

INTERNAL BENCHMARKING
FOR TRAFFIC STOP DATA:
AN EARLY INTERVENTION SYSTEM
APPROACH

A DISCUSSION PAPER

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Additional copies of this report are available at www.policeaccountability.org

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INTRODUCTION

The campaign to eliminate racial profiling has focused on the collection of data on traffic stops.ⁱ This reflects the belief that the data will reveal patterns of racial discrimination in traffic enforcement and lead to remedial action. A large number of law enforcement agencies are now collecting traffic stop data. Some are doing so pursuant to state law, some as a result of a consent decree and others on a voluntary basis.ⁱⁱ

The analysis of traffic stop data, however, has proven to be an extremely difficult undertaking.ⁱⁱⁱ The data do not necessarily speak for themselves. The heart of the issue is the proper benchmark, or denominator, to employ in analyzing traffic stops. The most commonly used benchmark has been official census data on the residential population of the law enforcement agency in question. Many social scientists, however, argue that population data is not a valid benchmark or denominator because they do not reflect either the actual driving population or patterns of traffic law violations.

This paper proposes a solution to the benchmark problem through a system of internal benchmarking (IB), by which the traffic stop activity of officers is compared with other officers working the same assignment. These officers can be referred to as similarly situated

officers (SSO). For purposes of short hand, we can refer to the process as IBSSO.^{iv}

THE REQUIREMENTS OF AN EFFECTIVE BENCHMARKING SYSTEM

An effective system of benchmarking has to meet three basic tests, reflecting the three audiences or stakeholders involved in the racial profiling issue.

First, an effective system has to have scientific credibility. It has to be good science, to the extent that reputable social scientists accept the methodology. The basic pragmatic test is that an article utilizing the methodology would be seriously considered for publication in a recognized scholarly journal using the established procedure of peer review. A related pragmatic test is that reputable social scientists testifying under oath in court would endorse the method and the results of any such study.

Second, an effective system has to have practical utility. A methodology that finds evidence of racial or ethnic discrimination or other problems should also point law enforcement administrators toward steps that can reduce if not eliminate the problem.

Traffic stop data reports to date analyze law enforcement agencies as a entire agencies. Even where a report finds gross disparities in the race or ethnicity of persons stopped, it is not clear what steps should be taken to address the problem. The IB methodology, on the other hand, directs the attention of managers toward those officers who are most responsible for the disparities.

Third, an effective system has to have political credibility. That is to say, it should be able to persuade community activists that it is a valid analysis of the problem and not a “coverup.” Granted, no approach will ever please everyone –that does not happen in the real world. But an effective system should have the capacity to answer many if not most of the questions about racial profiling raised by that community activists.

This paper argues that the proposed system of internal benchmarking meets all three of these requirements.

THE BIG PICTURE

One of the advantages of the proposed IB system is that it has the potential for addressing police problems that reach far beyond the immediate issue of racial profiling in traffic enforcement.

When we step back and take a look at the big picture of police relations with racial and ethnic minorities, it becomes evident that discrimination can occur in many areas of policing: arrests, response to routine 911 calls, the handling of citizen complaints, employment practices, and so on. The excellent Police Executive Research Forum (PERF) report, Racially Biased Policing: A Principled Response, begins with this premise. (The report is available at www.policeforum.org)

At the same time, the full range of police problems go beyond matters of race and ethnicity. There are other important issues such as gender discrimination, inefficiency, and poor management and supervision. This paper argues that a system of internal benchmarking can be an effective tool for police managers to effectively

address these problems as well.

In short, the issue of police accountability involves not just traffic enforcement and more than just race and ethnicity.

THE CONVERGENCE OF TWO DEVELOPMENTS IN POLICING

The proposed IB system responds to two important recent developments in policing.

The first development is the racial profiling controversy.^v This has emerged as a major national issue in just the last few years. Civil rights groups allege that police officers make traffic stops on the basis of race or ethnicity rather than suspicion of actual law violations. The principal demand of civil rights groups has been for data collection on traffic stops. As a consequence, several states have enacted laws mandating data collection and a large number of law enforcement agencies have begun collecting data voluntarily.^{vi}

The second important development in policing is the police accountability movement.^{vii} Like racial profiling, this too is a major political issue in America, and arises from local controversies over unjustified shootings, use of excessive force and corruption.

