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Racial Profiling and Policing in North Carolina: Reality or Rhetoric?

A thesis

presented to

the faculty of the Department of Criminal Justice and Criminology

East Tennessee State University

In partial fulfillment

of the requirements for the degree

Master of Arts in Criminal Justice and Criminology

by

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ABSTRACT

Racial Profiling and Policing in North Carolina: Reality or Rhetoric?

by

Randal J. Sluss

This thesis examined police practices of the North Carolina Highway Patrol concerning the occurrence of racial profiling. The sample data consisted of motorists stopped in North Carolina by the Highway Patrol between January 1, 2000 and July 31, 2000 (N = 332, 861). The findings suggested that race was a likely factor in pretextual stops. The results also indicate that racial profiling was occurring more in the western region than the eastern region of North Carolina. Theoretical reasons are offered in support of these findings.

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CHAPTER 1

INTRODUCTION

According to a recent Gallup (2001) poll, 55% of whites and 83% of blacks believe racial profiling in the United States is widespread (as cited in the American Civil Liberties Union, 2007). Some estimates indicate that nearly 32 million people have been the target of racial profiling (Amnesty International, 2006). Racial profiling is the inclusion of race as a primary determinant in the characterization of a person considered likely to commit a particular type of crime. Racial profiling “is the corruption of [the] legitimate law enforcement practice of [criminal] profiling” (Buerger, 2002). Criminal profiling is a commonly used law enforcement practice that helps police officers develop a profile that consists of a group of related characteristics and behaviors that, taken together, suggest an increased probability that an individual or group of individuals is engaged in some type of criminal activity. Currently, 33 states have no or only partial bans on racial profiling (see Appendix B).

Racial profiling may take many forms. For example, minorities report that they have been the victims of racial profiling while walking, shopping, and driving (see Fifield, 2001; Gelman, Fagan, & Kiss, 2005; Lundman & Kaufman, 2003). Although there has been a significant amount of discussion on racial profiling in the last 2 decades, its extent and distribution remain uncertain. The purpose of this study is to investigate the police practices in North Carolina to deepen our understanding of its existence and form in a southern state. The goal is to ascertain if the practice of racial profiling is in fact occurring, and what police practices are most vulnerable to abuse toward this end.

CHAPTER 2

LITERATURE REVIEW

Most Americans believe racial profiling is a widespread problem (Gallup, 2001 as cited in the American Civil Liberties Union, 2007). The practice of racial profiling is controversial for several reasons. First, targeting people because of their race is a form of discrimination. The consequence of using race as a proxy for criminality effectively criminalizes targeted races. Second, racial profiling infringes on one of the most fundamental elements of our legal system: “the presumption of innocence” (Hajjar, 2002, p. 1). Profiling is based on a presumption of guilt and targets people on the basis of a collective identity, race. Third, racial profiling is used to compensate for a lack of evidence and represents poor police work.

Defenders and proponents of racial profiling argue that fighting crime is a public interest that outweighs the “inconvenience” to innocent people who happen to be “the wrong race in the wrong place” (Hajjar, 2002, p. 1). The “logic” of this practice hinges on the idea that people of certain races are more likely to be involved in criminal activity than people of other races. Therefore, for purposes of fighting and preventing crime, it is justifiable to detain and investigate people who fit the racial profile because it is thought by some to be the most efficient method for identifying those involved in criminal activity (Hajjar & Nunn, 2002). From a law enforcement perspective, it is reasonable to equate “blackness with suspiciousness,” and act on this suspicion by stopping black people to see if they are involved in criminal activity (Harris, 1999).

High-profile cases of police abuse against minorities are often followed by public outrage about the state of affairs between minorities and police. For example, on February 4, 1999, Amadou Diallo, an unarmed 22 year-old immigrant from Guinea, West Africa, was shot and

killed in the narrow hallway of the apartment complex where he lived. The police officers mistook Diallo's wallet for a gun. Four white officers, Sean Carroll, Kenneth Boss, Edward McMellon, and Richard Murphy, fired 41 shots, hitting Diallo 19 times. All four were members of the New York City Police Department's Street Crimes Unit, which, under the slogan, "We Own the Night," used aggressive "stop and frisk" tactics against African-Americans at a rate double that group's population percentage (Mazelis, 1999).

Thousands attended Diallo's funeral. Demonstrations were held almost daily, along with the arrests of over 1,200 people in planned civil disobedience. In a trial that was moved out of the community where Diallo lived to Albany in upstate New York, the four officers who killed Diallo were acquitted of all charges. Diallo's case highlights the seriousness of incidents involving racial profiling (Mazelis, 1999). Police officers are many times not prosecuted or found guilty in assault cases. Proof beyond a reasonable doubt is difficult to reach in such cases, especially because police officers are reluctant to give testimony against other officers (Mazelis). Proof beyond a reasonable doubt is a difficult standard to prove when it is the victim's word against the officer, particularly when the victim of the brutality is charged with a crime.

Racial profiling of drivers has received a great deal of attention in both the media and among scholars. It is argued that police suspicion has been directed toward African American drivers, resulting in disproportionate traffic stops, ticketing, and searches. The term "racial profiling" embodies a widespread belief that minorities are disproportionately singled out by the police for scrutiny on a class basis—equating race or ethnicity with criminality—rather than on the basis of individual suspicion (Buerger & Farrell, 2002).

As previously noted, racial profiling can occur in many ways other than driving, such as walking, airport customs, public transit, or retail shopping. However, profiling motorists has received the most public attention. In order to conduct a traffic stop, police are required to have probable cause or at least reasonable suspicion that the driver or occupants are involved in criminal activity. Factors associated with legally valid traffic stops are driving behaviors that violate the rules of the road such as speeding, erratic driving, and seat belt usage. These violations occur in different contexts that may have different meanings for police officers. For example, in practically all jurisdictions police can stop a motorist for speeding but may also stop a person for driving too slow or a malfunctioning tail light. In many states, a driver must signal at least 100 feet before making a turn or signal 3 seconds before changing lanes. Also, the willingness to pass other vehicles or the distance used to slow down for stop signs may catch the attention of patrol officers. Weaving could constitute a vehicle stop for a driving under the influence (DUI) investigation. That is, officers will observe motorists and wait for them to commit a traffic violation or the appearance of a violation, weaving and driving erratically in the case of DUI investigation, and then stop motorists to conduct a field investigation.

There are a host of other justifications that can “legitimize” a police stop giving officers a wide range of discretion. Police officers are socialized in both personal and professional settings that affect their decision making. Police officers are socialized to conduct pretextual stops in an effort to scrutinize motorists perceived to be suspicious. A pretext traffic stop is based on the justification (legal or extralegal in nature) that the police officer uses to initiate the stop (Ikner, Ahmad, & del Carmen, 2005). Pretextual traffic stops happen when police officers selectively

enforce violations of drivers who are considered suspicious by the officer. As long as the officer does not admit that race was the reason for the stop, it is considered to be constitutional.

Once a pretextual stop has been made, an investigation into possible criminal activity is conducted based primarily on the officer's negative perceptions of the driver (e.g., such as plain view and consent searches that increase the likelihood of a subsequent arrest or citation). This practice of pretextual stops subjects African American drivers to more traffic stops, investigations, ticketing, and searches (Ikner et al., 2005).

Defining Racial Profiling

Profiling as a law enforcement technique began in the mid-twentieth century and developed along two paths. One path, commonly known as *criminal profiling*, uses behavioral science and psychology to assist in solving certain types of crimes such as murder, arson, or rape. This form of profiling is usually conducted by small groups of investigators reacting to a specific known crime. It is a forensic science and an investigative technique with a history of being used on many levels for many years. Criminal profiling is widely represented and glamorized in television shows, movies, and books. It is most commonly associated with law enforcement, although profiling takes place in other areas and in other contexts not limited to criminal justice (Harris, 2002). Experienced profilers make use of elements like age, clothing, locations, social class, travel patterns, but, overall, race, sex, and religion are the most controversial. The second and most widespread type of profiling is related to criminal profiling in many ways but it is proactive, attempting to *discover* crime that has been undetected or has not taken place. This type of profiling does not use behavioral sciences to look at unusual behavior;

instead, it looks for common types of physical features and general demeanor of a person. This type of profiling is more commonly known as *racial profiling*.

The debate over racial profiling really centers on two issues: What is racial profiling *and* what are some of the reasons for its perseverance? The practice of racial profiling, defined as the use of race in decision making by police officers, is at the front of public concern about policing, public safety, and racial discrimination. Discretion in police work provides the prospect for discrimination at the level of individual police officers. The American Civil Liberties Union (ACLU) defines racial profiling as a practice by law enforcement that “relies on race, ethnicity, national origin, or religion in selecting individuals to subject to law enforcement investigations” (Glassman, 2006, p. 1). Similarly, others describe racial profiling as “race-based policing” or a police practice “whereby a police officer routinely makes law enforcement decisions...solely on the basis of a citizen’s race or ethnicity” (Withrow, 2004, p. 346). Amnesty International USA (2006, p. 1) defines racial profiling as “the targeting of individuals and groups by law enforcement officials, even partially, on the basis of race, ethnicity, national origin, or religion.” In other words, the term racial profiling describes police-initiated behaviors that are the primary or sole product of a citizen’s perceived race or ethnicity and that are without behavioral or legal grounds (Schafer, Carter, & Katz-Bannister, 2004). Profiling based on the wrong category, such as race, is both unconstitutional and morally unacceptable.

These definitions have one common theme—racial profiling is wrong. President George W. Bush agreed and made the following statement just after taking office:

It’s wrong, and we will end it in America. In so doing, we will not hinder the work of our nation’s brave police officers. They protect us everyday—often at great risk. But by stopping the abuses of a few, we will add to the public

confidence our police officers earn and deserve (Department of Justice, 2001, p. 1).

However, to date, the Bush Administration has yet to propose or implement any federal legislation banning the practice of racial profiling. And currently, only 13 states have laws prohibiting racial profiling by law enforcement agents (see Appendix A).

