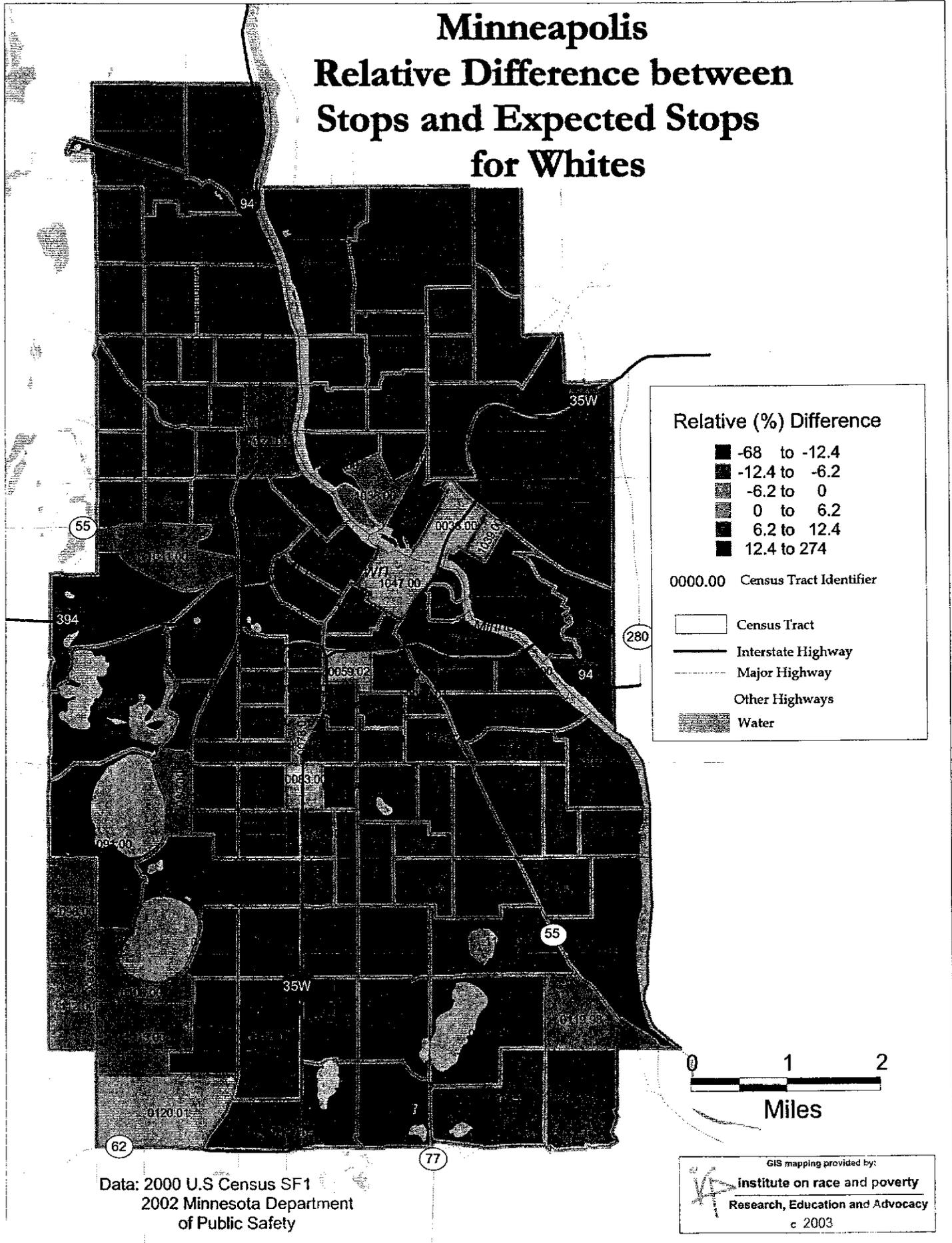
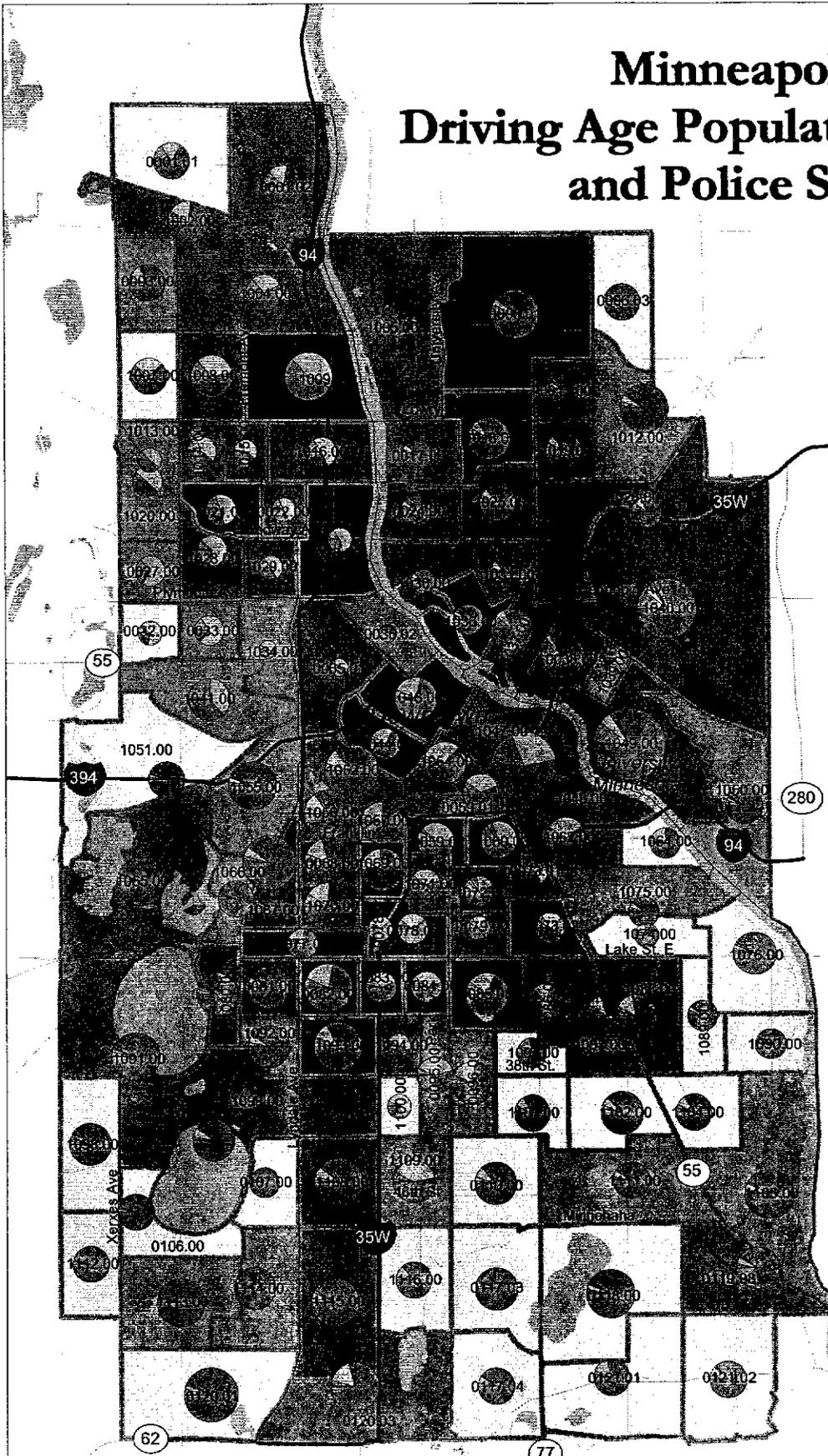
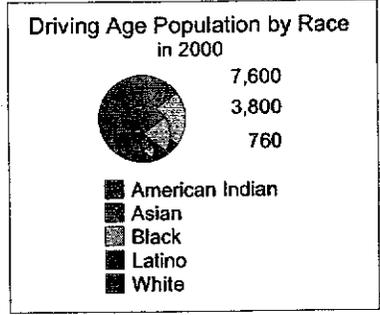
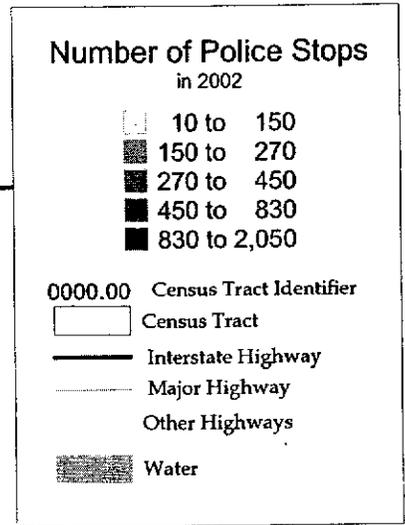


