



**Connecticut Racial Profiling Prohibition Project
Advisory Board Meeting
Thursday, January 23, 2014
10am - 12pm
Legislative Office Building, Room 1B**

Draft Minutes

Present: William Dyson, Glenn Cassis, Chris Sedelmaier, Chief Douglas Fuchs, Michael Gailor, Tamara Lanier, Sean Thakkar, Stephen Cox, Aaron Swanson, Sandra Staub, Colonel Danny Stebbins, Stacey Manware, Major Mark Panaccione, Jim Fazzalano, Art Kureczka, Andrew Clark, Ken Barone.

The meeting was called to order at 10:10am.

I. Welcome on behalf of Co-Chairs William Dyson and John DeCarlo

Bill Dyson welcomed the advisory board thanked them before continuing on to the rest of the agenda.

II. Approval of November 7, 2013 minutes

A motion was made by Glenn Cassis and seconded by Michael Gailor to approve the minutes from November 7, 2013. The minutes were approved by a unanimous voice vote.

III. Update on October 1, 2013 Implementation

Ken Barone provided an update on the implementation of the Alvin W. Penn Act. The law went into effect on October 1, 2013 and all law enforcement agencies should now be collecting new data elements. Many agencies are already successfully submitting traffic stop data to the Criminal Justice Information System electronically and on a monthly basis. We will have a full list of departments reporting data in our full report to the Connecticut General Assembly.

IV. Benchmarking Update

Jim Fazzalano and Ken Barone outlined the proposed process for benchmarking traffic stop data. The outline is provided below:

❖ **Principles for Developing Connecticut’s Approach to Benchmarking**

Benchmarking and analyzing Connecticut’s traffic stop data is a challenging task. In designing Connecticut’s approach, several principles have been developed to guide our thinking. These principles are:

- Developing a best practice approach based on the efforts to analyze traffic stop data elsewhere.
- Access existing sources of data that are readily available, easy to obtain, and capable of being periodically updated at minimal cost.
- Utilize multiple benchmarks that would be applied to a process aimed at analyzing agencies in numerous ways.
- Apply a series of tests to law enforcement agencies information that serves as a screening tool, which gives OPM the ability to determine if the agencies performance warrants further, more detailed analysis.
- Develop an estimated driving population model as a primary benchmark based on our understanding of the method used in Rhode Island and Massachusetts, taking into consideration recent improvements in the quality of census-based data.
- Develop a set of flexible benchmarks that consider different law enforcement agencies functions and avoid creating a “one size fits all” approach.
- Adapt Connecticut’s benchmarks to account for areas of high retail, recreational, entertainment, and seasonal activity that influence driving patterns.

❖ **Adjusted Census Data to Build an Estimated Driving Populations for Municipalities**

Adjusting “static” residential census data to approximate the estimated driving demographics in a particular jurisdiction is a more accurate benchmark method. At any given time, non-residents may use the roads to commute to work, travel to and from entertainment venues, retail centers, tourist destinations, etc. It is impossible to account for all commuting purposes; however, residential census data can be modified to create a reasonable estimate of the likely presence of non-residents in a given community. This methodology is a statistical model of the likely composition of the driving population and not an exact count.

Previously, the most significant effort to modify census data was conducted by the Northeastern University’s Institute on Race and Justice. The institute created the estimated driving population (EDP) model for traffic stop analysis in Rhode Island and Massachusetts. A summary of the steps used are outlined below.

Methodology Developed by Northeastern University Institute on Race and Justice for EDP Models in Rhode Island and Massachusetts	
Step 1	Identify all the communities falling within a 30 mile distance of a given target community. Determine the racial and ethnic breakdown of the

	resident population of each of the communities in the contributing pool.
Step 2	Modify the potentially eligible contributing population of each contributing community by factoring in (a) vehicle ownership within the demographic, (b) numbers of persons within the demographic commuting more than 10 miles to work, and (c) commuting time in minutes. The modified number becomes the working estimate of those in each contributing who may possibly be traveling to the target community for employment.
Step 3	Using four factors (a) percentage of state employment, (b) percentage of state retail trade, (c) percentage of state food and accommodation sales, and (d) percentage of average daily road volume, rank all communities in the state. Based on the average of all four of ranking factors, place all communities in one of four groups, thus approximating their ability to draw persons from the eligible nonresident pool of contributing communities.
Step 4	Determine driving population estimate for each community by combining resident and nonresident populations in proportions determined by which group the community falls into as determined in Step 3. (Range: 60% resident/40% nonresident for highest category communities to 90% resident/10% nonresident for lowest ranking communities)