History of Racial Profiling

Critics of racial profiling argue that our society has historically engaged social control methods to protect white interests (Schuck, 2004). Therefore, it is easy to see why minorities are often suspicious of police agencies or organizations. Racial fissures once were, and probably still are, the most important social and political division in the United States (Kent & Jacobs, 2005). Racial conflict was not confined to the Civil War that occurred almost 150 years ago but continued many years after as vigilantes persecuted African Americans to maintain the racial hierarchy.

Many trace the history of racial profiling in America to the practice of slavery and racial separatist policies (see e.g., Schafer et al., 2004; Withrow, 2004). Such practices and policies denied African Americans and other minorities many of the basic rights and freedoms enjoyed by whites. For example, in the Dred Scott case of 1857, the United States Supreme Court affirmed that blacks, free or slave, were not and could never become citizens of the United States. Dred Scott was a slave who had lived in the free state of Illinois but had moved to the slave state of Missouri. Scott filed a court case for his freedom but was turned down by the courts stating that “once a slave always a slave.”

The coexistence of a slave owning South and an antislavery North brought worries of each losing power in the government. Both believed that if slavery did not spread, it would eventually wither and die. The election of Republican Abraham Lincoln triggered the secession of the southern states because both sides believed the new President would make good on his promise to stop the expansion of slavery. The Civil War began in 1862 when Confederate soldiers attacked Fort Sumter in South Carolina. On January 1, 1863, President Lincoln signed the Emancipation Proclamation. Lincoln proclaimed that “all persons held as slaves” within the rebellious states “are, and henceforward shall be free” (Emancipation Proclamation, 1863). The Emancipation Proclamation was limited in that it only freed the slaves in the states that had seceded leaving slavery intact in the loyal states but made the freeing of the slaves a goal of the war. In addition, it allowed the Union to recruit African American men as soldiers, transforming the war for the Union into a war for freedom.

Even though slavery had been effectively abolished as a result of the Emancipation Proclamation, the case of *Plessy v. Ferguson* (1896) helped perpetuate the continued subjugation of African Americans. In this case, the Supreme Court decided that a law directing “separate but equal” accommodations for blacks and whites while traveling on railroads was constitutional. Homer Adolph Plessy bought a first-class ticket on the East Louisiana Railway from New Orleans. Once on board, Plessy told the conductor he was one eighth black and took a seat in the white section. Plessy was asked to leave and sit in the black section, when he refused to move, Plessy was arrested.

The court held that as long as the facilities are equal, separation of the races was legal. Plessy pleaded guilty to the violation and was fined 25 dollars. The court’s decision resulted in

the “separate” part becoming more important than the “equal” part. For example, schools, restaurants, railroads, and restrooms were segregated i.e., there were separate race-based facilities for whites and blacks. This separate but equal race policy remained in effect until it was overturned in the landmark decision of *Brown v. Board of Education*.

In the case of *Brown v. Board of Education*, Linda Brown, an 8 year old African-American child was in the third grade at a public school in Topeka, Kansas. Her father tried to register her in a local school but was denied, forcing Linda to be bussed to a black school. Black children were denied admission to public schools attended by white children under laws requiring or permitting segregation according to the races. The Court was forced to consider whether the segregation of children in public schools solely on the basis of race deprive the children of the minority group of equal educational opportunities. The Court held that:

Segregation of white and Negro children in the public schools of a State solely on the basis of race, pursuant to state laws permitting or requiring such segregation, denies to Negro children the equal protection of the laws guaranteed by the Fourteenth Amendment—even though the physical facilities and other “tangible” factors of white and Negro schools may be equal.

Although the Supreme Court’s ruling in *Brown v. Board of Education* resulted in the desegregation of public schools, blacks and minorities continued to be the targets of de facto discrimination. On December 1, 1955, Rosa Parks, a seamstress from Montgomery, Alabama refused to give up her seat on a public bus to a white man who had gotten on the bus after Rosa had. Rosa was arrested for not giving up her seat. This incident sparked a protest by African Americans who boycotted public transit in Montgomery. The peaceful boycott lead by Dr. Martin Luther King, Jr. lasted over a year. Public transit in Montgomery was finally desegregated.

In 1960 at a store in Greensboro, North Carolina, four black students sat down at the lunch counter to have some coffee. The waitress refused to serve the students unless they moved from the counter because only whites were permitted to sit at the counter. The students remained at the counter until closing but were never served. The next day more students came to the store to protest calling it a “sit in.” This peaceful protest began a movement all over the South. Minorities were excluded from or segregated in restaurants, theaters, hotels, rest stops, and other public places until the Civil Rights Act of 1964.

The period following the *Brown* decision is usually thought of as the Civil Rights Era. Organized hate groups such as the Ku Klux Klan along with southern law enforcement officers often worked jointly to deny the civil rights of African Americans. In 1964, the Civil Rights Act was created to enforce the right to vote, to empower the Attorney General to protect constitutional rights in public facilities and education, to prevent discrimination in federally assisted programs, and to create the Commission on Equal Employment Opportunities. This was a time of many incremental, long, and nearly unattainable social changes. Many in society were resistant to change, particularly when many had been taught from birth that blacks were somehow less than human. This resistance to change within society is fundamental to understanding the current problem of racial profiling.

The experience of being stopped by the police for “Driving While Black” (DWB) highlights the connections between the history of African Americans and the automobile. In the beginning, the automobile symbolized freedom and mobility for blacks while it also reinforced their status as lower class (Autolife, 2006). For all ethnic backgrounds, cars had enormous practical value as a mode of travel, getting to work, visiting family, and status symbols. But for

African Americans, the automobile helped them to break away from “social insults” of Jim Crow laws.

African Americans faced some of the worst indignities of segregation on most public transportation. Especially in the South, black customers of mass transit were forced to use separate drinking fountains, bathrooms, and waiting areas. Black passengers were required to sit at the back of the bus and to give up their seats to whites on demand. A failure to comply with these laws meant passengers could face insult, personal injury, and arrest.

The automobile gave African Americans a type of freedom they did not have on public transportation, ones who could afford to travel by car did so as a way of resisting the racial segregation on busses and trains. For all the newfound freedoms the car brought to African Americans it also brought difficulties,—roadside hotels, restaurants, service stations, and rest areas were closed to them. Black newspapers ran advertisements of racial tolerant diners, motels, and rest stops where African Americans were welcome. One of the first guidebooks was the Negro Motorist Green Book. In 1936, it promised to provide “the Negro traveler information that will keep him from running into difficulties, embarrassments, and to make his trip more enjoyable” (Autolife, 2006, p. 1).

Crime control policies of the Reagan administration in the 1980s are believed to be partially responsible for the increased use of racial profiling. These tactics have been disastrous for minorities, especially young black males, making them targets of the police. In October of 1982, President Ronald Reagan began an anti-drug campaign more commonly known as the “War on Drugs” (Nunn, 2002). President Reagan used terms like war, battle, surrender, and

strategy to describe this campaign that was primarily designed to change the public opinion of drug use and to heighten public awareness to the dangers of illegal drugs.

Presenting the drug problem with a war model suggests the drug problem can be attacked with enforcement methods designed to seek out and destroy drug networks. Put differently, a “war” requires not only military strategies but an enemy as well. African Americans, Hispanics, and other people of color were portrayed as the enemy in the war on drugs because many white Americans perceived these groups to be more involved in drug-related offenses (Nunn, 2002).

Research indicates there is a significant amount of racial disparity in arrest, incarceration, and convictions rates for drug-related crimes. According to at least one source:

Blacks make up 12 percent of the United States’ population and constitute 13 percent of all monthly drug users..., but represent 35 percent of those arrested for drug possession, 55 percent of those convicted of drug possession, and 74 percent of those sentenced to prison for drug possession (Craddock, Collins, & Timrots, 1994, pp. 2-3).

Similarly, Chambliss (1997) found that:

More than 37 percent of all those arrested for drug related violations were African Americans. Yet, the reality of drug use in the United States is that whites are two to three times as likely as blacks to use all illegal drugs except marijuana...thus more whites than blacks use illegal drugs, and more than 70 percent of the population is white. But 66 percent of inmates in prison convicted of drug offenses are black, and only 33 percent are white or Hispanic (p. 74).

The “War on Drugs” also led to the validation of pretextual stops by the police. A pretextual stop occurs when an officer uses a legitimate basis for stopping a car (usually a minor traffic violation) to perform another function not otherwise supported by the facts. Most pretextual stops involve an underlying motivation to search for drugs (Milazzo & Hansen, 1999). The Supreme Court’s decision in *Whren v. U.S.* (1996) validated pretext stops as long as there was a substantive violation that served as probable cause. In *Whren v. U.S.* (1996), police

officers stopped a vehicle for a traffic violation that resulted in the arrest of the occupants on drug charges, i.e., two bags of cocaine were found in the vehicle. The defendants argued the vehicle stop had been a pretext to the search and arrest violating their Fourth Amendment right against “unreasonable search and seizure.” The court did not consider the motives of the officers in making the stop, only the question of whether there was adequate reasonable suspicion that a violation had been committed to justify the traffic stop.

It appears that most courts discuss the facts of the traffic stop, leaning toward the police and disregarding the race of the accused without consideration of whether or not officers had used profiling and considered race as the factor for initiating the stop. The court adopted the theory that any time police officers observe a traffic violation they have probable cause to stop the vehicle. The “officer’s real reason for stopping the car does not matter so long as he has actually observed a traffic violation” (Oliver, 2000, p. 4). Such rulings underscore the power of the police in society and disregard the potential for abuses of police power and bias in the stopping, interrogating, and searching of motorists. Some fear that the *Whren v. U.S.* (1996) will effectively create a “one mile over the limit” threshold. That is, anyone providing the slightest reason for a stop is at risk under the *Whren v. U.S.* decision, which lends itself quite readily to racial profiling (Buerger & Farrell, 2002).

Several empirical studies indicate that blacks and racial minorities are disproportionately the target of unfair criminal justice practices (Engel & Calnon, 2004; Gabbidon, 2003; Lundman & Kaufman, 2003; Novak 2004). The following section is a review of the empirical research on racial profiling.

Empirical Research on Racial Profiling

Driving While Black or Brown

The majority of studies on racial profiling have investigated a phenomenon known as “Driving While Black or Brown” (DWB). In other words, most researchers have examined whether race or ethnicity plays a role in a police officer’s decision-making process in determining whether to stop or detain someone. To date, the research has focused on two primary questions: do police officers disproportionately stop and detain blacks and other minorities *and* do police officers consider the race of the individual in making decisions to formally process them through the criminal justice system?

