WATCHDOG

Faulty test leads Sheriff's Department to mistakenly claim no evidence of bias in policing

(San Diego Union-Tribune)

The agency did a statistical analysis meant to identify evidence of racial profiling done incorrectly

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In a recent report on stops made by deputies in 2019, officials with the San Diego County Sheriff's Department said they found no evidence of racial bias in their policing.

The department came to that conclusion after employing a statistical test called the Veil of Darkness, which is designed to zero in on racial profiling. In an executive summary of the report, sheriff's officials wrote that "analysis of the stop data did not indicate or provide statistical correlation between the stops made and potential biased based policing by the department."

The problem is, the agency did the test incorrectly.

The San Diego Union-Tribune identified mistakes in the department's methodology and consulted with experts who confirmed the errors. After being informed of those errors, sheriff's officials removed the report from the department's website. They plan to redo that portion of the analysis.

The faulty findings were released May 26, before most of the nation knew the name George Floyd. His death one day earlier in Minneapolis, when a White officer knelt on his neck for nearly nine minutes, has since sparked worldwide protests focused largely on the treatment of Black people by police.

Continuing demonstrations have prompted some changes in law enforcement policies in the San Diego region — including a countywide ban on a controversial neck hold known as the carotid restraint — and cast renewed scrutiny on the Sheriff's Department's stop data.

Like others before it, the department's most recent report analyzed information collected under the state's Racial and Identity Profiling Act, a law authored by San Diego-area state Assemblywoman Shirley Weber. The 2015 law requires officers and deputies to gather data about the people they interact with in the field, including perceived age, perceived race, the reason for the stop and the result of the stop.

The department found that deputies stopped Black residents at higher rates than White residents, joining a growing list of studies released in recent years that have noted disparities in stops conducted by the Sheriff's Department and the San Diego Police Department — the county's two largest law enforcement agencies.

San Diego County Sheriff's Department stops by race and gender

The department is required by law to provide data on the perceived race and gender of each person a deputy pulls over.

Perceived race	Total stops	Percent of all stops	Percent of population
White	35,251	53.04%	45.7%
Hispanic/Latino	19,670	29.59%	34.5%
Black	5,423	8.16%	4.4%
Asian	2,584	3.89%	10.9%
Middle Eastern/ South Asian	2,087	3.14%	*
Pacific Islander	636	0.96%	0.4%
Native American	423	0.64%	0.5%
Multiracial	392	0.59%	3.6%

Perceived gender			
Male	44,092	66.34%	50.3%
Female	22,150	33.33%	49.1%

Trans. man	121	0.18%	**
Trans. woman	72	0.11%	**
Non-conforming	31	0.05%	**

**The U.S. Census does not categorize Middle Eastern or South Asian as a race*
*** The U.S. Census does not have data on gender minorities*

Sources: San Diego County Sheriff's Department; U.S. Census

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The purpose of these sorts of studies is to provide data-driven evidence supporting or refuting what some community members have long contended — that bias leads to disparity in policing.

But using data to measure or identify bias can be difficult. Local law enforcement leaders have long said that disparity in the data, in and of itself, is not evidence of discrimination. That's why criminologists have turned to specific statistical tests like the Veil of Darkness to help identify evidence of racial profiling.

How the Veil of Darkness works

The idea behind the Veil of Darkness test is pretty simple. If a law enforcement agency were targeting drivers based on race, then evidence of that bias should be most apparent during the day, when race is presumably more visible.

In the test's simplest form, researchers compare stops made during the day with stops made at night. If drivers of a particular race were less likely to be pulled over when it was dark, that could be evidence of bias. The test can be tweaked in a variety of ways —

like only using stops before and after sunset — to control for variables that might influence the results — like people's behaviors during certain parts of the day or police patrolling levels.

That's basically how the test works — and it looks nothing like what the Sheriff's Department did.

In the agency's analysis, employees with the crime analysis unit compared all stops made between 5 p.m. and 9 p.m. — a block of time that can contain both day and night — with stops made during every other part of the day, a block of time that also contains both day and night. The table that featured this break down was also mislabeled, characterizing the 5 p.m. to 9 p.m. period as "Twilight," and all other hours as "Daylight."

