

# THE ATLANTIC

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*A study of Illinois traffic-stop data shows that police are more likely to ask to search cars driven by African-Americans—but whites are more likely to have contraband.*

*by James Warren*

## Driving While Black

When the President, the Professor and the Cop sit down to have a beer at the White House tonight, here's an idea for drink coasters: copies of the [2008 Annual Report of Illinois Traffic Stops](#). It may not be the most riveting reading, but it demonstrates just how murky and open to interpretation matters of race and law enforcement can be, even when systematically analyzed by academics seeking to clear things up.

When he waded into the confrontation between Harvard Professor Henry Louis Gates and Cambridge Police Sergeant James Crowley, President Obama cited his work on racial profiling as an Illinois state senator. But lost in the cable-fueled frenzy of subsequent debate has been any concrete discussion of the actual outcome of Obama's efforts—a 2003 law mandating that the state Department of Transportation catalogue all traffic stops in an attempt to identify and assess racial bias. He was the bill's chief sponsor, and did impressive work crafting consensus among civil libertarians, police, and groups across the political spectrum.

After five years of data collection—initially overseen by Northwestern University and now by the University of Illinois at Chicago's Center for Research in Law and Justice – there are plenty of statistics for study. But how to interpret those statistics is less than clear. It's sort of like trying to discern what exactly happened at the Gates home in Cambridge.

In 2008, 949 law enforcement agencies reported 2,518,825 traffic stops (63 agencies—mostly smaller—didn't comply). Stops of minority drivers in each community were compared with the total estimated minority driving population for that community. Also compared by race were the reason for stops; the duration of stops; the outcome of stops; the number of “consent searches” (instances where the police ask permission to search a car); and the number of searches resulting in the discovery of contraband.

Based on the data that emerges, it's clear that African-American, Hispanic, and American Indian drivers are in fact being stopped more than one would expect based on their overall representation in the driving population. But the 2008 study also concludes that inferring from this that there is police bias is "problematic because [it] assume[s] that an officer knows the race of the driver before they make the stop. Very often, particularly at night, and when the vehicles are driving quickly, this is not the case." As for the reasons for stops—whether for moving violations, equipment problems, or to check license or registration—those tend to be roughly similar across racial lines.

The most significant racial disparity involves consent searches. While the total number of such searches has dropped sharply —by 33 percent—since 2004, they are applied disproportionately: an African-American driver is about three times as likely to be the subject of a search as a Caucasian driver, with a Hispanic driver 2.4 times as likely to be the subject of a search. But when vehicles are searched, whites are more often found to be hiding contraband. Police found contraband 24.37 percent of the time when a white agreed to a search, but just 15.14 percent of the time with a minority driver. This finding is consistent with other studies nationwide.

Some are convinced that this evidence points to a clear pattern of discrimination. As Harvey Grossman, director of the Illinois ACLU asserts, "The five years of data show a pattern of continuing disparate treatment based on race, particularly with consent searches." In light of this view, when the 2008 report came out, Grossman urged then-Illinois Gov. Rod Blagojevich (remember him?) and Blago's post-impeachment successor, Gov. Pat Quinn, to ban all consent searches by the Illinois State Police.

Others are less convinced that the data shows bias. Kwame Raoul, who succeeded Obama in the Chicago South Side state senate seat and is a former prosecutor, notes that one explanation for the disparity in consent searches may simply be that "whites are more tuned in to their constitutional rights, so they decline more often."

And Will Burns, who worked on profiling legislation with Obama and is now a state representative from Chicago, says, "Nobody has a firm idea of how to really quantify if racial profiling exists." If you have a lily-white town sandwiched between two predominantly black ones, he points out, a relatively higher number of traffic stops of blacks by whites could simply reflect the fact that a higher number of blacks are traveling through the white community rather than any kind of systematic bias.

Nevertheless, Burns says, the data in Illinois "shows that, for the African-American community, we're not paranoid; there are disparate effects. We're more likely to be searched but less likely to be ticketed."

Peter Baroni, a conservative Republican who worked on the state law with Burns and represents the largest police union in the state, concurs: “There’s complete agreement among black men that this happens.” But he says he doesn’t buy the notion that the data reflect premeditated bias.

The person perhaps most well versed in the data is Alexander Weiss, who ran Northwestern’s Center for Public Safety when the state contracted the data oversight to the center. He’s now a private transportation and safety consultant in Lake Bluff, Illinois, doing the same kind of oversight for the University of Illinois at Chicago, which took over the state job from Northwestern. He’s worked with law enforcement agencies nationwide and with the U.S. Department of Justice on this topic.

Weiss is wary of trying to extrapolate too much. “You can’t conclude there’s premeditated discrimination against minorities,” he cautions. “All you can conclude is that minorities are more likely to consent to a search, and police are more likely to find contraband in the cars of whites. And the number of consent searches is dropping precipitously, so even if they’re racially disproportionate, they are infrequent.”

When it comes to interpreting the facts, he emphasizes, it’s important to be methodical: “You have to look at the data very closely.”

A lot of law enforcement agencies have to inspect [trends seeming to show disparities] and ask what’s the cause. Could it be something systemic and part of a crime control strategy? If you send lots of cops into a primarily minority neighborhood, and ask them to stop everybody, is that the explanation? Or might it be a function of just a few cops? You have to look area-by-area, shift-by-shift. It might not tell you that an officer definitely showed racial bias, but it could raise some yellow flags.

As for the Cambridge fiasco, Weiss says, “what happened may not be so much about race as about how to end an encounter.” After all, how an officer concludes a traffic stop, he suggests—especially one with a search—is critical. “More often than not, what police think is suspicious is not.” So cops, who are paid to be suspicious, need to be careful about “needlessly escalat[ing] an event,” or potentially confirming, by their very tone of voice, a driver’s racially tinged assumptions.

It’s a useful rule of thumb – and one, it now seems clear, that might be profitably applied to home-invasion investigations as well. All good fodder for discussion over a few beers...

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