Lundman and Kaufman (2003) conducted a study to determine if African-Americans and other minorities were more likely to be pulled over by the police for alleged traffic violations. Critical of the majority of data collection conducted by law enforcement departments, they used driver self-report data from a nationally representative sample (N = 7,054) gathered by the National Crime Victimization Survey (NCVS). Subjects at least 16 years old were asked a sequence of questions about whether they had been victimized by crime and had come into contact with police during the previous 12 months. Only respondents who reported “at least one traffic stop in which they were the driver” (7,034 observations) were chosen for the study. Lundman and Kaufman were trying to discover what types of socioeconomic variables were used by police as pretextual reasons for the stop. The variables they were most interested in were age of respondent, gender, race, social class, and jurisdiction population. The respondent’s “perception of the legitimacy of the stop” and “whether the police acted properly” were included

to demonstrate the driver's viewpoint. In all models, Lundman and Kaufman found that men generally, and African American men in particular, were more likely to be stopped than either whites or women. African-Americans and Hispanics were more likely to feel the traffic stop was unwarranted; giving the impression there is an erosion of citizen confidence in law enforcement among minorities. The findings suggest that police may be making traffic stops for "Driving While Black." Additionally, African American and Hispanic drivers are more likely to report that police used some type of pretext (i.e., fabricated reason) for the stop and are more likely to report that police acted inappropriately during the stop.

Weitzer and Tuch (2002) conducted a national level study on citizen's opinions of racial profiling by police officers. The researchers concluded that African Americans disapprove of racial profiling, believe that the practice is widespread, feel they are treated less fairly by the police, and have a lower opinion of police officers. Also, social class affects the views of the acceptance and prevalence of racial profiling among the black community. However, their findings showed that "the effects of perceived personal experience on attitudes toward the police were not more pronounced for blacks than for whites, an indication of the power of this kind of unpleasant personal experience whatever one's race" (Weitzer & Tuch). They found with all races and ethnic minorities, unpleasant personal contact with the police tend to lessen their opinion of police officers. Surveys demonstrate that African Americans are more likely than whites to believe that the police treat minorities different from whites. Even those who believe that minorities are treated differently may explain or justify this disparity by invoking the notion of "rational discrimination" (Weitzer & Tuch).

Similar studies have found that African American drivers are subjected to more traffic stops in other parts of the country. For instance, Lamberth, Clayton, Lamberth, Farrell, and McDevitt (2005) conducted a study on the New Jersey Turnpike on randomly selected days during 1988 and 1991 and discovered that African American motorist made up 35% of all traffic stops and 73% of all arrests even though they represented only an estimated 13% drivers. Police officers not only excessively stopped African American drivers but also targeted this racial group to conduct searches. Also, a study conducted in Ohio found evidence that African Americans were twice as likely as whites to be given tickets in the cities of Akron, Dayton, and Toledo between 1967 and 1997 (cited in Harris, 1999).

Novak (2004) also examined whether the race of the driver played a role in police officers' decisions to make a traffic stop and whether race affected police officers' decisions to give the alleged traffic violator a warning or issue a ticket or arrest. A data collection instrument was created to gather information on all traffic stops conducted by the Overland Park Police Department (OPPD), Kansas from July 1 and November 30, 2000. The data collection instrument was created by a diverse number of government and citizen representatives including high-ranking officials in the OPPD, a chief of police from a neighboring city, representatives from both the ACLU and the National Association for the Advancement of Color People (NAACP), and local criminal justice academicians. Police officers were required to report information associated with all traffic stops to the dispatcher, which was recorded by the dispatcher. Demographic information (e.g., age, race, gender) as well as the disposition of all stops were recorded. The sample (N = 10,473) consisted of drivers stopped in Overland Park, of which 12 % or 1,271 were minorities. The results indicate minorities are more likely to be

stopped by police. In addition, minorities are significantly less likely to receive formal sanctions than majorities. Although at first glance these findings may appear to be a more favorable outcome for minorities in comparison to majorities, in reality the data suggest officers are using alleged traffic violations for pretextual stops.

Ikner et al. (2005) conducted a study to determine whether police officers use vehicle symbols and cues to determine the race or ethnicity of drivers. A sample (N = 120) of full-time officers from the Arlington Police Department, Texas were included in the study. Officers were shown a videotape of 10 vehicles being operated on the roads of Arlington. The videotaped vehicles were accompanied by brief driving scenarios that were professionally edited. In 7 of the scenarios, the drivers were perceived by the officers to be white. However, drivers of 3 other vehicles were perceived to be minority at a higher rate than expected given their presence in the population. Ikner et al. concluded this behavior by police officers may be another example of discriminatory behavior becoming more subtle.

Knowles, Persico, and Todd (2001, p. 204) downplayed and attempted to compensate for previous comparisons, “that the proportion of African Americans among the drivers searched by police far exceeds the proportion in the general population of drivers.” In their model, drivers differ in their characteristics, including race and other factors not readily observable by officers but may or may not be available to researchers. A mathematical model is used to separate the fundamental reasons for racial profiling by making a distinction between “statistical discrimination” and ordinary racial prejudice. Statistical profiling happens whenever police officers rely on race as one factor among others to increase successful search rates. Ordinary racial profiling is when police officers target minorities based solely on race. Their study allowed

drivers of different races to have different distributions of characteristics as long as those characteristics are observable by the police.

Motorists with different characteristics may have different costs and benefits from carrying an illegal substance, but these differences imply that police officer will stop and search drivers with different characteristics at different rates. The data used in the study consisted of 1,590 vehicle searches conducted on Interstate Highway 95 in Maryland from January 1995 to January 1999. Variables in the study included the motorist sex, race, make and model of vehicle, time, date, and year of stop, probable cause, consent search, and whether anything was found. The dependant variable used in the study was the search itself, not the stop. The authors discovered that African American motorists were searched more often than white drivers, but the probability of finding an illegal substance varying by race was not statistically significant, implying that racial profiling was occurring. Any inequality in the “search” dependant variable was because of “statistical discrimination” (Knowles et al., 2001).

Research conducted by Engel and Calnon (2004) examined whether minorities were more likely to receive some type of formal sanction, such as traffic citations or arrests, and whether minorities were more likely to be subjected to searches and use of force by the police. They used driver self-report data from a nationally representative sample (N = 7,054) gathered by the National Crime Victimization Survey (NCVS). Engel and Calnon found that the likelihood of citations, searches, arrests, and use of force increased significantly if the motorists were males from a minority group, especially if they were African-American or Hispanic. However, it is important to note that minority drivers were not more likely to be in possession of contraband than white drivers.

Similarly, Zingraff et al. (2000) analyzed 1998 traffic stop data from the North Carolina Highway Patrol using the race distribution of licensed drivers at risk of being stopped. Using citations, written warnings, and searches, the study found some significant findings concerning racial profiling. Of the licensed motorists in North Carolina in 1998, 74% were white, 19.6% were black, and 6.4% were other. The total percentage of written warnings or citations for whites was 71.1% compared to 22.8% for African Americans, indicating that whites were under represented by 2.9%, while African American drivers were over represented by 3.2 % (Zingraff et al.). Additionally, blacks were significantly more likely than whites to be searched even though they were slightly less likely to be in possession of contraband (i.e., weapons, drugs, etc.). However, using statewide data, such as census figures or number of licensed drivers in the state or in a particular region, is problematic because it cannot account for the distribution of drivers in a local at a specific time and it does not account for differences in patrolling (e.g., in North Carolina the NCHP are distributed according to factors such as accident rates) (Zingraff et al.).

Shopping While Black or Brown

Racial profiling by police is not limited to traffic stops but appears to extend to the police-citizen (or security-customer) encounters in retail stores. Gabbidon (2003) examined court cases involving racial profiling by store clerks and retail personnel, a phenomenon he identifies as “shopping while black” (Gabbidon, p. 345). The findings of his study indicate that two thirds of the racial profiling incidents were the result of unsubstantiated “hunches” made by clerks and security personnel. That is, clerks and security personnel often cited having a “feeling” that

blacks were more likely to be criminal than whites. In addition, several of the cases involved incidents of mistaken identity. More precisely, when security personnel or retail clerks relayed information to authorities responsible for following up or making an arrest, the authorities were likely to approach any random black individual in the store and assume he or she was the suspect.

Research conducted by Fifield (2001) highlights the problem of shopping while black (SWB). He used semi-structured interviews to determine how SWB affects African-American women. Some of his respondents included journalist Gwen Fill, Houston Comets basketball star, Sheryl Swoopes, Congressman Maxine Waters, and Oprah Winfrey. Even these well-respected high-profile individuals reported they had been the target of racial profiling while shopping. In Fifield's article, Michelle Alexander of the ACLU was quoted as saying "retail racism is where women of color have their most regular experience with racial profiling" (Fifield, p. 4). From these accounts, it seems that using race as a basis for initiating police-citizen contacts may be rooted in longstanding misconceptions and past racial discrimination.

Walking While Black or Brown

More recently, researchers have investigated whether minorities are disproportionately subjected to on-the-street stops and detentions by the police. Gelman, et al. (2005) studied a sample (N = 125, 000) of pedestrian stops made by the New York Police Department in a 15 month period. They found that African-Americans and Hispanics were stopped more frequently than whites. In addition, police pedestrian stops of minorities were less likely to result in an

arrest. This finding supports the contention of others that minorities are more likely to be subjected to pretextual stops by the police (see e.g., Lundman & Kaufman, 2003).

In the December 1999 report of the New York City Police Departments (NYPD) pedestrian “stop and frisk” practices by the state attorney general provided significant evidence of racial profiling in New York City. At that time, blacks comprise 26% of the City’s population, yet 51% of all persons “stopped” that year were black. Similarly, Hispanics comprised 24% of the City’s population yet, 33% of all stops were of Hispanics. By contrast, whites were 43% of the city’s population, but only accounted for 13% of all stops. Finally, blacks comprised 63% of all persons stopped by the NYPD’s Street Crime Unit.