# Minneapolis

## Relative Difference between Stops and Expected Stops for Whites



# Minneapolis Driving Age Population by Race and Police Stops



Data: 2000 U.S Census SF1  
 2002 Minnesota Department  
 of Public Safety

GIS mapping provided by:  
 **institute on race and poverty**  
 Research, Education and Advocacy  
 c 2003

As the preceding maps show, in most census tracts in Minneapolis, American Indians were stopped at lower than expected rates (shown in shades of blue). Asians were also stopped at lower than expected rates in most tracts in Minneapolis.

Black drivers, on the other hand, were stopped at higher than expected rates (shown in shades of red) in every Minneapolis census tract but one. The highest absolute differences between stops and expected stops of Blacks are found in north and south-central Minneapolis while high relative differences are found in nearly every tract.

Latinos were stopped at higher than expected rates in most tracts in Minneapolis. Tracts in which Latinos were stopped at lower than expected rates are somewhat clustered in north and south-central Minneapolis and outside of these areas the relative difference between actual and expected stops is high for Latinos.

White drivers were stopped at lower than expected rates in all but nine Minneapolis tracts. The areas where Whites were under-stopped in the highest absolute numbers more or less mirror the areas where Blacks were over-stopped in the highest numbers.

The final map indicates that areas with the highest number of traffic stops also tend to have large populations of color relative to Minneapolis as a whole.

#### *Analysis of the Stopped Population by Race/Ethnicity, Gender, and Age*

Past research suggests that age and gender, in conjunction with race/ethnicity, can be sources of bias for law enforcement. To evaluate whether this is the case in participating jurisdictions we have also broken out the stopped population by gender and by age.<sup>29</sup> Specifically, for each racial group in each jurisdiction we have determined the proportions of the stopped population that are male and female and the proportions of the stopped population that were born before 1972 and born in or after 1972.<sup>30</sup>

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<sup>29</sup> Due to limitations in the Census data we are using to estimate the driving population and limitations in resources available for the study, we are unable to break out the driving population by gender and age.

<sup>30</sup> The birth year of 1972 was chosen to ensure that all persons included in the "young" category would be considered young. This is not to suggest that anyone born before 1972 is "old" or perceived as old by law enforcement. It was our decision to err on the side of caution in allocating people to the "young" category.

