appropriate action if the problem officer stays just below his or her radar.

How does an EW system work? According to the NIJ (2001), early warning systems have three basic phases: (1) selection, (2) intervention, and (3) post intervention monitoring (p. 2). There are no one set of standards to identify the problem officers. The NIJ report states that the indicators should included citizen complaints, firearm-discharge and use-of-force reports, civil litigation, resisting arrest incidents, and high-speed pursuits. After the officer has been identified, there is some type of intervention with the officers. The NIJ report states that 62% of those interventions involve a review by the officer's immediate supervisor. In most cases, that would be his or her sergeant. About half of the agencies in the NIJ report (45%) involve other command officers in the counseling, and about half (45%) include a training

class. After intervention, 90% of the agencies studied in the NIJ report included monitoring of the officers involved.

Does this type of intervention work? In the three case studies previously listed in the U.S. Department of Justice report, it seems to be working (Walker, Alpert, & Kennedy, 2000). In Minneapolis, officers in the EW intervention averaged 1.95 citizens' complaints per year, after intervention, it went down to .65 per year. In New Orleans, the officers averaged 1.66 complaints per year, and after intervention, it went down to .63 per year. In Miami-Dade, only 4% of EW officers had no use-of-force reports, but after intervention, 50% had no use of force reports. The report goes on to state that even though there was considerable differences among the programs, they all seem to work and reduce problem behaviors significantly. Are the details of the EW system that a department uses all that important? The most overriding factor seems to be that there is a system. It is a process that gets the officer's immediate supervisor involved before there are major problems. The system forces the officer's supervisor (i.e., his or her sergeant) to pay attention to the officers all of the time. The sergeant just doesn't react after a problem surfaces. The report by the U.S. Department of Justice states that "The EW system is early in the sense that a department acts on the basis of performance indicators that suggest that an officer may be having problems on the job but do not necessarily warrant formal disciplinary action" (p. 1.1).

In the cases of the two officers from my department, there were warning signs. The officer taking money on the street was going to be terminated by the police and fire commission prior to him completing his probation. They were looking at his work record, and in their mind, he was not the type of officer the department wanted. The officer's supervisors went to the police and fire commission meeting to speak for the officer and keep him on the job. The problem for the supervisors involved is that more than one supervisor dealt with this officer's problems. They did not have a complete picture of his record. This officer was personable and never had a confrontation with any of his supervisors. In other words, he was well-liked. Some of the warning signs for this officer was that he was caught sleeping on duty. Not only was he sleeping in the squad car, he fell asleep while running radar on a main street at 11:00 AM. A second sign was that we received a complaint from another department about his action at their station after they had arrested a relative. This officer also missed social functions, and he would cancel at the last minute or call on the day with some type of vague excuse. Just before the department learned about him taking money, there was a complaint from a subject that he had arrested for DUI—that the officer had taken money out of the arrestee's car. There was an investigation, but the complainant could not prove he had the money in the car at the time. The investigation into the bribe report uncovered the fact that the officer had been gambling heavily at the river boat casinos in the area. All of these infractions and odd behaviors seem very obvious now, but they came into the department at different times and were reported to different people, so the pattern was not that obvious.

The second officer who was committing thefts at the country club had similar problems. This officer had been working for another officer in the department. This second officer had a part-time business that involved a game room. It was learned later that while he was working for this other officer, he stole money from him. The other officer received restitution, but because they were both officers and it occurred

outside of the department, it was never reported. Also while this officer was working in our Crime Prevention Unit, he had problems and complaints with his dealings with high school age girls he met through the department's programs. If there had been an EW system in place at the time, there may have been some type of notice taken of these two officers before they committed the crimes. As in the case with the second officer, "historically, police officers recognized that certain colleagues had serious performance problems. Yet, this informal knowledge was never utilized in an official way to help those officers or incorporated into departmental personnel management systems" (Walker et al., 2000, p. 1.3).

The best way for this system to work is not to make it punitive. This system should be viewed as a tool to intervene in an officer's professional life in a way to make him or her more productive and to stop any destructive behavior. We need this because of the time and money invested in the selection, training, and supervision of officers. In an article from *Crime Control Digest*, Dean of Criminal Justice at Northeastern University Jack Green states that the data should be used to save as many officers as possible. It can be an effective tool for personal development ("Early Warning Systems," 2001).

As in any system, you must look for the weakest link. In the EW system, the weakest link would have to be the sergeant. The sergeant is the person who knows the officers best and would be the first person in the management chain that could see any pending problems. In order for an EW system to work, the sergeant must be given the tools and be empowered. "One valuable way of building a record of employees' performance and if enhancing formal reward systems is to empower first-line supervisors. One of the reasons for the great strength of informal reward system in many agencies is that first line supervisors has no significant power to formally reward good performance or take disciplinary action in response to misconduct" (Fyfe, Greene, Walsh, Wilson, & McLaren, p. 416).

Why do EW systems work? Is it the fact that it forces the supervisor of the problem officer to take an interest and then action? Is the EW system success a perfect example of the Hawthorne effect? Could it be that the officer's actions change not so much because of the involvement of his or her supervisor but the simple fact that the supervisor is paying any attention at all? The most difficult part of any supervisor's job, whether it is in policing or some other type of private institution, is the management of his or her people. In my experience, most supervisors will not take action until they are forced to do so. An example of this is when I hear supervisors say, "Don't give me any guilty knowledge." A police department will always respond to a complaint from outside its organization, but if there is no "beef," most bosses will let it slide. So maybe the greatest effect of an EW system is not on the problem officers but on the supervision staff in that it forces them to pay closer attention to their officers before there is some type of glaring problem. These types of systems also give the supervisors, especially the front-line supervisors a tool, a path to follow that does not let them shy away from their responsibilities. Any book written about organizational leadership stresses the importance of the people working for you. While most departments spend millions on computers, car cameras, rules, and regulations, all with the intent of making the department run smoothly and the officers responsible to the mission of the department, it may just boil down to good leadership. While the command staff worries about procedure over leadership, they miss the boat on how important one-on-one interaction with

officers can be. The two officers from my department did not cause any problems until they committed actions that lost them their jobs. If the supervisors involved with these two had more interaction with them and taught them the values of the department and the profession, these officers may not have committed the acts that cost them their jobs and caused the department and its officers embarrassment.

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Carl Bock is a 26-year veteran of the Skokie Police Department where he serves as a special operations commander and a tactical intervention unit commander (SWAT). He has worked as an evidence technician, detective, detective sergeant, and watch commander. At the present time, he is assigned as the Special Operations Commander, where he supervises the Traffic Unit and the Mission Team. The Mission Team is a unit that is assigned to handle gang and drug cases and to be able to work crime patterns (e.g., burglary, auto theft, or any type of recurring criminal activity).

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