RACIAL DISPARITY IN TRAFFIC STOPS

PROBLEM

Since 2000, the Washington State Patrol ("WSP") has collected data on its traffic stops. WSP requires its troopers to maintain data for every contact they have with a motorist, including whether the motorist is stopped, searched, and cited. The data also includes the motorist's race and ethnicity. Multiple studies have been conducted based on this data. There is no evidence of racial profiling or any observable racial disparity in traffic stops. However, there is a substantial racial disparity in the outcomes of these stops. The data shows that minorities are cited more often, and that when they are cited, their citations are for more serious offenses. Additionally, after a stop, police are more likely to search minority motorists, even though searches of White drivers more often lead to seizures. This suggests that the higher search rate is not warranted by any legitimate policing purpose.

KEY POINTS

- **The Washington State Patrol is one of a few agencies studied that does not exhibit a pattern of disproportionate minority contact at the "stop level."**[1] In particular, Blacks are overrepresented in two of the 40 distinct patrol areas (Tacoma Freeway and Seattle South); Native Americans and Asians are not over-represented in any of the 40 areas; and Latinos are over-represented in one area (Sunnyside), but substantially underrepresented in five areas (Yakima, Ephrata, Moses Lake, Everett Central, and Everett East).[2]

- **However, the evidence also suggests racially disparate rates of citations and vehicle searches.** At the statewide level, Blacks, Latinos, and Native Americans received substantially more violations per stop than White and Asian drivers, and these disproportionalities were even higher for every patrol area in King County.[3]

- **Even after controlling for legally relevant factors, the evidence shows that minority drivers are more likely to be searched once stopped than White drivers. Race is clearly an important factor influencing the likelihood of a search.** One study found that, compared to White drivers, Native American drivers are twice as likely to be searched, Black drivers are 20% more likely to be searched, and Latino drivers are 10% more likely to be searched.[4] Another study compared low discretion searches and high discretion searches.[5] For both low and high discretion searches, compared to White

[1] Clayton Mosher, "Vancouver Police Department – Citizen Contact Data Analysis Project: Preliminary Report," Vancouver Police Dep't, Washington State (2003) [hereinafter: Mosher 2003].
[2] *See* Nicholas Lovrich, et al., "Data Analysis Project Report," WSP Stop Data Analysis Project, *41 (Jun. 1, 2003), *available at* http://www.wsp.wa.gov/publications/reports/wsu_2003_report.pdf [hereinafter: Lovrich 2003).
[3] *Lovrich 2003*, *supra*, at 52.
[4] Lovrich, et al., "Analysis of Traffic Stop Data Collected by the Ashington State Patrol: Assessment of Racial and Ethnic Equity and Bias in Stops, Citations, and Searches Using Multivariate Quantitative and Multi-Method Qualitative Research Techniques: Project Final Report," Div. of Gov't Stud., Wash. St. Univ. (2005) [hereinafter: Lovrich 2005].
[5] Low discretion searches include searches incident to arrest, impound search, and warrant search. High discretion searches include consent searches, K9 searches, and Terry stops.

drivers, Latino drivers were twice as likely to be searched, Black drivers were 2.5 times more likely, and Native American drivers were nearly five times more likely.[6]

However, the "hit rate" – that is, the percentage of searches that result in seizures – is substantially higher for Whites. Searches of Whites led to seizures 24.9% of the time. The hit rates for minorities were all lower: 16.5% for Latinos, 18.4% for Blacks, and 22% for Native Americans.[7]

These two findings suggest that minorities are subject to a higher rate of searches, compared to White drivers, but that this higher rate is not warranted by any policing purpose because Whites are more likely to have items worth seizing.

- **Additionally, an important predictor of law enforcement and criminal justice outcomes is the *seriousness of the offense charged*. The evidence shows that Native American, Black, and Latino drivers were charged with more serious offenses on average compared to White drivers**. The WSP data calculated a "seriousness score" per stop. Statewide, Asian drivers had the lowest seriousness score at .14, while White drivers had a seriousness score of .19. Black drivers, however, scored .31, Latino drivers scored .33, and Native Americans scored .45. The disproportionalities are particularly extreme in King County. For instance, in the Seattle South patrol area, Black and Latino, seriousness scores were almost double the White score, while the Native American score was more than double.[8] One possible explanation, however, is that minority drivers are more likely to have prior records of commission of traffic violations than White drivers.

The data and evidence demonstrate that, after police stop a motorist, race is an important factor influencing the likelihood of a search, and the seriousness of the offense charged.

LIST OF ENCLOSED MATERIALS

- Clayton Mosher, "Vancouver Police Department – Citizen Contact Data Analysis Project: Preliminary Report," Vancouver Police Dep't, Washington State (2003).

- Nicholas Lovrich, et al., "Data Analysis Project Report," WSP Stop Data Analysis Project, (Jun. 1, 2003), *available at* http://www.wsp.wa.gov/publications/reports/wsu_2003_report.pdf.

- Lovrich, et al., "Analysis of Traffic Stop Data Collected by the Ashington State Patrol: Assessment of Racial and Ethnic Equity and Bias in Stops, Citations, and Searches Using Multivariate Quantitative and Multi-Method Qualitative Research Techniques: Project Final Report," Div. of Gov't Stud., Wash. St. Univ. (2005).

[6] J. Mitchell Pickerill, Clayton Mosher, & Travis Pratt, *Search and Seizure, Racial Profiling, and Traffic Stops: A Disparate Impact Framework*, 31 Law & Pol'y 1, 12 (2009) [hereinafter: Pickerill, *Search and Seizure*].
[7] Pickerill, *Search and Seizure*, *supra*, at 13.
[8] *Lovrich 2003*, *supra*, at 53-55.

- J. Mitchell Pickerill, Clayton Mosher, & Travis Pratt, *Search and Seizure, Racial Profiling, and Traffic Stops: A Disparate Impact Framework*, 31 Law & Pol'y 1, 12 (2009).