Perhaps most interesting, in precincts in which blacks and Hispanics each represented less than 10% of the total population, individuals identified as belonging to these racial groups nevertheless accounted for more than half of the total stops during 1999. Blacks accounted for 30% of all persons stopped in these precincts. Hispanics accounted for 23% of all persons stopped. Finally, precincts where minorities constitute the majority of the overall population tended to see more “stop and frisk” activity than precincts where whites constitute a majority of the population. That is, of the 10 precincts showing the highest rate of “stop and frisk” activity (measured by stops per 1,000 residents), in only one (the 10th Precinct) was the majority of the population white. In nine other precincts, blacks and Hispanics constituted the majority of the population.

Proposed Federal Racial Profiling Legislation

On June 6, 2001, the End Racial Profiling Act (ERPA) (see Appendix A) was introduced in both houses of Congress to prohibit racial profiling, establish remedies, and provide funds for police training and other programs. ERPA defines and prohibits racial profiling at the local, state, and federal levels, provides limited legal recourse for victims, and mandate the collection of data to determine the extent of racial profiling in the United States. Racial profiling by police is a complex problem that is extremely difficult to measure. Researchers want to find answers on whether racial profiling is occurring in America, but this task is difficult if not impossible to accomplish with incomplete data. Many racial profiling studies have been criticized by police administrators for lacking valid methods. On the other hand, critics of police agencies believe that the police do not want to face the problem of racial profiling and are trying to defend their conduct by discrediting profiling studies. To restore the public trust and improve police-community relationships, police agencies must address the concerns of the community at large and the accusations of discrimination by citizens. In light of the current social situation and civil liability associated with allegations of racial profiling, police agencies need to develop written policies governing racial profiling and condemning any acts of unequal treatment of any person based on race or ethnicity.

Benefits of Mandatory Data Collection and Reporting

There are several benefits to passing federal legislation requiring all police agencies in the United States to collect and report data on police-citizen encounters.

1. Mandatory data collection sends a strong message that law enforcement agencies are against racial profiling and that racial profiling is inconsistent with effective policing and equal protection.
2. It provides police administrators with information about the types of stops being made by officers, the proportion of police time spent on pretextual stops, and the results of such stops.
3. Such information can be used to help shape and develop training programs to educate officers about racial profiling and interactions with the community.
4. Mandatory data collection and reporting can help to identify potential police misconduct and deter it, when implemented as part of a comprehensive early warning system.
5. Such a system would create uniformity across local, state, and federal law enforcement agencies in the United States regarding racial profiling (ERPA, 2001, p. 1).

Profiling research has been important because it has suggested that African-American drivers are singled out by police and it is not restricted to a particular region. Similar research has called attention to the issue of racial profiling encouraging researchers and law enforcement agencies to investigate this problem.

CHAPTER 3

METHODS

Purpose of the Study

The purpose of this study is to determine if racial profiling is occurring in North Carolina, and what police practices are most likely to result in racial profiling.

Sample Data

This study will examine the racial distribution of citations produced in a 6 month period between January 1, 2000, and July 31, 2000, by the North Carolina Highway Patrol in an attempt to better understand what factors may be related to that distribution. The data used in this study include information obtained from the North Carolina State Highway Patrol citation data base and data from the North Carolina Division of Motor Vehicles. The data set was downloaded from the Inter-University Consortium for Political and Social Research (ICPSR Study No. 4078).

The North Carolina Highway Patrol provided data on all vehicular stops, written warnings, and citations its patrol officers issued in 2000. Information in the data included the purpose for the stop, race, sex, age of the driver, and the make and model of vehicle. The gathering of this information was the result of the North Carolina State Legislature mandating that the highway patrol department collect data on the racial distribution of all vehicular stops.

This agency may provide important insight into police practices occurring within the state and local levels. To be sure, the North Carolina State Highway Patrol differs from local police agencies in terms of professionalism; it is a state level agency, highly bureaucratic in structure and operation. State agencies are usually described as having broader recruitment, higher

standards of education requirements, and longer in-service training than most police agencies (North Carolina Department of Crime Control and Public Safety, 2006). According to the professional model of policing, these standards should help to reduce racial disparity in traffic stops. However, if the evidence reveals racial profiling at the state level, it may also suggest that it is probably occurring at the local level.

The North Carolina Highway Patrol mainly deals with traffic enforcement and accident investigation, rarely engaging in crime control. Therefore, racial disparity should be modest compared to agencies that primarily engage in crime control. To determine whether there is racial disparity in traffic stops in a particular area the racial distribution of the general population is used for comparison. The data used for this analysis includes part 1 of the data set consisting of North Carolina motorists stopped by the police between January 1, 2000, and July 31, 2000 (N = 332, 861). Variables in part 1 include stop date, time, purpose, county, interstate number or road name, state of vehicle registration, year, make, and model of vehicle, driver race, age, and gender and the action of the officer. Because law enforcement officers self-report, there is always a possibility they may misreport to avoid implicating themselves in the practice of “Driving While Black.”

Sample Data Characteristics

There were 332, 861 traffic stops in North Carolina between January 1, 2000, and July 31, 2000. The motorists were 70% white, 23% black, and 7% percent other.

Census

To determine whether there is racial disparity in traffic stops in a particular area, the racial distribution of the general population was acquired from U.S. Census data for 2000. In this year, the total population of North Carolina was 8,049,313, with a white population of 5,804,656 (72%), a black population of 1,737,545 (22%), and other races having a combined total of 507,112 (6%).

Figure 1 indicates a larger black population in eastern North Carolina, and Figure 2 indicates a larger white population in western North Carolina (see Appendix C). According to U.S. Census (2000) data, 6 counties in North Carolina contain 32% of the state's population: Cumberland, Durham, Forsyth, Guilford, Mecklenburg, and Wake. These counties have a higher than average Black population and are all sites of interstate roadways in North Carolina.

Dependent Variable

Traffic Stop Outcome

The variable for the analysis will be the outcome of the traffic stop. This includes verbal warnings, warning citations, and traffic citations issued to drivers in the state of North Carolina in the year 2000. Citation categories include speeding violations, nonspeeding moving violations, investigatory stops, seatbelt violations, equipment violations, and regulatory violations. Citations that were issued to out-of-state drivers were included in the analysis. In 2000, about 17% of the citations issued by the North Carolina Highway Patrol were issued to out-of-state drivers. Previous studies have not included out of state drivers in their analyses. The reason for the inclusion of out-of-state drivers is that the racial distribution of the population of surrounding

states is very similar to that of North Carolina. For example, Virginia has a total population of 7,078,515, with a white population of 73.6%, a black population of 19.9%, and a combined total of other races of 6.5%. South Carolina has a total population of 4,012,012 with a white population of 68.4%, a black population of 29.2%, and other races having a combine total of 2.4%. Politically speaking, it is easier for the police to target out-of-state motorists for traffic stops because these motorists are less likely to appear in court and more willing to pay their tickets than in-state motorists.

Purpose of the Stop

The variable “purpose of the stop” included driving under the influence (DUI), investigation (INV), other moving violation (OMV), safe movement violation (SAFE), speeding (SPD), seatbelt violation (STBLT), stop light or sign violation (STPLT), vehicle equipment violation (VEHQP), and vehicle regulatory violation (VEHRG). This variable was recoded into two categories, (1) [DUI, INV], and (2) [OTHER]. This variable was recoded in this fashion to better understand pretext stops by the police. Because of negative racial stereotypes, police officers may be more likely to believe that black and minority motorists are more likely to be under the influence of alcohol or drugs or to be in possession of alcohol or drugs. As a result, blacks and minorities may be subjected to more traffic stops than whites.

Independent Variables

Race

The measure of racial composition of motorists at risk for traffic stops will be included in the analysis in order to better understand the ratio of citations given to African-American drivers compared to white drivers. The race variable was recoded so 0 = White, 1 = Black, and 3 = Other.

Geographic Region

For the present study, North Carolina was divided into two regions, East and West by counties, 50 counties in the Western half and 50 counties in the Eastern half. This was done to explore the proportions of traffic stops in these two regions. In the West, whites comprised 76% of the population, blacks 15%, and other 9%. In the East, it was 61% white, 28% blacks, and 11% other.

CHAPTER 4

ANALYSIS

Confidence Intervals

The analysis for these data consists of a two prong test: confidence intervals and crosstabulation. Computing confidence intervals for proportions is an important inferential method in the analysis of data. The purpose of confidence intervals is to give us a range of values for our estimated population parameter rather than a single value or a point estimate (Bachman & Paternoster, 1997). The estimated confidence interval gives us a range of values within which we believe, with varying degrees of confidence, that the true population value falls. A confidence interval is determined using sample data and a chosen level of confidence. The most commonly used confidence levels are 90%, 95%, and 99%, just as common levels of significance are .10, .05, and .01.

This procedure gives an estimated range of values that is likely to include the statistic of interest and is calculated from a particular set of data. A confidence interval has an upper and lower limit with the difference between these limits is referred to as the width of a confidence interval. When using confidence intervals, the researcher usually wants a high confidence and a narrow width. If the confidence interval is overly wide, the conclusions drawn from the data are not as noteworthy. Because confidence intervals provide a range of plausible values for the population, they may be more informative than other types of significance testing.

For current study, confidence intervals were computed around point estimates that were subsequently compared to census data, which includes information on the racial composition of

the population of North Carolina. We would expect the census data to fall within the obtained confidence interval if racial profiling was not occurring.

Crosstabulation

For the current study, both bivariate and multi-layer crosstabulation are used to analyze the data. Bivariate crosstabulation is used to test for independence between two categorical variables. Layered crosstabulation allows for a more detailed analysis by controlling for a third variable.

The Chi-Square test of statistical significance is used to determine the likelihood that the variables are unrelated at the population level (Bohrstedt & Knoke, 1994). That is, it tests the null hypothesis of no relation. The alternative hypothesis is that the variables are related in the population. The Chi-Square test compares the observed cell frequency with the expected cell frequency.

For this study, Cramer's V is an appropriate measure of association for nominal data that are arranged in larger than 2 x 2 tables. Cramer's V is a measure of association of the strength of relationship between two variables. It ranges in value from zero to one, where zero indicates the complete absence of a relationship, while one indicates a perfect relationship.