Although the EDP model created for Rhode Island and Massachusetts is a significant improvement in creating an effective benchmark, limitations of the census at the time required certain assumptions to be made about the estimated driving population. Specifically, the census data required researchers to estimate the number of non-residents living within 30 minutes of a target city and exclude all others. This approach only assumed who potentially might be drawn to a community for employment, and did not account for how many people actually commute. Retail, entertainment, and other economic indicators were used to rank order communities into groups to determine the percentage of nonresident drivers should be included in the EDP. A higher rank would lead to a higher percentage of nonresidents being included in the EDP.

Since development of the Rhode Island and Massachusetts model, significant enhancements were made to the U.S. Census. It is now possible to determine the number of people actually driving to other communities for employment.

❖ **Developing Connecticut's Estimated Driving Population**

Since the 2004 effort by Northeastern University to benchmark Rhode Island and Massachusetts data, the Census Bureau has developed new tools that can provide precise information to create a an accurate estimated driving population.

The source of this improved data is an application called "OnTheMap." OnTheMap is an online mapping and reporting application operated by the Census (<http://onthemap.ces.census.gov/>). It shows where people work and where workers live.

Developed through a partnership between the U.S. Census Bureau and its Local Employment Dynamics (LED) partner states, the LED partnership's main purpose is to merge data from

workers with data from employers to produce a collection of enhanced labor market statistics known as Quarterly Workforce Indicators.

Under the LED Partnership, states agree to share Unemployment Insurance earnings data and the Quarterly Census of Employment and Wages data with the Census Bureau. The LEHD program combines the administrative data, additional administrative data and data from censuses and surveys. From these data, the program creates statistics on employment, earnings, and job flows at detailed levels of geography and industry. In addition, the LEHD program uses these data to create partially synthetic data on workers' residential patterns. The LEHD program is part of the Center for Economic Studies at the U.S. Census Bureau.

The project staff believes that data available through OnTheMap, used in conjunction with data available in the American Community Survey (ACS) will provide the tools necessary to create an advanced EDP model. ACS is the Census Bureau's ongoing survey tool for updating and improving data collected through the decennial census. Each year, the bureau surveys approximately 3.5 million households in the United States. The survey produces information on demographic, social, economic, and housing characteristics that is used to continually update census data.

The project staff is working with CJIS staff to develop the method for extracting data from these two sources. When completed, each of the 169 towns in Connecticut will have its own EDP reflecting the racial and ethnic demographic makeup of all persons identified through OnTheMap and ACS as working in the community but residing elsewhere. EDPs will be calculated approximately as follows:

- For each town, OnTheMap will be used to identify all those employed in the town, but residing in some other location.
- ACS data will be used to adjust for individuals commuting by some means other than driving, such as those using public transportation.
- For all towns contributing commuters above a threshold number, racial and ethnic characteristics of the commuting population will be determined by using the town's residential demographics. Currently, the threshold being considered for individualized analysis is 20 or more commuters, but this could be subject to change.
- Communities contributing fewer than the threshold number of commuters will be aggregated and the racial and ethnic demographics will be attributed to the statewide average for those who reside in Connecticut and national average for those residing outside of the state.
- The numbers for all commuters from the contributing towns will be totaled and will represent the nonresident portion of the given town's EDP. This will be combined with the town's resident population of those of driving age to form the town's complete EDP.
- To avoid double counting, those both living and working in the target town will be counted as part of the town's resident population and not its commuting population.

Structured in this way, each town's EDP should reflect an estimate of the racial and ethnic makeup of the driving population during a typical weekday/daytime period. For a more detailed outline of this approach please see appendix.

❖ Addressing Economic Variables in the Analytical Process

The project staff has solicited and is currently reviewing a proposal from the Connecticut Economic Resource Center, Inc. (CERC) to gather data relating to the demographic, retail composition, and commuter patterns of all Connecticut municipalities. The product of this potential inquiry might make it possible to (1) develop individualized data for each of the 169 towns, and (2) use this data to create comparison groups of towns that appear to be statistically similar.

Under its proposal, CERC would gather data on a mutually agreed upon set of variables such as employment in the retail sector, employment in the entertainment sector, racial demographics, household income, and population density. Using the individualized data for each town, CERC would create comparison regions for each town using a propensity score. Then they would create a matrix to match propensity scores comparing each town to every other town in the state.