After many decades of struggle, the movement for police accountability has developed a short list of best practices. Most notably, these best practices are incorporated into virtually all of the consent decrees and memoranda of understanding settling law suits over police misconduct. The list of best practices is most conveniently summarized

in the U.S. Justice Department report, Principles for Promoting Police Integrity (2001). (Available at www.ncjrs.org; NCJ #186189).

These best practices include:

** A Comprehensive Use of Force Reporting System

- Covering both deadly and physical force
- Requiring reports on each and every use of force
- Requiring a mandatory review of all use of force reports

** An Open and Accessible Citizen Complaint Process

- Convenient and multiple locations for filing complaints
- Informational material clearly explaining the complaint investigation process
- Informational material widely available throughout the community, including the department's web site
- Informational material in languages other than English

** An Early Intervention System

- Described in the next section

** Traffic Stop Data Collection

- Data on persons stopped, by race, ethnicity, age and gender

-Data on the outcome of traffic stops (searches, citations, arrests)

The Early Intervention system is the centerpiece of a comprehensive accountability effort. It is the repository of the data generated by the other best practices and the system that allows police managers to systematically analyze officer performance data and identify problems that need corrective action.

EARLY INTERVENTION SYSTEMS IN BRIEF

Early intervention systems are data-driven administrative tools for identifying employees with performance problems and providing some kind of intervention to correct the problematic behavior.^{viii}

EI systems have been recommended by the U.S. Department of Justice, the U.S. Civil Rights Commission, the International Association of Chiefs of Police, and the Commission on Accreditation for Law Enforcement Agencies (CALEA).

EI systems are informal and separate from the formal disciplinary process. They are designed to intervene early, before an officer's performance results in a serious problem.

EI systems consist of four basic components.

(1) The performance indicators are the official reports related to police officer performance that are entered into the EI system data base.

Current EI systems use anywhere from 2 to 24 indicators. The commonly used indicators are citizen complaints, use of force reports, officer involved shootings, officer involvement in civil litigation, high speed pursuits, departmental disciplinary actions, commendations, sick time, and others.

(2) The identification and selection process involves, first, identifying those officers whose performance indicators qualify them for possible intervention (e.g., any combination of 5 or more indicators in a six month period). The selection process involves choosing which of the identified officers will be referred to formal intervention.

(3) Intervention involves the formal steps the department takes to correct an officer's performance problem. Typically, this involves an informal counseling session with his or her immediate supervisor. In some systems other command officers are also involved. Some officers may be referred to professional counseling for stress, family problems, or substance abuse. Some officers may be referred to retraining over specific police tactics.

(4) The post-intervention monitoring involves the process of following up on officers who have received intervention to see if their performance has in fact improved.

INTERNAL BENCHMARKING TODAY

Internal benchmarking is nothing new. It is currently in use or in the planning stages in several major law enforcement agencies.

The Pittsburgh (PA) Police Bureau has been using internal benchmarking for several years. In 1997 the city of Pittsburgh entered into a consent decree with the U.S. Department of Justice to settle a suit over excessive force. The consent decree mandated the creation of an early intervention system, which is now known as the Police Assessment and Review System (PARS). The PARS system includes data on 24 different officer performance indicators. Commanders review the data and compare the performance data of officers with other officers working similar assignments (or SSOs).^{ix}

The Memorandum of Understanding settling the Justice Department's suit against the Cincinnati police department also mandates the creation of an early intervention system –to be known as the Risk Management System– and specifically directs the department to utilize the peer officer analysis approach used in Pittsburgh. (The MOA is available at www.usdoj.gov/crt/split.)

Finally, the early intervention system being developed by the Phoenix Police Department will also utilize a system of peer officer comparisons.

INTERNAL BENCHMARKING: A HYPOTHETICAL EXAMPLE

This section describes how an internal benchmarking (IB) system would work in practice to analyze traffic stop data. While this example is hypothetical, most of the specific examples offered are based on actual cases this author has found in the course of his research and technical assistance over the last few years.

The Setting

The setting for this hypothetical example is the South District of the River City Police Department. The South District is the center of the Latino community in the metropolitan area. While the official census data reports that the city as a whole is 7.5% Latino, the South District is officially 30% Latino. The actual percentage in the District is probably higher because of the presence of undocumented persons who are not represented in the official census data.

This hypothetical example focuses on regular patrol officers assigned to the South District and does not include the department's traffic unit. Given these population data, it is assumed that the percentage of all traffic stops of Latinos in the South District will be higher than the city percentage (7.5%). But it is not known whether it will exceed the 30% figure for the South District.

