TESTIMONY TO HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

Vermont Traffic Stop Data and Racial Disparities in Policing

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January 12, 2022

Good morning, Chair Copeland Hanzas and Members of the Committee. Thank you for the invitation to provide you with an update on my assessment of the process for collecting race traffic stop data by law enforcement as well as the impact on law enforcement outcomes of the requirement to collect such data. In addition to commenting on these questions, I am also submitting a report by myself and co-authors on the impact of COVID on traffic stops and racial disparities.

I. Assessment of Process for Collecting Race Data on Traffic Stops

With regard to what is working well with data collection:
- All law enforcement agencies are now reporting their data.
- Data are now centrally processed and available on the Vermont Training Council website. That site posts data for 2018-20. The remaining data is posted at the Criminal Research Group website. I suggest that Vermont Training Council host *all of the data* collected since 2014.
- The percentage of stops in which race of driver is missing has fallen substantially from 6.8% in 2017 to less than 1% in 2020. There is, however, a good deal of data the legislature requires be collected that is nevertheless not being reported. For example, in 2020, almost 10% of incident reports were missing gender of driver. Other categories with still large amounts of missing data are: age of driver, reason for the stop, search reason, and whether or not contraband is found. This impedes the ability to investigate racial bias in stops.

Some changes are needed to meet the legislature's goals in requiring reporting of race data in traffic stops:
- *Changes are needed to clarify existing legislation and expand the categories of data to report.* With regard to clarification, the new legislation states that law enforcement is required to report "the outcome of the stop." There can be multiple outcomes of a stop (i.e., more than one citation or warning, or any combination of citation, warning, and arrest). However, some law enforcement agencies interpret this to mean they are only required to report **one** outcome of the stop and have declined to provide data on all of the outcomes of a stop.
- Expanding the legislation to include *additional categories of data* to be publicly reported would improve the ability to uncover racial disparities. These include: 1) start and end time of stop, 2) reason for each ticket, warning, and arrest (in other words, the

specific violation), 3) type and quantity of contraband found, 4) passenger information, 5) vehicle year, 6) state of vehicle plate, and 7) incident numbers. Especially important is 8) date and time of stop. Although much of this data is available in the data systems law enforcement utilize, many chiefs will only provide these data if required explicitly by legislation.

- *More detailed reasons for the stop should be required in incident reports.* This will make it easier to identify pretextual stops (stops justified by a minor traffic violation in order to investigate suspicion of criminal activity) that tend to be more susceptible to racial bias than safety stops. The expanded set of reasons would enable analysts to more explicitly identify racial bias in traffic stops. The expanded list of reasons for a stop could include: Speed limit, stop light/sign, driving impaired (DUI), safe movement, vehicle equipment, vehicle regulatory, seat belt, investigatory, and externally generated. The legislature should also consider curbing or banning pretextual stops, with law enforcement instead focusing on public safety as a goal of traffic policing. This step was recently taken by the City of Philadelphia, and in 2019 the Oregon Supreme Court moved to curb pretextual stops. Both Virginia and Texas legislatures are considering bans to pretextual stops.

- Instead of periodically revising the legislation, it would be more efficient for the legislature to *delegate someone or some group to make sure data is collected uniformly and accurately across all agencies.* This person or entity should also have the authority to make changes as needed in what data is collected without having to request changes to the legislation. My reading of H.546 is that in large measure, it addresses this issue. There is one amendment to H.546 that my colleagues and I strongly recommend: in addition to the requirement that data be reported to the Racial Justice Statistics Advisory Panel on a monthly basis, it should also be made available to the public on a monthly basis (via, for example, an interactive data portal).

- *The data are not available in a timely manner.* Currently, the Vermont Training Council posts traffic stop data with a delay of 10 to 12 months. This is too late to use the data as an administrative tool by chiefs to inform and revise policing practices as regards traffic stops. It would be relatively easy for agencies to submit data to Vermont Training Council on a monthly basis. North Carolina and Burlington have online data portals that can be queried by the public to obtain timely reports on traffic stops. These could serve as a model for the state.

- *There continue to be problems of data quality.* For example, sometimes non-traffic related incidents are included in the data (e.g., trespassing, vandalism). The problem of continued missing data in a variety of categories noted above continues, suggesting the need for greater accountability mechanisms.

II. Impact on Law Enforcement Outcomes of the Requirement to Collect Race Data on Traffic Stops

A. Trends

In 2021, I and my colleagues, Nancy Brooks and Pat Autilio, analyzed trends in racial disparities in traffic stops to assess the impact of the legislation. We issued a statewide report, as well as individual reports on the largest agencies: Bennington, Brattleboro, Burlington, Colchester, Rutland, South Burlington, Vermont State Police, and Williston.