Minneapolis, Stops by Race, Gender and Age					
		Female		Male	
	Total Stops	Born Before 1972	Born in 1972 or After	Born Before 1972	Born in 1972 or After
American Indian	816	170	223	186	237
%	100.0%	* 20.8%	* 27.3%	* 22.8%	* 29.0%
Asian	1,808	167	289	414	938
%	100.0%	* 9.2%	* 16.0%	* 22.9%	* 51.9%
Black	21,241	2,017	2,322	7,747	9,155
%	100.0%	* 9.5%	* 10.9%	* 36.5%	* 43.1%
Latino	5,740	202	331	1,657	3,550
%	100.0%	* 3.5%	* 5.8%	* 28.9%	* 61.8%
White	23,927	3,724	4,023	8,378	7,802
%	100.0%	* 15.6%	* 16.8%	* 35.0%	* 32.6%
Total People of Color	29,607	2,556	3,167	10,004	13,880
%	100.0%	* 8.6%	* 10.7%	* 33.8%	* 46.9%
Total	53,534	6,280	7,188	18,382	21,682
%	100.0%	11.7%	13.4%	34.3%	40.5%
*difference from total rate for the column is statistically significant (p<.05).					

This table indicates that the proportion of stops in every age/gender category for every racial/ethnic group differed significantly from the proportion of stops in that category for the total stopped population. In many cases this difference, while significant, was not large in degree.

American Indian females in both age groups were stopped in significantly higher proportions than corresponding females in general. In both cases, the proportion was close to double the average for American Indian females. At the same time, American Indian males in both age groups were stopped in significantly lower proportions than corresponding males in general.

Both female and male Asians in the younger age group were stopped in significantly greater proportions than females and males in that age group in general, while the opposite is true for Asians of both genders born before 1972. Over half of all Asians stopped were males born in 1972 or after, while forty percent of stops in general were of drivers in this category.

For Blacks, the stopped population has significantly greater proportions of males in both age categories and significantly lower proportions of females in both categories. Approximately eighty percent of all stops of Blacks in Minneapolis were of males compared to approximately seventy-five percent of stops in general.

Stops of Latino drivers were heavily concentrated on males in the younger age group. Approximately sixty-two percent of all stops of Latinos in Minneapolis were of males born in 1972 or after, compared to an overall proportion of approximately forty-one percent.

Among stopped White drivers, a significantly higher proportion of stops was of females in both age categories and males born before 1972, while a significantly lower proportion of stops was of males born in 1972 or after. The last group accounted for approximately thirty-three percent of stops of Whites and approximately forty-one percent of all stops.

It is important to note that these percentages refer to proportions within each racial/ethnic category. They do not indicate whether people of certain age and gender groupings in one racial/ethnic category are stopped at greater or lesser rates than people of the same age and gender group in other racial/ethnic categories.<sup>31</sup>

#### *Analysis of the Stated Reason for Stops*

Allegations of racial profiling often state that institutional and/or officer bias cause drivers of color to be subjected to pretextual stops. In other words, as a result of officers and/or practices that improperly assume that a person's race/ethnicity is relevant to the likelihood that they are engaged in crime, people of color are subjected to a disproportionate number of stops for minor, often unenforced, violations of traffic law as a pretext for investigating whether the driver is engaged in criminal activity.<sup>32</sup> Evidence of this practice exists where drivers of color are disproportionately stopped for "high discretion" traffic violations, such as minor vehicle code violations (e.g. underinflated tires) and minor driving violations (e.g. failure to properly signal a lane change), which an officer may or may not enforce according to his or her choice. In contrast to these are "low discretion" stops where officers exercise little choice over whether to make a stop. These would include stops based upon significant violations of driving laws (such as excessive speeding or reckless driving) and stops where an officer is responding to an externally generated report of a crime.<sup>33</sup>

For each traffic stop, officers recorded the "Reason for Stop" by choosing one of five available options: Dispatched, Driving Violation, Equipment Violation, Registration Violation, and Other. On any form on which the officer checked "Other" as the reason for the stop, the officer was directed to record the specific reason for that stop. For each jurisdiction we compared the racial demographics of the stopped population to the racial demographics of those stopped for a particular reason to determine if there were differences among the recorded reasons for members of different racial/ethnic groups.