Findings

Table 1 shows the results of the crosstabulation of race by type of stop. This analysis examines the relationship between type of stop across race and types of stop within race. The type of stop was collapsed into two categories: (1) driving under the influence (DUI) and

investigative stops and (2) other type stops. A pretextual stop occurs when an officer uses a legitimate basis for stopping a car (usually a minor traffic violation) to perform another function not otherwise supported by the facts. Most pretextual stops involve an underlying motivation to search for drugs and seem to involve minority motorists more than white motorists (Milazzo & Hansen, 1999). DUI and investigative stops are often pretextual in nature and are routinely used by police officers. Thus, DUI and investigative stops are more prone to abuse for racial profiling purposes. If the state patrol were in fact engaging in this practice, greater disparity should occur in this category than others. Whites comprised 56.3% of those stopped for DUI or investigative purposes, blacks comprise 27.7% of those stopped for DUI or investigative stops, and other minorities comprise 16% of those stopped for DUI or investigative stops.

Table 1. Crosstabulation of race by type of stop.

| STOP PURPOSE | | RACE | | | |
|--------------|-----------------------|-----------------|----------------|----------------|-----------------|
| DUI, INV | Count | White 11,833 | Black 5,813 | Other 3,370 | Total 21,016 |
| | Percentage | | | | |
| | % within Stop Purpose | 56.3% | 27.7% | 16.0% | 100.0% |
| | % within Race | 5.1% | 7.7% | 15.3% | 6.4% |
| OTHER | Count | 21,724 | 70,008 | 18,647 | 308,329 |
| | Percentage | | | | |
| | % within Stop Purpose | 71.3% | 22.7% | 6.0% | 100.0% |
| | % within Race | 94.9% | 92.3% | 84.7% | 93.6% |
| TOTAL | Count | 231,557 | 75,821 | 22,017 | 329,395 |
| | Percentage | | | | |
| | % within Stop Purpose | 70.3% | 23.0% | 6.7% | 100.0% |
| | % within Race | 100.0% | 100.0% | 100.0% | 100.0% |

Chi-Square = 3772.26

p < .001

Cramer's V = .107

According to North Carolina's census data (2000), 72.1% of the total population is white, while 21.6% is black, and 6.3% is other minority. If racial profiling were not occurring, we would expect the distribution of stops across race to approximate those reported by the census. Using a 99% confidence interval, the population of whites subjected to DUI and investigative stops ranges from 56% to 56.5%. The actual population of whites is 72.1%, which falls well outside the range of the confidence interval. Therefore, it appears as though race is likely a factor in traffic stops with respect to being white.

Using a 99% confidence interval, the population of black motorists subjected to DUI and investigative stops ranges from 27.5% to 27.9%. The actual population of blacks is 21.6%, which falls outside the range of the confidence interval. The Chi-Square of 3772.26 falls in the critical region. Therefore, we reject the null hypothesis and conclude that there likely exists a relationship between race and type of stop. However, Chi-Square is adversely affected by sample size. That is, in large samples the χ^2 is likely to be inflated. This means that we are more likely we reject the null hypothesis when it is true. Therefore, we should inspect the Cramer's V for substantive significance. Cramer's V is .107 which indicates a moderate association between race and type of stop.

What is most interesting is how closely the proportions for other stops match the proportions provided by the census data. Using a 99% confidence level, the population of whites subjected to other type stops ranges from 71.1% to 71.5%, which is close to the number of whites (72.1%) reported in the census. This difference is probably related to issues in measurement, that is, some types of stops also may be being used for profiling purposes but were incorrectly include in these data. Similarly, the population of blacks subjected to other type stops

ranges from 22.5% to 22.9%, which is also close to the proportion of blacks (21.6%) reported in the census.

Table 1 also shows the percentage of motorists who were stopped for DUI and investigative purposes within and across race. Out of the total number of white motorists stopped, 5.1% of them were stopped for DUI and investigative type stops. Of all the black motorists stopped, 7.7% were for DUI and investigative type stops. These findings indicate that black motorists are more likely to be targeted for these types of stops (a difference of 2.6%). Out of the total number of other minority motorists, 15.3% were stopped for DUI and investigative stops. Again these findings suggest that minority motorists are more likely to be stopped for DUI and investigative stops. These findings indicate that black and minority motorists are more likely than white motorists to be stopped for DUI and investigative type stops.

Table 2 shows the results of the crosstabulation of race by outcome of the stop. The proportions for outcome of the stop are almost identical to the proportions provided by the census data. Using a 99% confidence interval, the proportion of whites receiving a citation ranges from 70.2% to 70.6% while the proportion of whites in the census is 72.1%. The proportion of blacks receiving a citation ranges from 22.4% to 22.8%, which is close to the proportion of blacks (21.6%) reported in the census.

The results for the proportion of white and black motorists receiving warnings are similar to those reported for the proportion of white and black motorists receiving citations. The proportion of whites receiving warnings ranges from 71.3% to 71.7%, which is close to the proportion of whites (72.1%) reported in the census. Blacks represent approximately 21.6% of

the population while the proportion of warnings received ranges from 23.6% to 24%. This finding suggests that blacks are slightly more likely than whites to receive a warning.

Table 2 also shows the percentage of motorists who received citations or warnings within and across race. Out of the total number of white motorists, 76.9% were issued citations. Of all the black motorists stopped, 76.3% received citations. Out of the total number of other minority motorists stopped, 83.5% received citations. This latter finding indicates that other minority motorists were more likely to receive citations than black and white motorists. In examining the number of warnings issued, a similar pattern is revealed. Out of the total number of white motorists stopped, 23.1% received warnings while 23.7% of black motorists received warnings. Out of the total number of other minority motorists, 16.5% received warnings. In other words, other minority motorists were more likely to received warnings than black and white motorists.

The Chi-Square of 518.2 falls in the critical region. Therefore, we reject the null hypothesis and conclude that there likely exists a relationship between race and outcome of stop. However, as previously noted, Chi-Square is adversely affected by sample size. That is, in large samples the χ^2 is more likely to be inflated. This means that we are more likely to reject the null hypothesis when it is true. Therefore, we should examine the Cramer's V for substantive significance. Cramer's V is .040 indicating a weak association between race and outcome of the stop, which is substantively meaningless.

Table 2. Crosstabulation race by outcome of the stop.

| STOP OUTCOME | | RACE | | | |
|--------------------|-----------------------|------------------|-----------------|-------------------|------------------|
| CITATION | Count | White 174,338 | Black 55,963 | Other 17,369 | Total 247,670 |
| | Percentage | | | | |
| | % within Stop Outcome | 70.4% | 22.6% | 7.0% | 100.0% |
| | % within Race | 76.9% | 76.3% | 83.5% | 77.2% |
| WARNING | Count | 52,446 | 17,428 | 3,434 | 73,308 |
| | Percentage | | | | |
| | % within Stop Outcome | 71.5% | 23.8% | 4.7% | 100.0% |
| | % within Race | 23.1% | 23.7% | 16.5% | 22.8% |
| TOTAL | Count | 226,784 | 73,391 | 20,803 | 320,978 |
| | Percentage | | | | |
| | % within Stop Outcome | 70.7% | 22.9% | 6.5% | 100.0% |
| | % within Race | 100.0% | 100.0% | 100.0% | 100.0% |
| Chi-Square = 518.2 | | p < .001 | | Cramer's V = .040 | |

Table 3 shows the results from the layered crosstabulation of race by outcome of the stop controlling region (East). The North Carolina's census data (2000) is used for comparison to see whether race was related to the outcome of the stop after controlling for region. For the eastern region, 60.5% of the total population is white, while 27.6% is black, and 11.8% is other minority.

Using a 99% confidence interval, the proportion of whites who should be receiving citations range from 65.2% to 68.2% after controlling for purpose of the stop and region (East), while the proportion of whites is 60.5% according to the census. Blacks represent 27.6% of the population but the proportion of blacks receiving citations ranges from 16.8% to 19.2%. These findings indicate that blacks and whites are receiving fewer citations than would be expected.

However, after looking at the “other” minority category, the pattern of racial profiling reemerges. That is, the proportion of other minorities receiving citations ranges from 14.1% to 16.5% but other minorities only make up approximately 11.8% of the population in the East.

The findings on the proportion of whites and blacks receiving warnings differ from those reported for the proportion of whites and blacks receiving citations. The proportion of whites who should be receiving warnings range from 75.3% to 77.9% which is much higher than the proportion of whites (60.5%) reported in the census. In comparison, whites are being issued fewer citations and more warnings. The proportion of blacks receiving a warning range from 17% to 19.4% which is much lower than the proportion of blacks (27.6%) reported in the census. After examining the proportion of citations and warnings issued to black motorists, it appears that blacks are receiving fewer citations and warnings than would be expected. The proportion of other minorities receiving warnings range from 5% to 7.4% which is much lower than the proportion of other minorities (11.8%) reported by the census.

Table 3 also shows the percentage of motorists who received citations or warnings within and across race for the Eastern region. Out of the total number of white motorists, 64.5% were issued citations. Of all the black motorists stopped, 68.6% received citations. Black motorists were slightly more likely than white motorists to receive citations. Out of the total number of other minority motorists stopped, 83.8% received citations. This latter finding indicates that other minority motorists were more likely to receive citations than black and white motorists. Out of the total number of white motorists stopped, 35.5% received warnings while 31.4% of black motorists received warnings. Out of the total number of other minority motorists, 16.2%

received warnings. White motorists were more likely to receive warnings than black or other minority motorists.

The Chi-Square of 120.6 falls in the critical region. Therefore, we reject the null hypothesis and conclude that there likely exists a relationship between race and outcome of stop while controlling for purpose of the stop and region. Cramer’s V is .134, which indicates a moderate association between race and outcome of the stop while controlling for type of stop and region (East).