Sheriff's Cmdr. Dave Brown initially stood by the analysis, saying the department had done its best to emulate an analysis that was conducted by the Racial and Identity Profiling Advisory Board, which is responsible for annually reviewing and analyzing the stop data California law enforcement agencies are now required to report. However, Brown later acknowledged that the department's methodology was flawed.

"I don't think the interpretation of the analysis that my department used shows much," he said.

Even when the Veil of Darkness is done correctly, there are a number of weaknesses, critics say.

Street lights, for example, may make it quite easy for a law enforcement officer to observe a person's race at night. Conversely, some vehicles may have tinted windows, making it difficult to discern race during the day.

Law enforcement officers may also racially profile in different ways at night, for example, by making assumptions about a person's race based on the car they drive or the neighborhood they live in — a tendency that may not be reflected in the data.

The test also works better when traffic stops alone are being analyzed. A deputy has to get quite close to stop a pedestrian, undermining the veil that darkness would usually provide. The data the Sheriff's Department analyzed includes both traffic and pedestrian stops.

Because of these issues, statisticians consider the Veil of Darkness a conservative test.

"When I say that it's a conservative test that's prone to false negatives, that means when you do see evidence of racial bias in the veil of darkness, it's a pretty strong signal that there's racial bias," said UC Berkeley Professor Jack Glaser, an expert on racial profiling. "And when you don't see it, you're left in kind of a limbo."

Report's findings mirror disparity seen statewide

The data showcased in the 15-page report show sheriff's deputies conducted 61,300 stops in 2019. Since stops can involve more than one person, deputies encountered nearly 66,500 individuals during those stops. Of that total, deputies perceived that 53 percent, some 35,250 people, were White, more than any other race. Nearly 30 percent were perceived to be Latino.

According to population data from the U.S. Census Bureau, 4.7 percent of the county's population is Black, yet more than 8 percent of stops involved Black individuals. Asians represent about 11 percent of the county, yet accounted for less than 4 percent of individuals stopped.

Based on the Sheriff's Department's data and Census Bureau population statistics cited by the department, deputies conducted about 35 stops for every 1,000 Black residents

and about 23 stops for every 1,000 White residents.

Deputies also cited "reasonable suspicion" as the reason for making a stop — as opposed to something more concrete, like an observed traffic violation — at a higher rate for Blacks than other racial groups. Out of all stops involving Blacks, 36.6 percent were initiated by a sheriff's deputy who reported having "reasonable suspicion" to make the stop, while the same reason was cited at a much lower rate for whites (24.5 percent), Hispanics (22.2 percent) and Asians (10.4 percent).

The data generally align with findings reported earlier this year by the state's Racial and Identity Profiling Advisory Board. That report, which looked at the first round of stop data collected by the state's eight largest agencies, including San Diego's police and sheriff's departments, found Black drivers were stopped by police at 2.5 times the per capita rate of Whites and searched three times as often.

The biggest outlier in the data was the search rate for Native Americans in San Diego County. The data show deputies searched Native Americans during 32.8 percent of stops, while they searched Blacks during 20.3 percent of stops, Whites 16.8 percent of stops, Hispanics 16.4 percent of stops and Asians 5.4 percent of stops.

Sheriff's Cmdr. Dave Brown said the search rate for Native Americans was so high because of the way security and policing works on reservations. Often, tribes handle simple law enforcement duties on their own, but call on sheriff's deputies to make arrests, which skews the numbers, according to Brown.

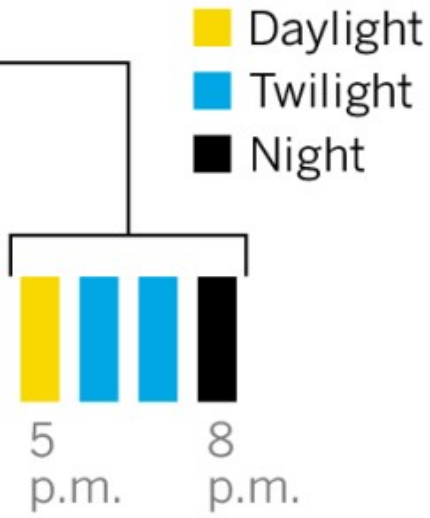
Setting aside Native Americans and the apparently skewed statistics, deputies were most likely to search Blacks, even though they were less likely than Whites and Hispanics to be found "in possession of contraband or evidence." The "search hit rate" for blacks was 21 percent, while it was 23.9 percent for Whites and 21.9 percent for Hispanics.