We calculated this by comparing the rate at which each of the five reasons for stops were given for stopped drivers of each race/ethnicity. Unfortunately, the provided reasons for stop do not

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<sup>31</sup> As discussed above, limitations in the Census data prevent us from calculating age and gender specific rates.

<sup>32</sup> "By far the most common complaint by members of communities of color is that they are being stopped for petty traffic violations such as underinflated tires, failure to signal properly before switching lanes, vehicle equipment failures, speeding less than 10 miles above the speed limit, or having an illegible license plate." Ramirez Report at p. 6.

<sup>33</sup> Id. at p. 9. It is important to bear in mind that officer discretion over making different types of stops will vary to some extent by the specific policies and priorities of a given jurisdiction.

neatly fall into the low and high discretion ranges. Specifically, the “driving violation” category includes both minor and major traffic violations. Nevertheless, one purpose of this calculation was to address concerns that drivers of color might be more likely than White drivers to be stopped for equipment violations, which are typically high discretion stops. Another purpose was to address concerns that drivers of color might be more likely than White drivers to be stopped for subjective reasons that would be categorized as “Other.”<sup>34</sup> If drivers of a particular race/ethnicity are subject to stops for subjective and/or minor reasons at a higher than average rate, it suggests that drivers of that race/ethnicity are more likely to be subject to pretextual stops.

	Total Stops	Dispatched	Driving Violation	Equipment Violation	Registration Violation	Other
American Indian	816	1.2%	* 51.5%	* 28.6%	6.0%	* 12.7%
Asian	1,808	0.6%	58.9%	25.1%	7.2%	* 8.2%
Black	21,250	* 1.1%	* 52.6%	* 27.4%	* 7.5%	* 11.4%
Latino	5,740	* 0.5%	* 52.1%	* 35.4%	* 4.5%	* 7.6%
White	23,941	* 0.5%	* 62.3%	* 22.0%	6.8%	* 8.3%
Total People of Color	29,614	* 1.0%	* 52.8%	* 28.9%	6.9%	* 10.5%
Total	53,555	0.8%	57.1%	25.8%	6.9%	9.5%

\* significantly different from the total rate for the column (p < .05)

For all racial/ethnic groups, in over half the cases the reported reason for stopping drivers was a driving violation. Stopped American Indians, Blacks, and Latinos were all less likely to be stopped for driving violations than drivers in general by statistically significant margins. Stopped Whites were more likely to be stopped for driving violations than drivers in general, also by a statistically significant margin. Conversely, American Indians, Blacks, and Latinos were all more likely to be stopped for equipment violations than drivers in general to be stopped for this reason while Whites were less likely to be stopped for this reason. The reason for stop was recorded as “Other” American Indian and Black drivers at rates that were higher than average by statistically significant margins.

#### *Analysis of the Disposition of Stops*

For each stop, officers were given four options for recording the disposition of the stop: Arrest, Citation, Warning, and No Action. For each jurisdiction, we broke down the stops by race/ethnicity and by the disposition of the stop to determine whether the rates of various dispositions of stops varied by the race/ethnicity of the driver.

<sup>34</sup> The “other” category also includes low discretion reasons for stopping a driver. In particular, this category would include stops where the driver or owner of the vehicle has an arrest warrant. For those jurisdictions that submitted data electronically, we were able to analyze the percentage of stops that were recorded as other and in which the officer entered “warrant” or an approximation of warrant as the specific reason for stop. These warrant stops constituted less than one percent of all stops in each of these jurisdictions.

Without additional information, we are limited in our ability to determine whether bias may have played a role in generating disparities in the disposition of stops. For example, lower citation/arrest rates for people of color could suggest that they are more likely to be subject to pretextual stops that do not warrant such action or it could mean that they are treated less harshly when stopped. On the other hand, higher citation/arrest rates could suggest that people of color are more often stopped for serious violations or they are treated more harshly when they are stopped.<sup>35</sup> The information provided is useful in ascertaining whether there are differences in how people are treated once they are stopped but is inconclusive on its own.