Table 3. Layered crosstabulation race by outcome of the stop controlling for type of stop and region (East).

| EASTERN STOP OUTCOME | | RACE | | | |
|-------------------------|-----------------------|----------------|--------------|-------------------|----------------|
| CITATION | Count | White 3,015 | Black 816 | Other 692 | Total 4,523 |
| | Percentage | | | | |
| | % within Stop Outcome | 66.7% | 18.0% | 15.3% | 100.0% |
| | % within Race | 64.5% | 68.6% | 83.8% | 67.6% |
| WARNING | Count | 1,662 | 347 | 134 | 2,170 |
| | Percentage | | | | |
| | % within Stop Outcome | 76.6% | 17.2% | 6.2% | 100.0% |
| | % within Race | 35.5% | 31.4% | 16.2% | 32.4% |
| TOTAL | Count | 4,677 | 1,190 | 826 | 6,693 |
| | Percentage | | | | |
| | % within Stop Outcome | 69.9% | 17.8% | 12.3% | 100.0% |
| | % within Race | 100.0% | 100.0% | 100.0% | 100.0% |
| Chi-Square = 120.6 | | p < .001 | | Cramer’s V = .134 | |

Table 4 shows the results of the layered crosstabulation of race by outcome of the stop controlling for type of stop and region (West). The findings reported in Table 4 are dramatically

different from those reported in Table 3. Using a 99% confidence interval, the proportion of whites who should be receiving citations range from 38.5% to 41.1%, which is much lower than the proportion of whites (76%) reported in the census. The proportion of blacks receiving citations range from 34.5% to 37.1%, which is much higher than the proportion of blacks (15.4%) reported in the census. The results suggest that blacks disproportionately receive more citations than whites. In comparison, blacks in the West receive more citations than blacks in the East.

Findings also indicate that the proportion of whites who should be receiving warnings ranges from 56.2% to 58.8% which is much lower than the proportion of whites (76%) reported by the census. The proportion of blacks who should be receiving warnings ranges from 33.9% to 36.5% which is much higher than the proportion of blacks (15.4%) reported by the census. Thus, blacks disproportionately receive more warnings than whites. In comparison, blacks in the West receive more warnings than blacks in the East.

Table 4 also shows the percentage of motorists who received citations or warnings within and across race for the Western region. Out of the total number of white motorists, 58.4% were issued citations. Of all the black motorists stopped, 67.4% received citations. Black motorists were more likely than white motorists to receive citations (a difference of 9%). Out of the total number of other minority motorists stopped, 87.2% received citations. This finding indicates that other minority motorists were more likely to receive citations than black and white motorists. Out of the total number of white motorists stopped, 41.6% received warnings while 32.6% of black motorists received warnings. Out of the total number of other minority motorists, 12.8%

received warnings. White motorists were more likely to receive warnings than black or other minority motorists.

The Chi-Square of 447.9 falls in the critical region. Therefore, we reject the null hypothesis and conclude that there likely exists a relationship between race and outcome of stop while controlling type of stop and region. Cramer's V is .223, which indicates a moderate association between race and outcome of the stop while controlling for region.

Table 4. Layered crosstabulation race by outcome of the stop controlling for type of stop and region (West).

| WESTERN STOP OUTCOME | | RACE | | | |
|-------------------------|-----------------------|----------------|----------------|-------------------|----------------|
| CITATION | Count | White 2,403 | Black 2,163 | Other 1,474 | Total 6,040 |
| | Percentage | | | | |
| | % within Stop Outcome | 39.8% | 35.8% | 24.4% | 100.0% |
| | % within Race | 58.4% | 67.4% | 87.2% | 67.0% |
| WARNING | Count | 1,709 | 1,044 | 217 | 2,970 |
| | Percentage | | | | |
| | % within Stop Outcome | 57.5% | 35.2% | 7.3% | 100.0% |
| | % within Race | 41.6% | 32.6% | 12.8% | 33.0% |
| TOTAL | Count | 4,112 | 3,207 | 1,691 | 9,010 |
| | Percentage | | | | |
| | % within Stop Outcome | 45.6% | 35.6% | 18.8% | 100.0% |
| | % within Race | 100.0% | 100.0% | 100.0% | 100.0% |
| Chi-Square = 447.9 | | p < .001 | | Cramer's V = .223 | |

Table 5 shows the layered crosstabulation of race by region controlling for type of stop. Using a 99% confidence interval, the proportion of whites being stopped for DUI and investigative stops in the East has a range of 68.1% and 70.3%, which is more than would be

anticipated (60.5%). The proportion of blacks being stopped for DUI and investigative stops in the East has a range of 16.7% and 18.7% which is less than the proportion of blacks residing in that region (27.6%) according to the U.S. Census. Other minorities represent about 11.8% of the population in the East and the proportion of minorities being detained for DUI and investigative stops range from 12% to 13.8%.

In the West, the proportion of whites being stopped for DUI and investigative stops has a range of 45.4% to 47.8% which is well below the proportion of whites residing in that region (76%) according to the U.S. Census. The proportion of blacks being stopped for DUI and investigative stops has a range of 33.8% to 36% which is well above the proportion of blacks residing in that region (15.4%) according to the U.S. Census. Likewise, the proportion of other minorities in the West being stopped for DUI and investigative stops has a range of 17.6% and 19.4% who constitute about 8.6% of the population. These findings suggest that racial profiling may be occurring, particularly in the West.

Table 5 also shows the percentage of motorists stopped for DUI and investigative stops in the eastern and western regions. Of the total number of white motorists stopped in North Carolina, 53.1% were stopped for DUI and investigative stops in the East, and 46.9% were stopped for these types of stops in the West. Out of the total number of black motorists stopped in North Carolina, 27.8% were stopped for DUI and investigative stops in the East while 72.2% were stopped in the West. This finding indicates that black motorists in North Carolina are much more likely to be stopped for DUI and investigative type stops in the West than in the East. Of the total number of other minority motorists stopped for DUI and investigative stops in North Carolina, 34.6% were stopped in the East while 65.4% were stopped in the West. In other words,

other minority motorists were much more likely to be stopped for DUI and investigative type stops in the West than in the East.

The Chi-Square of 1093.4 falls in the critical region. Therefore, we reject the null hypothesis and conclude that there likely exists a relationship between race and outcome of stop while controlling for region. Cramer’s V is .232, which indicates a moderate association between race and DUI and investigative stops.

Table 5. Layered crosstabulation race by region controlling for type of stop.

| DUI, INV | | RACE | | | |
|---------------------|-----------------|----------|--------|-------------------|--------|
| | | White | Black | Other | Total |
| EASTERN | Count | 6,076 | 1,552 | 1,129 | 8,757 |
| | Percentage | | | | |
| | % within Region | 69.4% | 17.7% | 12.9% | 100.0% |
| | % within Race | 53.1% | 27.8% | 34.6% | 43.2% |
| WESTERN | Count | 5,359 | 4,023 | 2,130 | 11,512 |
| | Percentage | | | | |
| | % within Region | 46.6% | 34.9% | 18.5% | 100.0% |
| | % within Race | 46.9% | 72.2% | 65.4% | 56.8% |
| TOTAL | Count | 11,435 | 5,575 | 3,259 | 20,269 |
| | Percentage | | | | |
| | % within Region | 56.4% | 27.5% | 16.1% | 100.0% |
| | % within Race | 100.0% | 100.0% | 100.0% | 100.0% |
| Chi-Square = 1093.4 | | p < .001 | | Cramer’s V = .232 | |

Table 6 shows the layered crosstabulation of race by type of stop controlling for region. In the Eastern region of North Carolina, 3.7% of the motorists driving luxury cars that were stopped for DUI and investigative stops were white. The percentage of black motorists driving luxury cars who were being stopped for DUI and investigative stops was 6.7%. The data indicate that black motorists are being stopped more often than white motorists for these types of stops.

However, other minority motorists are being stopped less frequently than black motorists. Specifically, 5.1% of these types of stops are other minority motorists.

Table 6. Crosstabulation of race by type of stop controlling for region (luxury cars only).

| REGION EASTERN | | RACE | | | |
|----------------|-----------------------|--------------|--------------|-------------|--------------|
| DUI, INV | Count | White 173 | Black 108 | Other 14 | Total 295 |
| | Percentage | | | | |
| | % within Stop Purpose | 58.6% | 36.6% | 4.7% | 100.0% |
| | % within Race | 3.7% | 6.7% | 5.1% | 4.5% |
| <hr/> | | | | | |
| OTHER | Count | 4,498 | 1,511 | 258 | 6,267 |
| | Percentage | | | | |
| | % within Stop Purpose | 71.8% | 24.1% | 4.1% | 100.0% |
| | % within Race | 96.3% | 93.3% | 94.9% | 95.5% |
| <hr/> | | | | | |
| TOTAL | Count | 4,671 | 1,619 | 272 | 6,562 |
| | Percentage | | | | |
| | % within Stop Purpose | 71.2% | 24.7% | 4.1% | 100.0% |
| | % within Race | 100.0% | 100.0% | 100.0% | 100.0% |

Eastern Chi-Square = 24.9 p < .001 Cramer's V = .062

The Chi-Square (eastern region) of 24.9 falls in the critical region. Thus, we reject the null hypothesis and conclude that there likely exists a relationship between race and type of stop controlling for region (East). Cramer's V is .062, which indicates little substantive significance.

In the western region of North Carolina, 3.8% of the motorists driving luxury cars that were stopped for DUI and investigative stops were white. The percentage of black motorists driving luxury cars who were being stopped for DUI and investigative stops was 8.3%. The data indicate that black motorists are being stopped more often than white motorists for these types of stops. In addition, black motorist in the western region are being stopped more frequently than

blacks motorists in the eastern region for DUI and investigative stops. Other minority motorists are being stopped more frequently than either white motorists or black motorists. Specifically, 12.8% of DUI and investigative stops are other minority motorists.