Traffic Stop Data

Table 1 presents the data on traffic enforcement activity for officers assigned to the evening shift (4 pm - 12 midnight) in the South District. While these data are hypothetical, they reflect patterns that this author and other experts in the field –including both law enforcement officials and social scientists– are common in American policing.

The data reflect two important patterns. First, there are

significant variations in traffic enforcement activity among officers.

Second, they reflect significant variations among officers in the percentage of Latinos stopped for traffic violations.

TABLE 1

TRAFFIC STOP ACTIVITY, SIX OFFICERS, "RIVER CITY"

<i>Officer</i>	<i>Traffic Stops</i>	<i>% Latino</i>	<i>Citizen Complaints</i>	<i>Complaints Per 100 Stops</i>
<i>A</i>	<i>100</i>	<i>30%</i>	<i>0</i>	<i>0</i>
<i>B</i>	<i>40</i>	<i>25%</i>	<i>3</i>	<i>7.5</i>
<i>C</i>	<i>60</i>	<i>55%</i>	<i>2</i>	<i>3.3</i>
<i>D</i>	<i>20</i>	<i>33%</i>	<i>0</i>	<i>0</i>
<i>E</i>	<i>160</i>	<i>28%</i>	<i>1</i>	<i>0.62</i>
<i>F</i>	<i>50</i>	<i>31%</i>	<i>2</i>	<i>4.0</i>

Please note that this example is hypothetical, but is based on cases familiar to the author.

Internal Benchmarking Analysis

The data analysis that follows identifies four distinct problems in officer performance that potentially require remedial action by the department.

Problem #1: Officer C

Officer C is stopping Latino drivers at a rate (55% of all stops) that is higher than that of the other officers and higher than the percentage of Latinos residing in the district.

Under an EI system, the department's response to these data is to initiate a full-scale performance review of Officer C. It is extremely important to understand that the data are not a presumption of guilt for Officer C. The data are a starting point, not a definitive conclusion.

The performance review would include an examination of other aspects of Officer C's performance, including arrest activity, use of force record, citizen complaint record, disciplinary record (all of which should be readily accessible in the department's EI system), and interviews with his or her immediate supervisor.

The performance review might conclude that Officer C does in fact have a problem with regard to Latinos (e.g., stereotyping Latinos, immigrants, and crime). The official departmental intervention might involve counseling by the officer's immediate supervisor or other command officers, retraining by the training unit, or recommendation

for reassignment. On the other hand, the performance review might also conclude that there are legitimate reasons for the traffic stop patterns found in Officer C's record.

Problem #2: Officer "D"

Officer D in Table 1 has a different problem. His or her record indicates a very low number of traffic stops and no indication of ethnic bias.

The low level of traffic enforcement activity relative to peer officers, however, triggers a full-scale performance review, including all of the factors discussed above with regard to officer C.

The performance review may determine that Officer D is engaging in little self-initiated activity of any sort. He or she makes few arrests or field interrogations, and has no record of informal contacts with law-abiding community residents (as encouraged by the department). Further, it may be found that Officer D is working a second job to the maximum number of hours allowed under department policy.

The departmental intervention involves informal counseling in which Officer D is given an unambiguous message that as a public employee he or she has a responsibility to carry out the full range of duties as a patrol officer. The officer is clearly told that failure to undertake a minimal amount of police activity will result in an unsatisfactory performance evaluation and that subsequent failures may result in more serious action.

Problem #3: Officer E

Officer E is an energetic and hard working officer, with a level of traffic enforcement activity that far exceeds that of peer officers. Also, there is no indication of any ethnic prejudice on his or her part.

A quick glance at the performance data in the EI system, however, quickly reveals that Officer E has a distorted set of work priorities. He or she makes few arrests and field interrogations, and because traffic stops consume so much time, is often unavailable for routine 911 calls.

One aspect of Officer E's performance, which command officers may not be aware of, is that because of the high volume of traffic stops he or she is well-known in the community and has gained an unflattering nickname among some residents. Even though Officer E is free of personal bias, the distorted activity levels create the perception of bias among young Latino males in the community.

The departmental intervention in this case would involve a counseling session in which command officers discuss the full range of police responsibilities and clearly indicate that he or she will be expected to reduce the number of traffic stops and devote more time to other activities.

Problem #4: Officer B

Officer B has a relatively high rate of complaints per 100 traffic stops. A review of the complaints found that all of Officer B's citizen complaints involve traffic stops.