	Total Stops	Arrest	Citation	No Action	Warning
American Indian	816	* 19.4%	* 36.3%	2.8%	* 41.5%
Asian	1,808	* 5.1%	* 39.7%	3.0%	* 52.2%
Black	21,250	* 12.7%	* 41.2%	* 3.1%	* 43.0%
Latino	5,740	* 15.8%	43.7%	* 1.9%	* 38.5%
White	23,941	* 5.4%	* 44.6%	* 2.3%	* 47.8%
Total People of Color	29,614	* 13.0%	* 41.5%	* 2.9%	* 42.7%
Total	53,555	9.6%	42.9%	2.6%	45.0%

\* significantly different from the total rate for the column (p < .05)

Stopped American Indians, Blacks and Latinos were all arrested at higher rates than stopped drivers in general in Minneapolis while Asians and Whites were arrested at lower than average rates. These differences are all statistically significant. American Indians were arrested at over three times the rate of Whites, Latinos were arrested at nearly three times the rate of Whites, and Blacks were arrested at over twice the rate of Whites. American Indians, Asians, and Blacks were given citations at lower than average rates, while Whites were given citations at above average rates. American Indians, Blacks, and Latinos were all given warnings at below average rates, while Asians and Whites were given warnings at above average rates.

*Analysis of Data on Whether the Officer Knew the Race/Ethnicity of the Driver Prior to Making the Stop*

Law enforcement officers have expressed frustration over being accused of biased policing in situations where they make a traffic stop with no prior knowledge of the race/ethnicity of the driver stopped. For example, the Police Executive Research Forum (PERF) reported, "In our focus groups, many officers expressed great frustration at accusations of racial bias, and lamented that they were so accused even when it was clearly impossible for them to discern driver characteristics before a stop."<sup>36</sup> Indeed, where an officer has no direct or indirect information about the race/ethnicity of a driver prior to deciding to stop that driver, it is difficult to argue that the stop was affected by the racial biases of that officer. To address that concern,

<sup>35</sup> Where there is an arrest warrant for the driver the disposition of the stop will almost always be an arrest. As noted earlier, an existing warrant appears to be the reason for stops in less than one percent of all stops, however. There may also be stops where the warrant is discovered after the stop has already been made.

<sup>36</sup> PERF Report at p. 133.

the Minnesota legislature required that the forms filled out by officers in this study include the question, "Officer knew race/ethnicity prior to stop?" and officers checked a box for either "Yes" or "No" in response to this question. We analyzed whether the racial demographics of stopped drivers varied by whether the officer reported knowing the race/ethnicity of a driver prior to making a stop.

The results of this analysis must be interpreted with caution for a number of reasons, however. First, they may suggest to some that the influence of racial bias is not present where an officer does not know the race/ethnicity of the driver prior to making a stop. This inference ignores the role that other factors related to race/ethnicity can play in an officer's decision-making process. Factors such as the location of the stop and the age or type of vehicle being driven enable officers to draw inferences about a driver's race/ethnicity where the officer does not have direct knowledge of the driver's identity. Also, racial profiling may result from institutional bias reflected in policies or practices that are not dependent upon an individual officer's knowledge of a particular driver's identity. Biases and stereotypes that may shape the decision-making process of individual officers may also shape the decisions made by higher officials regarding the policies and practices of a department.

A second set of issues that arises in interpreting responses to this question goes to the phrasing of the question. It is not clear from the question what level of certainty should exist for an officer to answer that they "knew" the race/ethnicity of the driver. Because of this ambiguity, an officer could truthfully assert that he or she did not "know" the race/ethnicity of a driver even where the officer was able to directly observe the driver and to draw preliminary conclusions about the driver's identity. Similarly, observation may allow an officer to conclude that a driver is non-White prior to making a stop without allowing the officer to identify the specific racial group to which the driver belongs.<sup>37</sup>

A third set of issues in interpreting responses to this question arises from the fact that this is the only data category that is entirely subjective. Because it is an assertion of the officer's state of mind prior to making a traffic stop it is extremely difficult to evaluate the accuracy of responses to this question. If an officer does not know the race/ethnicity of a driver that he or she decides to stop, it can be argued that the stop was not motivated by racial bias on the part of the officer. Thus, there is a strong incentive for officers engaged in racially biased policing to absolve themselves of responsibility by asserting that they do not know the race/ethnicity of drivers they decide to stop, and there is limited ability to evaluate whether these assertions are truthful.