These studies can be accessed here:
https://www.uvm.edu/cas/economics/profiles/stephanie-seguino.

Our main findings at the state level are:

- From 2015 to 2019, the number of traffic stops increased for all racial groups.
- Racial disparities in the increase in number of traffic stops are notable. While stops of white drivers increased by 46% over this time period, stops of black drivers increased 71%; Asian, 66%; and Hispanic, 119%.
- The share of stops that are investigatory/pretextual increased for all racial groups, but increases were greatest for black drivers. Such stops are more likely to be influenced by racial bias.
- Racial disparities in arrest rates also widened since 2014. The widening gap is due to a decline in the white arrest rate from 2018 to 2019 rather than an increase in the black arrest rate.
- Search rates declined for all racial groups after cannabis legalization but by 2019, the black search rate continued to be almost 3 times greater than the white rate. Legalization of cannabis, in other words, did not have a substantial impact on the black-white search rate disparity. The Hispanic search rate disparity widened from 2018 to 2019 with Hispanic drivers 2.5 times more likely to be searched than white drivers by 2019.
- Hit rates have decreased for searches that result in any outcome (warning, ticket, or arrest). This implies that officers are wrong more often in their decision to search a vehicle for contraband, from 2015 to 2019.

The appendix contains graphs showing trends in stops, pretextual stops, arrests, searches, and contraband.

In sum, at the state level, trends over time do not yield evidence that racial disparities have diminished for most indicators, even with the legalization of cannabis. That said, at the agency level, we note some positive trends.

- In South Burlington, black-white disparities in arrest and search rates have declined since 2015.
- In Burlington, South Burlington, and Rutland, and Vermont State Police, racial disparities in the contraband hit rate decreased from 2015 to 2019.
- Our analysis of 2020 data (attached) shows that in 2020, traffic stops fell 40%, although some agencies increased stops. Of note is that amongst agencies that reduced stops in 2020, the lower number of traffic stops appears to have contributed to a narrowing of racial disparities in arrest and search rates.
- The national pre-COVID number of stops per 1,000 residents is 81. This stop rate is far below the Vermont stop rate, which was 318 per 1,000 residents in 2019, *almost 4 times* the national average. Vermont's stop rate fell to 187 in 2020, in part due to COVID's impact on traffic policing. This stop rate is still well above the national (pre-COVID) rate. It should be note that agency-level stop rates vary quite dramatically. For example, Vermont State Police and Burlington

registered a 2020 stop rate of 43 and 29, respectively, compared to 445 in Bennington and 474 in Bellows Falls.

More generally, there is tremendous variation across the state in traffic policing itself, as well as in racial disparities. Some agencies have very low or negligible disparities, while others record disparities that are much wider than those found at the national level. The agencies with low disparities and those that are making some progress, however modest, are encouraging in that they demonstrate progress is possible.

    B. Response of Police Chiefs and Community Members to Race Data Collection and Reporting

- Response of police chiefs to traffic stop data reports has been uneven. Several agencies have demonstrated interest in their data and in understanding the causes of the disparities. Vermont State Police continues to be a leader in attempting to implement protocols and procedures to address racial disparities and the data indicate they have had some success. A handful of agencies have reached out to my co-authors and me to help them understand the data better and to conduct some additional analyses of their data. These include South Burlington PD, Winooski PD, Windham County Sheriff's Office, and the Shelburne Select Board. However, a number of chiefs appear to not take seriously the racial disparities in their traffic policing or argue that just disparities are justified. Some continue to attempt to discredit the traffic stop data results for their town in the media.
- The legislation requiring data collection provides no mechanism of accountability to ensure compliance with the data collection legislation and to address racial disparities in policing. As result, local law enforcement agencies are only accountable to their select boards or city councils, many of which lack the expertise to address racial bias. That said, a goal of my research with Nancy Brooks and Pat Autilio has been to ensure our studies are accessible to community members so that community members can act to express community values with regards to racial disparities in policing. This goal has in part been met. Numerous community groups, interested in and concerned about the data results for their towns, have contacted us. These include Brattleboro, Castleton, Hartford, Montpelier, Richmond, Vergennes, and Williston.
- In an interesting case, two residents of Vergennes produced a high quality documentary ("The Price of Safety") on the community's struggle to come to terms with the racial disparities in Vergennes's data. They convened the community to watch the film and discuss how to move forward with a citizen oversight board and how to address racial disparities in policing there.

APPENDIX

The following figures show trends in traffic policing in Vermont, based on statewide data.