In the course of intervention counseling it was determined that Officer B had both a very negative attitude about drivers and difficulty

controlling his or her temper if asked a question by a driver.

Officer B was counseled about traffic stop demeanor, assigned to read Chapter Four of the PERF report on Racially Biased Policing (with the recommended policy on traffic stop demeanor) and assigned to a special verbal judo class. He was also advised that his performance would be closely monitored for the next six months.

Problem #5: Officer F

Officer F also has a relatively high complaint rate. One of those complaints involved a female driver who alleged inappropriate sexual conduct by Officer F (allegedly he made suggestive remarks about her appearance and attempted to obtain her home telephone number.

The performance review of Officer F's record found that a suspiciously high proportion of his traffic stops involved female drivers (65% vs a peer officer average of 39%). *

The departmental intervention involved counseling that his traffic stop activity indicated a pattern of inappropriate conduct with regard to women, that this behavior should cease, and that his performance record would be monitored on a weekly basis for the next six months.

THE SARA PROCESS

The internal benchmarking system described above represents the application of the SARA process, which is a basic component of problem-oriented policing. It represents a structured procedure for analyzing problems related to crime and disorder, developing departmental responses, and monitoring the impact of those responses.^{xi}

Scanning involves the collection of performance data

Analysis involves analyzing the data and identifying potential problem officers

Response involves the departmental intervention

Assessment involves subsequent analysis of an officer's performance data to see if there is a change in the desired direction

THE IMMEDIATE IMPACT

When properly used, internal benchmarking of similarly situated officers (IBSSO) can have an immediate impact on the officers whose performance has been identified as problematic.

In this hypothetical example, five different problems are identified:

** one case of apparent ethnic bias

** one case of overall inadequate performance

- ** one case of distorted priorities
- ** one case of inappropriate demeanor in traffic stops
- ** one case of inappropriate sexual conduct

The analysis also identifies an officer with an exemplary performance record. Officer A engages in a high level of traffic enforcement activity, exhibits no evidence of ethnic bias, and has received no citizen complaints.

As suggested earlier in this paper, IBSSO has the capacity to identify performance problems that involve more than race and ethnicity. Among the four examples, only one is a case of direct bias on the part of the officer.

THE LARGER IMPACT

The impact of IBSSO potentially goes beyond the cases of the officers discussed above. By identifying specific performance problems and then taking steps to correct those problems, internal benchmarking heightens the standards of accountability in the entire department. It places officers on notice that certain patterns of behavior are not acceptable and that the department will hold them accountable for such behavior.

At the same time, IBSSO potentially establishes new standards of accountability for front-line supervisors. The data-based nature of the EI system forces them to engage officers with apparent performance problems and to help them to correct their performance. Because the system generates data on post-intervention officer performance, it has the capacity to hold supervisors accountable for the impact of their intervention efforts.

DOES IT MEET THE THREE TESTS?

At the beginning of this paper, we defined three tests that a traffic stop data analysis system needs to meet. Obviously, we believe that it does. But this paper is offered as a discussion paper, and so comments about its effectiveness are solicited.

Does it meet the test of scientific credibility? Members of the academic community are invited to comment on this question.

Does it meet the test of practical utility? Law enforcement professionals are invited to comment on this question. Is it in fact a practical approach? Or, are there problems that need to be addressed? Are there ways the approach could be fine-tuned to make it more effective?

Does it meet the test of political credibility? Representatives of community groups are invited to comment on this question. If this system were in effect in a police department, would you believe that the department was effectively addressing the problem of racial bias and racial profiling in particular? If not, why not? What changes would need to be made?

THE LIMITATIONS OF INTERNAL BENCHMARKING

Internal benchmarking is far from perfect and is not offered here

as a complete solution to the problem of racial profiling or any other police problem.

The major limitation of IB is that it focuses on individual officers and cannot address situations where racial or ethnic bias pervades an entire unit or an entire department. Since virtually all officers in such situations will be engaging in biased policing, there will be no meaningful distinctions among officers. It is possible, however, that there will be some distinctions – that is to say, that some officers will exhibit far greater bias than others. Pending further research, however, this observation is purely speculative.

Situations where entire units or departments are engaging in racially biased policing call for more comprehensive changes in leadership and accountability measures.

THE IMPLEMENTATION CHALLENGE

Internal benchmarking of similarly situated officers (IBSSO) is a potentially valuable tool for enhancing police accountability. But it is also extremely difficult to implement properly and maintain.