Veil of Darkness test for racial bias

In the test's simplest form, researchers compare stops made during the day with stops made at night. If drivers of a particular race were less likely to be pulled over when it was dark, when race is presumably harder to see, that could be evidence of bias.

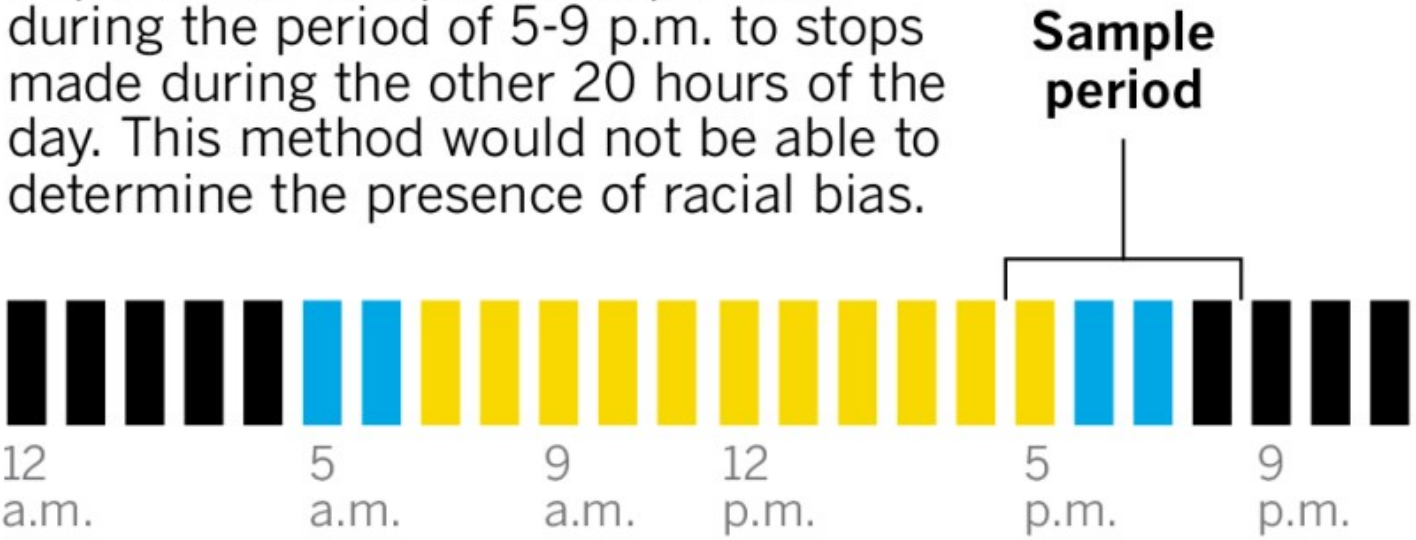
A typical test

This test often analyzes stops from a specific block of time that has both night and day stops, such as only between 5 and 9 p.m. This controls for variables that could influence the results like people's behaviors during certain parts of the day.



A questionable approach

The San Diego County Sheriff's Department compared stops made during the period of 5-9 p.m. to stops made during the other 20 hours of the day. This method would not be able to determine the presence of racial bias.



Source: U-T research

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David Trujillo, advocacy director for the ACLU of San Diego and Imperial Counties, disagreed with the Sheriff's Department's assertion that there was no statistical correlation between stops and biased policing, pointing out that deputies stopped Blacks at nearly double the rate of the county's Black population.

"The data is clear and consistent but Sheriff Bill Gore refuses to acknowledge the racial disparities reflected in his department's own stops report," Trujillo wrote in a statement. "Rather than address these disparities and work to increase trust between the department and communities of color, Sheriff Gore is trying to perpetuate the illusion that nothing is wrong by saying there's no correlation between the disproportionate stops and racial bias."

Trujillo said he wants Gore "to take ownership of these disparities and take action to remedy them ... We need our sheriff to be a law enforcement leader who is accountable and works to end racial and identity bias, not dismiss it."

Brown said the department has already partnered with the Center for Policing Equity, a nonprofit that uses data to help police agencies identify and eliminate bias. The organization has been tasked with analyzing the department's stop data as well as additional operational data.

In addition to providing an analysis, the organization will recommend department practices designed to eliminate inequities.

Staff reporter Lauryn Schroeder contributed to this story.

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