This approach would develop a peer group comparison. After an agency's data has been analyzed against individualized benchmarks such as the state average and estimated driving population, it could then be compared to identifiable peers groups with similar commuting, retail, demographic, and socioeconomic characteristics. If the CERC proposal is pursued, it could provide the basis for this peer group analysis.

❖ Benchmarking State Police Stops

The State Police present a different benchmarking challenge than municipal police departments due to the different nature of their operations. State Police have statewide jurisdiction to enforce traffic laws throughout the state highway system. However, they also have a jurisdictional presence in more than 80 towns, either because the towns do not have their own organized police departments or have agreed to let the State Police supervise their police or constables.

State Police law enforcement on limited access expressways presents a special set of circumstances for benchmarking. Since their highway patrol functions span multiple municipalities, benchmarking their traffic stops based on the EDP of the municipality within whose borders the stop was made has little value. The Advisory Board considered the option of creating an EDP through the use of observational surveys, but decided not to pursue that option because of the complexity, time, and expense of such a survey.

The changes made to the Alvin W. Penn Law in 2013 provide a cost effective solution to this benchmarking issue. The law now requires police to record and report the actual geographical location where a stop is made, or where the violation leading to the stop occurred. Thus State Police stops that occur on limited access highways, which is specifically outlined in State Traffic Commission regulations, should be readily identifiable in the data.

The Advisory Board determined that State Police stops would be analyzed in one of two ways, depending on where the stop occurs.

1. State Police stops that occur on the limited access highway system throughout the state will be analyzed using only post-stop analysis, that is, the stops will be examined using the data elements that relate to stop outcomes.
2. State Police stops that occur off of the limited access highway system, either on state roads that are not limited access highways or on local roads will be analyzed using

the EDP and other benchmarks appropriate to the municipality in which they were made. They will essentially be treated like municipal police department stops.

❖ **Addressing Other Special Policing Agencies**

PA 13-75 expanded the law to capture data beyond just State and municipal police agencies. The law now includes all law enforcement agencies with the power to enforce traffic laws. Among those now included are, the Department of Motor Vehicles, Department of Revenue Services, State Capitol Police, college and university police agencies, Amtrak and Metro North Police, and several other entities. The appropriate way of benchmarking the data from these various entities has not yet been determined. Over the next three months, as data from these entities accumulates the advisory board will determine the most appropriate method to benchmark their particular data. The Department of Motor Vehicles may be treated similarly to the State Police data. Others, such as university police departments, may need to have special considerations made for benchmarking purposes.

❖ **Assessing Police Agency Performance—Screening Agencies for Further Review**

Deciding what approach to take to interpreting the results of the benchmarking analysis is the next significant step to be taken in the project and perhaps the most difficult. Many states that have recorded and published traffic stop data have never taken this final step of interpreting the data because it is difficult and not without potential controversy. It is important to realize from the outset of this undertaking that one of the most important goals of this process is to provide the appropriate tools to assess police agency performance and not to adjudge them to be either guilty or innocent of racial profiling. Putting these tools in the hands of the police agencies themselves, so that they may better assess their own performance and react in a more timely way to potential issues is likely to be one of the most important outcomes of the Advisory Board's efforts.

That said, the task before the Advisory Board in this regard over the next three months is to develop the most effective way of using the results of the benchmarking analysis as an evaluation tool. Following the principles outlined earlier in this report, it would seem that one approach that could be particularly effective would be to subject each agency's stop data to a series of increasingly more specific tests, the results of which would help to stratify the agencies.

Specifically, this approach would involve applying a series of increasingly specific screening tests, the cumulative results of which would separate agencies in terms of whether their data indicates they are outside the norm established by the benchmark themselves. An agency's performance on any single one of the tests would not be significant in and of itself, but its cumulative performance on all of the tests could be significant. An example of how this approach would work follows.

- **Screening Test No.1**—Agency data would be compared to overall state averages. This would be the broadest of all the tests to be applied, but agencies that exceeded state averages by statistically significant amounts would be identified.