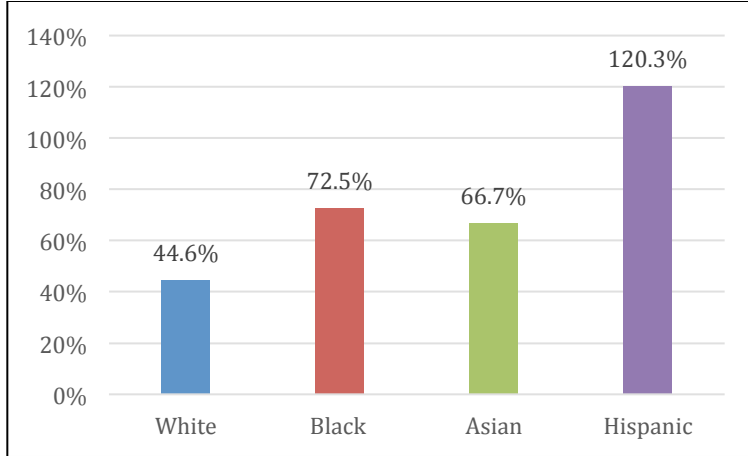*Figure 1. Percentage Increase in Annual Stops by Race, 2015-19*

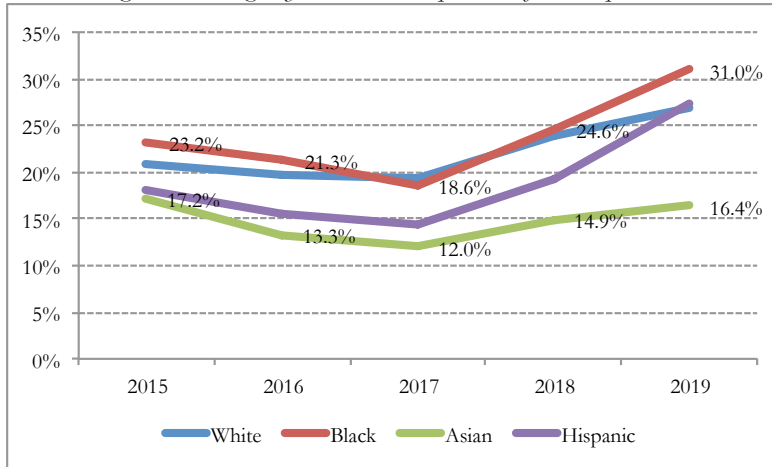*Figure 2. Investigatory/Pretextual Stops as % of All Stops*

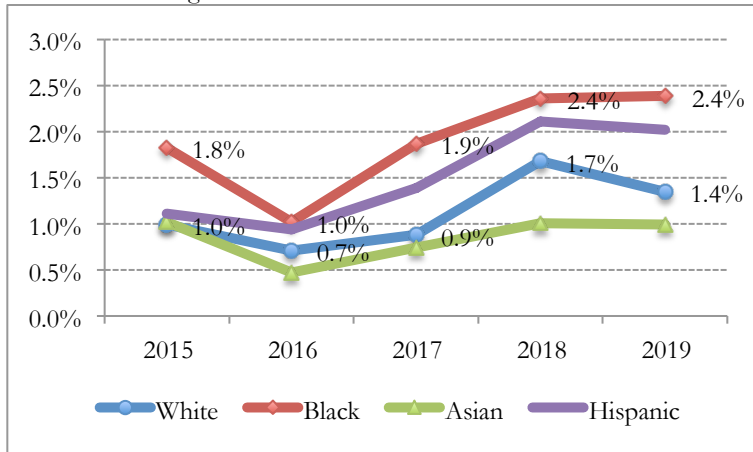*Figure 3. White and Black Arrest Rates Trends*

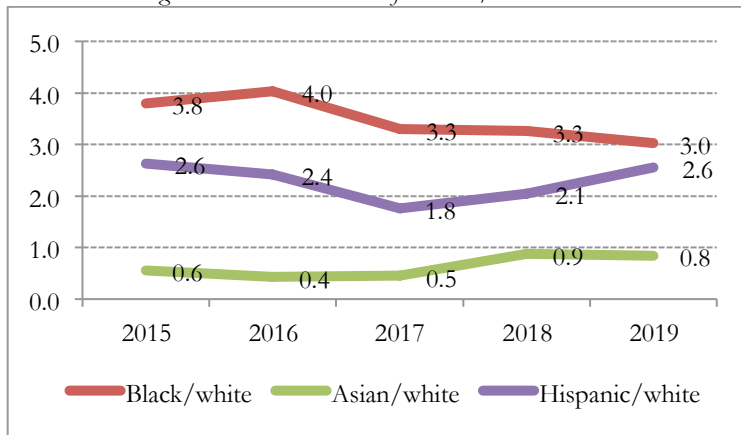*Figure 4. Trends in Ratios of BIPOC/White Search Rates*

Figure 5. Percentage of Searches with Contraband Found (tickets & arrests)