Table 6. Crosstabulation of race by type of stop controlling for region (luxury cars only) (continued).

| REGION WESTERN | | RACE | | | |
|---------------------------|-----------------------|--------------|--------------|-------------------|--------------|
| DUI, INV | Count | White 138 | Black 205 | Other 38 | Total 381 |
| | Percentage | | | | |
| | % within Stop Purpose | 36.2% | 53.8% | 10.0% | 100.0% |
| | % within Race | 3.8% | 8.3% | 12.8% | 5.9% |
| <hr/> | | | | | |
| OTHER | Count | 3,495 | 2,277 | 260 | 6,032 |
| | Percentage | | | | |
| | % within Stop Purpose | 57.9% | 37.7% | 4.3% | 100.0% |
| | % within Race | 96.2% | 91.7% | 87.2% | 94.1% |
| <hr/> | | | | | |
| TOTAL | Count | 3,633 | 2,482 | 298 | 6,413 |
| | Percentage | | | | |
| | % within Stop Purpose | 56.7% | 38.7% | 4.6% | 100.0% |
| | % within Race | 100.0% | 100.0% | 100.0% | 100.0% |
| <hr/> | | | | | |
| Western Chi-Square = 78.4 | | p < .001 | | Cramer's V = .111 | |

The Chi-Square (western region) of 78.4 falls in the critical region. Thus, we reject the null hypothesis and conclude that there likely exists a relationship between race and type of stop controlling for region (West). Cramer's V is .111, which suggests a small significant relationship between race and type of stop controlling for region (East).

CHAPTER 5

DISCUSSION

The purpose of this thesis was to determine if racial profiling was occurring in North Carolina, and what police practices were most likely to result in racial profiling. The results indicate that race is moderately and positively related to the type of stop. That is, DUI and investigative stops were more likely than other types of stops to result in racial profiling. DUI and investigative stops are more likely than other types of stops to be pretextual in nature (see *State of Washington v Jennifer Frenzi et al.*, 2006). For example, an officer may pull over a motorist for DUI if the motorist is “driving erratically.” However, the officer’s real reason for pulling over the motorist may be to search for drugs. Driving erratically is the pretext used to stop the motorist. For the current study, proportionately blacks were more likely than whites to be detained for pretextual stops (i.e., DUI and investigative). This finding is consistent with prior research that indicates that black motorists are more likely than white motorists to be subjected to pretextual stops (Lamberth et al., 2005; Lundman & Kaufman, 2003; Novak, 2004).

The results also indicate there was a positive but weak association between race and outcome of the stop. Specifically, race was a factor in the outcome of the stop i.e., whether motorists receive a citation or a warning. Blacks are more likely than whites to receive both citations and warnings, although it is only slightly higher than would be expected. Similar findings have been reported in other studies indicating that blacks are more likely than whites to be issued both citations and warnings at a higher rate (Engel & Calnon, 2004; Novak, 2004; Zingraff et al., 2000). However, we would expect blacks and other minorities to receive more warnings than citations if they have been the target of pretextual stops.

In examining race and outcome of the stop while controlling for type of stop and region (East), race is moderately and positively related to the outcome of the stop. While the findings indicate that blacks and whites are receiving fewer citations than would be expected, other minorities are receiving more citations than would be expected. The proportion of whites in the East is 60.5%, and they are issued about 66.7% of the citations. But whites receive a greater number of warnings than would be expected (76.6%). Blacks in the East make up about 27.6% of the population but are receiving both citations (18%) and warnings (17.2%) at a lower rate than would be expected.

In the West, whites make up approximately 76% of the population but are only receiving about 39.8% of the citations and 57.5% of the warnings. This means that whites in the West are less likely than those in the East to receive citations or warnings. Conversely, blacks make up approximately 15.4% of the population in the West but are receiving about 35.8% of the citations and 35.2% of the warnings. In other words, blacks in the West are more likely than those in the East to be issued both citations and warnings. The latter finding suggests that racial profiling is occurring in the West. The finding that blacks are more likely than whites to receive citations and warnings is consistent with the findings of other studies (Engel & Calnon, 2004; Novak, 2004; Zingraff et al., 2000).

Another noteworthy findings is that other minorities in the both the East and West are more likely to receive citations but less likely to receive warnings. The findings reported in the current analysis are consistent with racial profiling because the police are more likely to formally process (issue a citation) blacks and minorities than whites.

Examining the race by region controlling for DUI and investigative stops, the results show that race is positively and moderately related to region of the state. In the East, the proportion of white motorists being stopped for DUI and investigative stops is slightly higher than what would be expected, while the proportion of black motorists being stopped is somewhat lower than would be expected. The proportion of other minority motorists being stopped for DUI and investigative stops approximates the census data. Therefore, it appears that in the East motorists are less likely to be subjected to racial profiling by the police.

In the West, the proportion of whites being detained for DUI and investigative is well below that reported in the census, while the proportion of blacks being stopped for DUI and investigative stops is well above that reported in the census. Likewise, the proportion of other minorities being stopped for DUI and investigative stops is more than what is reported in the census. Taken together, these findings suggest that racial profiling is occurring in the West but not in the East.

Conclusions

Taken together the findings of this thesis suggest that race is likely a factor in pretextual stops. That is, blacks are more likely than whites to be subjected to pretextual type stops. The results also indicate that racial profiling was occurring more in the western region than in the eastern region of North Carolina. The reason for this latter finding may be related to the populations living in these areas. To be more precise, because there are more blacks living in the East than in the West police officers may be accustomed to interacting with blacks; therefore, they are less likely to hold stereotypical views about blacks.

Limitations of the Study

As with any data used in research there are limitations to this dataset that may affect the study findings. The North Carolina Patrol officers were told to complete a form for every vehicle stop made. It is possible that officers chose not to fill out a form for every stop of drivers from certain demographic groups. Despite concerns about bias in official sources of data, these sources provide valuable tools and represent the most practical approach to the study of racial profiling.

This sampling design produces a sufficiently large number of African American motorists to compare the race specific likelihood of being stopped and ticketed by the North Carolina Highway Patrol while exploring other characteristics associated with the traffic stop. Being stopped by the police while driving is a rare event, although national survey data show that private citizen contacts with police are more likely to be driving-related than any other reason (Langan, Greenfield, Smith, Durose, & Levin 2001).

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APPENDICES

APPENDIX A

End Racial Profiling Act

SECTION 1. SHORT TITLE

This Act shall be called the “Racial Profiling Prevention Act.”

SECTION 2. RACIAL PROFILING PREVENTION AND DATA COLLECTION

(A) DEFINITIONS—In this section:

1. “Law enforcement agency” means the sheriff’s office of any county, the police department of any city or municipality, or the state police.
2. “Law enforcement officer” means a sworn officer of a law enforcement agency.
3. “Racial profiling” means the detention, interdiction or other disparate treatment of an individual solely on the basis of their actual or perceived race, color, ethnicity, national origin, age, gender, religion, or sexual orientation.

(B) PROHIBITION AGAINST RACIAL PROFILING

1. No law enforcement officer shall engage in racial profiling.
2. Every law enforcement agency shall adopt a written policy that prohibits the stopping, detention or search of any person when such action is solely motivated by considerations of actual or perceived race, color, ethnicity, national origin, age, gender, religion, or sexual orientation, and the action would constitute a violation of the person’s civil rights.

(C) DATA COLLECTION

1. Every law enforcement agency shall, using the form developed by the [Attorney General], record and retain the following information:
 - a. The number of people stopped for traffic violations.
 - b. Characteristics of race, color, ethnicity, gender, religion and age of anyone stopped for traffic or other violations, provided the identification of such characteristics shall be based on the observation and perception of the law enforcement officer responsible for reporting the stop, and the information shall not be required to be provided by the person stopped.
 - c. The nature of the alleged traffic or other violation that resulted in the stop or detention.
 - d. The outcome of a stop whether it results in a warning or citation issued, an arrest made, or a search conducted.
 - e. Any additional information that the [Attorney General] deems appropriate.
2. Every law enforcement agency shall promptly provide to the local [State’s Attorney], or, in the case of the state police, to the Attorney General:
 - a. A copy of each complaint received that alleges racial profiling.
 - b. Written notification of the review and disposition of such complaint.

3. Every law enforcement agency shall provide to the [Attorney General] an annual report of the information recorded pursuant to this section, in such a form as the [Attorney
4. General] may prescribe. The [Attorney General] shall compile this information and report it to the Governor and legislature, including any observations or recommendations.
5. If a law enforcement agency fails to comply with the provisions of this section, the [Attorney General] may order an appropriate penalty in the form of withholding state funds from such law enforcement agency.

(D) REPORTING FORMS—The [Attorney General] shall develop and prescribe two forms:

1. A form, in both printed and electronic format, to be used by law enforcement officers during all police-citizen encounters.
 - a. During traffic stops, police officers shall record personal information about the operator of the motor vehicle stopped, the location of the stop, the reason for the stop, and other information that is required by this section.
 - b. During pedestrian stops, police officer shall record personal information about the individual stopped, the reason for the stop, and other information as required by this section.
2. A form, in both printed and electronic format, to be used to report complaints by people who believe they were subjected to a motor vehicle stop by a law enforcement officer solely on the basis of their actual or perceived race, color, ethnicity, national origin, age, gender, or sexual orientation.