- Screening Test No. 2—Agency data would be benchmarked to its own specific EDP. This test could include all stop data together, disaggregate blind stop data for separate analysis, look at all stop data for analysis of post-stop factors, or any other test the Advisory Board felt was appropriate at this stage.
- Screening Test No. 3—Agency data would be compared to the data from other members of a peer or comparison group that might be created using the process proposed by CERC or by some other method.
- Screening Test No. 4—Agency data would be compared to itself, that is, one or more tests could be applied intended to show whether disparities exist between stops made when an officer's ability to distinguish race or ethnicity is high (for example, daytime stops) and when it is low (nighttime stops). One test that might be applied in this level of the analysis might be the so called "veil of darkness" method, which was developed by researchers in 2006 to assess stop date in Oakland and subsequently used in several other large metropolitan areas.

The major advantage of this approach is that it would avoid a "pass-fail" result based on a single test. Instead, it would rely on a cumulative effect based either on scoring each agency's results for each level of screening or using the results of each screening level to pass through those agencies that performed outside of a statistical norm established for that screening test.

In the first case, a simple scoring matrix for all agencies could be created in which the agency could be given a 0 if it was within the statistical norm for the test or a 1 if it was not within the norm. At the end, the agencies that had accumulated the highest scores could be identified by OPM as candidates for further discussion and more detailed and specific analysis of potential reasons for the apparent disparities.

V. Racial Profiling Definition Discussion

The advisory board was updated on the status of the working group looking into the current statutory definition of racial profiling. Below is the current working definitions being discussed by the working group:

Current Connecticut Statutory Definition:

Sec. 54-11. Short title: Alvin W. Penn Racial Profiling Prohibition Act. (a) This section and section 54-1m shall be known as the "Alvin W. Penn Racial Profiling Prohibition Act".

(b) For the purposes of this section, "racial profiling" means the detention, interdiction or other disparate treatment of an individual solely on the basis of the racial or ethnic status of such individual.

(c) No member of the Division of State Police within the Department of Emergency Services and Public Protection, a municipal police department or any other law enforcement agency shall engage in racial profiling. The detention of an individual based on any noncriminal factor or combination of noncriminal factors is inconsistent with this policy.

(d) The race or ethnicity of an individual shall not be the sole factor in determining the existence of probable cause to place in custody or arrest an individual or in constituting a reasonable and articulable suspicion that an offense has been or is being committed so as to justify the detention of an individual or the investigatory stop of a motor vehicle.

Proposed Definition by the Ad-Hoc Working Group

For the purposes of this section, “racial profiling” means the detention, interdiction or disparate treatment of an individual by a law enforcement officer that is based upon an individual’s actual or apparent racial or ethnic status without reasonable individualized suspicion or cause to lawfully justify such conduct.

Questions still to be considered:

1. Expanding protected groups to be included in the definition?
2. Final agreement on use of the term “reasonable individualized suspicion.”

It was determined that the group would continue to meet and discuss in the coming weeks and present at the next advisory board meeting.

VI. January 2014 Draft Report

A draft copy of the report to the Connecticut General Assembly was provided. Feedback should be sent to Ken Barone prior to the end of the month.

VII. General Discussion

There was no general discussion and the meeting was adjourned at 12:05pm.

Racial Profiling Prohibition Project

ATTENDANCE

X Full Advisory Board Meeting _____ Working Group Meeting _____ Other

Date: 1/23/14 Time: 10:10 am Location: LOB - 1B

Chairmen:	Initial:
William Dyson	WD
John DeCarlo	

Advisory Board Members	Initial	Guest	Initial
Glenn Cassis	GAC		
Under Secretary Mike Lawlor			
Chris Sedelmaier	CMS		
Chief Douglas Fuchs	DF		
Commissioner Reuben Bradford			
Michael Gailor	MAG		
Deborah Del Prete Sullivan			
Werner Oyanadel			
Tanya Hughes			
Tamara Lanier	TL		
Sean Thakkar	ST		
Mui Mui Hin-McCormick			
Thomas Maziarz			
Stephen Cox	SC		
Gabriel Cano	GC		
Aaron Swanson	AS		
Joseph Cristalli			
Representative Gary Holder-Winfield			
Representative Joe Verrengia			
Sandra Staub	SS		
Lynn Blackwell			
Chief Dean Esserman			
Captain Nick Boutler			
Stephanie Johnson			
Colonel Danny Stebbins	DS		
Stacey Manware	SM	Major Panaccione	MP

Project Staff:	Initial:
Andrew Clark	AC
Jim Fazzalano	JF
Arthur Kureczka	AK
Ken Barone	KB

Staff: Ken Barone