

## Congressional Black Congress Presentation, 1998

The issue of Driving While Black is one that I have become familiar with in the last five years from a statistical perspective. As many of you know, I published an article in the Washington Post last month, copies of which are available here. I wish to briefly outline my findings as reported in that article, talk a bit about statistics on the same subject in North Carolina, but spend most of my time concentrating on responses to charges that Blacks are more likely to be stopped than whites from both the public and State Police.

In two cases, one in NJ and one in Maryland, I have served as the statistical expert in cases which allege that State Police target African American motorists to both stop and search. In New Jersey black motorists were 4.85 times as likely to be stopped as non-black motorists and 16.5 times as likely to be arrested. In Maryland, even though only 17.5% of the motorists driving on I-95 north of Baltimore City were black, over 70% of those who were searched by the Maryland State Police were African American.

Yet another state in which blacks are stopped at an inordinate rate when police are seeking to interdict drugs is North Carolina. Joseph Neff and Pat Stith of the *Raleigh News & Observer* found that state troopers who were on a team assigned to intercept illegal drugs on Interstates 95 and 85 in North Carolina cited black men at nearly twice the rate of other officers who were on routine patrol.

It appears that through belief and training police officers are convinced that they are more likely to find drugs if they stop black motorists. And, I must say that that belief is prevalent among those who have responded to my Post article. After publication of that piece, I received many responses and the first class of responses was “Blacks drive worse than whites, so no wonder they are stopped more often.” This was, by the way, in a slightly more subtle form, the first argument for the State in the New Jersey case to explain why more blacks were stopped. The first e-mail I got was a person who claimed that there were 3 classes of inferior drivers, 2 of which were black. The expert for the state in the New Jersey case said that our surveys were meaningless because we did not determine the proportion of blacks in the group of motorists who were egregiously violating traffic laws. His analysis was that since we only measured those people going over 60 miles an hour, we could not know if blacks were the one who were driving 80, 90 or 100 miles an hour and thus more likely to be stopped. Therefore, he claimed that the benchmark we used, 15% of motorists violating traffic laws who were black was wrong. Implicit in his criticism was the very point that some people who responded to my article made explicit. Blacks violate the law more and more egregiously than whites.

I would like to put that argument to rest—and do it in the words of New Jersey State Troopers. Five of them, including the man who was the head of the New Jersey State Police for 12 years all testified that you cannot determine race by the way a person drives. All of them said in the most explicit terms that black and white drivers are indistinguishable in the way they drive. The expert for the

State of New Jersey, when he put forward his theory that implied that blacks violated the law more egregiously than whites was asked if he had any data to support that view and he agreed that he did not. Finally, a most respected police expert, my colleague at Temple, Jim Phyfe, who was a New York policeman for many years also testified that blacks and whites do not drive differently from each other.

Another response that came from several sources is that since blacks are involved in crime more than whites, it is only natural for police to stop them more often. A couple of the responders pointed out that blacks are more likely than whites to commit murder, one of them even telling me that the murder rate for blacks is 8 to 9 times as high as it is for whites. Another assured me that as a security manager for a large company he has video tapes of crimes being committed and 95% are by blacks. Yet another told me that “black men usually pimp, murder each other and push drugs.”

Of course, these stereotypes are both hurtful and harmful and they are perpetuated by police that target blacks. As I pointed out in the Post article, if you search one group way out of proportion to their numbers on the road, then you will arrest more of that group even if they are no more likely to be carrying drugs than any other group.

And now I would like to turn to the responses of the police. In New Jersey when allegations of profiling were brought to the attention of the commander of the troopers, he did nothing to investigate, merely saying that “we do not use race ‘alone’ to stop individuals.” The North Carolina Highway Patrol, in settling a

case against them said: “The Highway Patrol does not use race or other pretextual bases for stopping vehicles.”

The most explicit defense of the State Police came to me in a letter I received last week from David B. Mitchell, Superintendent of the Maryland State Police. That letter, in an abridged version was published by the Washington Post on September 11<sup>th</sup>. He starts his letter by saying “Your accusations are false, baseless, and an affront to the professional police officers employed by this Department.” And he ends his letter by saying “Mr. Lamberth, I believe your methods are flawed and I am certain your accusations against our troopers are false.” What I find interesting in his letter is that he provided me with numbers, which I suppose he meant to prove to me that I was wrong. Concentrating on the JFK Barrack of the Maryland State Police, which he says is the Barrack that the ACLU is concentrating on, he points out that from June 16, 1996 to March 31, 1998, troopers from this Barracks stopped 32,727 whites and 14,048 blacks. Further, he says that 166 whites were searched and 187 blacks were also searched. Of these 58 whites and 83 blacks were arrested. I assume that the people arrested were found with contraband, although he does not say so. I have prepared a slide so that you can see the numbers that Superintendent Mitchell quotes to me and I have done a little analysis of those numbers.

What I have added to the numbers that was not in his letter is the percentage of motorists that are on I-95 violating the law who are black and that is 17.5%. As you can see from the slide, 30% of those stopped are black. If you are black driving on I-95 where the JFK Barracks patrols you are 2.01 times as

likely to be stopped as if you are white. And you are 5.3 times more likely to be searched if you are black than if you are white. **Please keep in mind that I am using the numbers the Superintendent sent me to prove to me that my accusations are false, baseless and an affront...and that my methods are flawed.”**

But one of the more interesting pieces of information that Superintendent Mitchell’s letter gave me is the “hit” rate for the Maryland State Police. Data that I had and referred to the the Post article for the whole state indicated that the Maryland State Police found contraband or”hit” about 1 in 4 times. These new data indicate that their hit rate is even better. According to these data, they find contraband every 2 ½ searches. This, however, deepens a mystery for me. In NJ, we estimated that the troopers found contraband once in every 30 searches and it takes the North Carolina troopers 17 searches to produce contraband. These data suggest that the Maryland State Police are much more efficient.

This is a mystery that has puzzled me and that I cannot answer at this point. I did contact the ACLU and have found that in their new class action suit, they have named plaintiffs—that is, people who claimed to have been stopped and searched by the Maryland State Police. Only one of their names appears in the data base that the Maryland State Police have turned over to the ACLU.

In spite of Superintendent Mitchell’s letter to me, I must say that I stand by what I said in the Post article and continue to say. It is dangerous to drive while your black. Your more likely to be stopped and more likely to be searched.