APPENDIX B

State-by-State Racial Profiling Laws

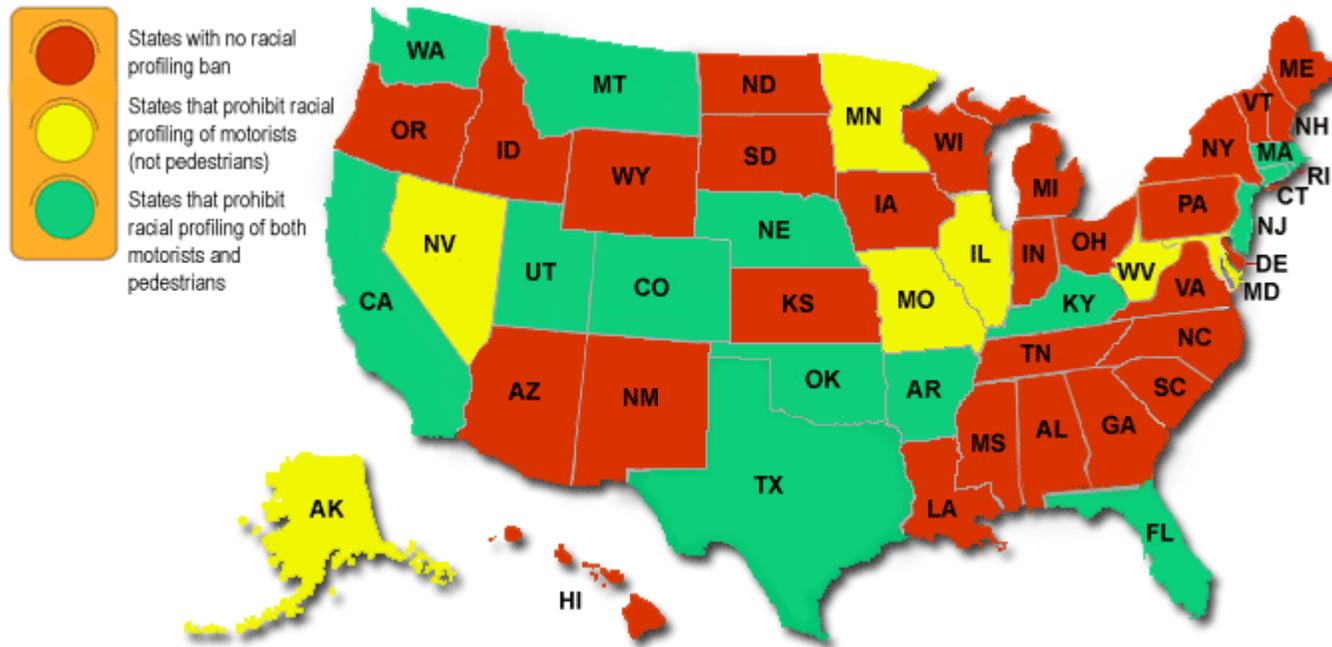
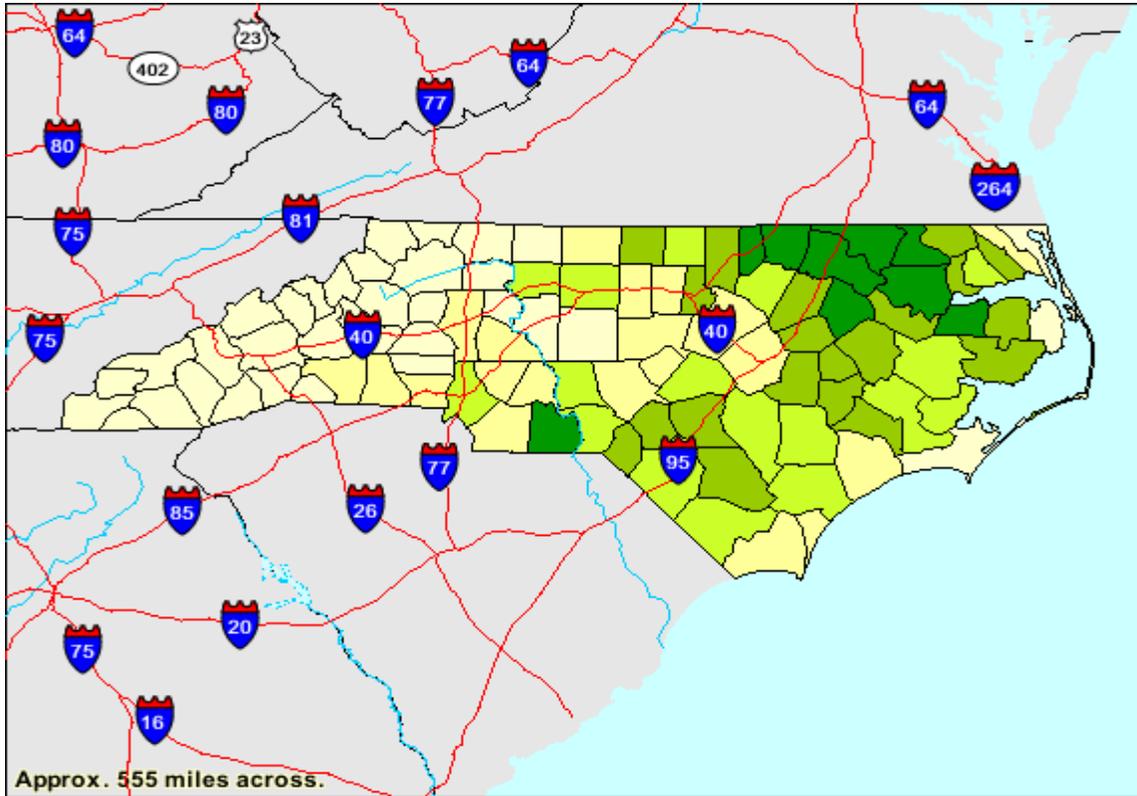


Figure 1. State-by-state racial profiling laws

Source: National Organization of Black Law Enforcement Executives (NOBLE)

APPENDIX C

Black Population of North Carolina by County.



Source: U.S. Census Bureau, Census 2000 Summary File 1, Matrices P1, and P7.

Figure 2. Black population of North Carolina by county.

Legend

Data Classes

Percent

| |
|-------------|
| 0.2 - 9.1 |
| 11.2 - 20.9 |
| 21.8 - 30.9 |
| 33.0 - 45.4 |
| 48.3 - 62.3 |

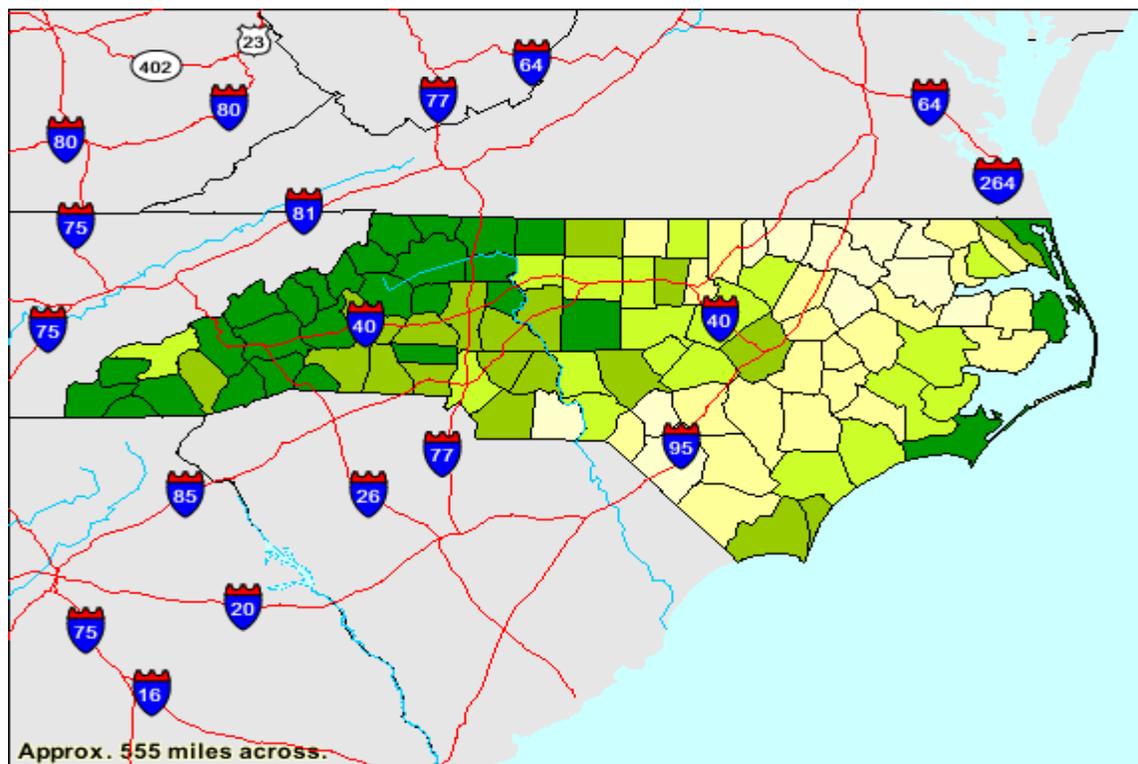
Features

| |
|------------------|
| Major Road |
| Street |
| Stream/Waterbody |
| Stream/Waterbody |

Items in gray text
are not visible
at this zoom level

APPENDIX D

White Population of North Carolina by County.



Source: U.S. Census Bureau, Census 2000 Summary File 1, Matrices P1, and P7.

Figure 3. White population of North Carolina by county.

Legend

Data Classes

Percent

| | |
|--|-------------|
| | 32.8 - 49.5 |
| | 50.9 - 63.4 |
| | 64.0 - 75.6 |
| | 76.8 - 87.1 |
| | 89.1 - 98.0 |

Features

| | |
|--|------------------|
| | Major Road |
| | Street |
| | Stream/Waterbody |
| | Stream/Waterbody |

Items in graytext
are not visible
at this zoom level

VITA

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Experience:

- 08/2005-Present Graduate Assistant
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- 09/2001-Present Drill Sergeant
United States Army Reserve, Abington, VA
- 12/1989-01/1999 Deputy Sheriff
Washington County Sheriff's Department, Johnson City, TN

Professional Training and Certification:

- 2005 Drill Sergeant Academy, Fort Jackson, Columbia, SC
- 2002 Combat Engineer Training, Camp Grafton, Devil's Lake, ND
- 1998 Technical Writing, Walter State Community College,
Morristown, TN
- 1995 Radar Operation, Johnson City Police Department,
Johnson City, TN
- 1993 Identi-Kit System, Washington County Sheriff's Department,
Johnson City, TN

| | |
|---------|--------------------------------------------------------------------------------------------|
| 1992 | Chemical Weapons Familiarization, Washington County Sheriff's Department, Johnson City, TN |
| 1992 | Primary Leadership Development Course, Fort Jackson, Columbia, SC |
| 1992 | Noncommissioned Officers Academy, Fort Jackson, Columbia, SC |
| 1990 | P.O.S.T Certification, Nashville, TN |
| 1990 | Tennessee Law Enforcement Training Academy, Nashville, TN |
| Awards: | |
| 2007 | Distinguished Graduate Student Service Award, East Tennessee State University. |
| 2003 | Army Commendation Medal, Squad Leader Operation Iraqi Freedom |
| 2002 | Army Achievement Medal, Outstanding Performance for Advanced Individual Training |
| 1991 | Army Commendation Medal, Meritorious Service Operation Desert Storm |
| 1989 | Army Outstanding Performance Award |
| 1988 | Army High Performance Award |
| 1988 | Army Basic Training Award, Soldier of the Cycle |
| 1987 | American Criminal Justice Association, Lambda Alpha Epsilon |