The initial NIJ study of Early Warning Systems and the forthcoming COPS report on Early Intervention Systems both conclude that these systems are extremely complex administrative mechanisms. They require careful advance planning and close continuous monitoring.^{xii}

The 16th Semiannual Report (2003) of the Special Counsel to the Los Angeles Sheriff's Department (LASD) is particularly sobering. The

LASD's Personnel Performance Index (PPI) is widely regarded as the most sophisticated EI system in the country. Yet, the Special Counsel's report found that the PPI system was not working to its fullest capacity. Personnel shortages have resulted in delays in entering performance data. And some commanders were not aware of the nature of the PPI and its capacity to generate officer performance data they could use in supervising officers.^{xiii}

In short, effective use of IBSSO requires a sophisticated state-of-the-art early intervention system that is properly administered and utilized to its fullest capacity.

CONCLUSION

Racial profiling has emerged as a major national controversy and the focus of strained relations between the police and racial and ethnic minority communities.

Civil rights groups have demanded traffic stop data collection as a means of ending racial bias in traffic enforcement. Many law enforcement agencies are currently collecting traffic stop data, either voluntarily or because of state statute or court order.

The analysis of traffic stop data is a major problem, however. The most commonly used benchmarks do not readily permit determination of whether or not an illegal pattern of racial or ethnic discrimination exists.

This paper offers Internal Benchmarking as a possible solution to the data analysis problem. It is presented as a discussion paper in the

interest of advancing the policy debate over racial profiling. Comments and criticisms are welcomed.

i. For a discussion of data collection and other strategies, see PERF, Racially Biased Policing: A Principled Response (Washington, DC: PERF, 2001). The report is available at www.policeforum.org.

ii. Two web sites offer current information on the racial profiling issue and include links to traffic stop data reports: www.profilesininjustice.com and www.trafficstopdataanalysis.edu

iii. See the forthcoming PERF report on this subject. See also, U.S. Department of Justice, How to Correctly Collect and Analyze Racial Profiling Data: Your Reputation Depends on it! (Washington, DC: Department of Justice, 2003). Available at www.cops.usdoj.gov.

iv. An earlier version of this proposal can be found in Samuel Walker, "Searching for the Denominator: Problems with Police Traffic Stop Data and an Early Warning System Solution," Justice Research and Policy, 3 (Spring 2001): 63-95.

v. The best book on the subject is David Harris, Profiles in Injustice: Why Racial Profiling Won't Work (New York: The New Press, 2002). See also the web sites cited above in Note 2.

vi. Harris, Profiles in Injustice.

vii. Samuel Walker, "The New World of Police Accountability: The U.S. Justice Department 'Pattern or Practice' Suits in Context," St. Louis University Public Law Review , XXII (No. 1, 2003): 3-52.

viii. Samuel Walker, Geoffrey P. Alpert, and Dennis J. Kenney, Early Warning Systems: Responding to the Problem Police Officer (Washington, DC: Government Printing Office, 2001), Available at www.ncjrs.org, NCJ #188565. Samuel Walker, Early Intervention Systems for Police (forthcoming, 2003, COPS Office).

ix. The consent decree is available at www.usdoj.gov/crt/split. The impact of the consent decree is evaluated in Robert Davis, et. al., Turning Necessity into Virtue: Pittsburgh's Experience with a Federal Consent Decree (New York: Vera Institute, 2002). Available at www.vera.org.

x. Samuel Walker and Dawn Irlbeck, Driving While Female: A National Problem in Police Misconduct (Omaha: Police Professionalism Institute, 2002). Available at www.policeaccountability.org.

xi. U.S. Justice Department, Office of Community Oriented Police Services, Problem-Solving Tips: A Guide to Reducing Crime and Disorder Through Problem-Solving Partnerships (Washington, DC: COPS Office, 2002). Available on the web at www.ncjrs.org . NCJ 196527. For background on problem-oriented policing, see Michael S. Scott, Problem-Oriented Policing: Reflections on the First 20 Years (Washington, DC: COPS Office, 2000). Also available at www.ncjrs.org.

xii. Walker, Alpert, and Kenney, Early Warning Systems. Walker, Early Intervention Systems for Police (forthcoming).

xiii. Merrick Bobb Special Counsel to the Los Angeles Sheriff's Department, 16th Semiannual Report (Los Angeles: Special Counsel, 2003). Available at www.parc.info.