Although we are not able to definitively assess whether this question was consistently answered truthfully, we performed several calculations that are relevant to making such a determination. First, we evaluated whether responses to this question varied by jurisdiction. If officers accurately recorded whether they observed the race/ethnicity of drivers prior to stopping them,

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<sup>37</sup> In such a case, the officer would know that they were pulling over a person of color without knowing the race/ethnicity of the driver and racial profiling would be possible. PERF has recommended a less ambiguous phrasing of this question: "Were citizen's characteristics observable before stop? Yes/No." PERF Report at p.127. A further ambiguity identified by law enforcement officers participating in the study concerns the phrase "prior to stop." In some circumstances an officer may not know the race/ethnicity of a driver prior to making the decision to stop the driver but will gain knowledge of the driver's race/ethnicity prior to actually executing the stop.

one would expect the reported success rates in identifying the race/ethnicity of drivers to be similar for similarly situated agencies.

Through this comparison we found wide variation in the rates at which officers of the various agencies reported knowing the drivers' race/ethnicity. The average rate at which officers responded, "yes" to this question was 11.9%, and the median was 10.6%. The "yes" rates varied from 0.6% for the Henning Police Department to 30.4% for the Sherburne County Sheriff's Office. We did not find a pattern in "yes" rates among law enforcement agencies that would suggest an enforcement-related reason for this variation. For example, the distinction between city police departments (where a high proportion of stops occur on streets) and county sheriff's offices (where a high proportion of stops occur on highways) appears to have no correlation with the "yes" rates.<sup>38</sup>

We also evaluated whether answers to this question varied by whether the stops occurred during the day or at night, when visibility is diminished. Specifically, we evaluated whether responses varied between 10am and 4 pm (daylight hours year-round) and 10pm and 4am (night year-round). If officers accurately recorded whether they had observed the driver before the stop, one would expect the "yes" rates to be higher during hours of daylight than during hours of darkness. On average, the "yes" rates were higher (19.4% on average) during the daylight period than during the darkness period (9.7% on average). Nine of the sixty-five agencies recorded higher yes rates during the nighttime period than during the daylight period, however. Moreover, there is considerable variation between agencies in these rates.<sup>39</sup>

Finally, we evaluated whether the rate at which officers responded to this question varied by the race/ethnicity of the driver. If officers intended to conceal racial profiling, one approach might be to record lower rates of observing the race/ethnicity of the driver for drivers of color than for White drivers. There is no indication that this approach was used here. The average yes rates were 11.9% for White drivers, 11.9% for Black drivers, 10.2% for Latino drivers, 7.6% for American Indian drivers, and 7.2% for Asian drivers.<sup>40</sup>

Accepting the concerns just discussed, we evaluated whether the race/ethnicity of the drivers stopped varied with officer responses to this question by comparing the racial demographics of the stopped population where officers checked yes to the racial demographics of the stopped population where officers checked no.

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<sup>38</sup> The "yes" rates for city police departments ranged from 0.6% for Henning to 29.6% for Springfield, while the rates for county sheriff's offices ranged from 2.2% for Dodge and Grant Counties, to 30.4% for Sherburne County. Ideally, one would evaluate response rates against a baseline generated through independent research that replicated the conditions of law enforcement. The degree of variation across jurisdictions raises questions about the accuracy of responses but does not indicate what an accurate response rate would be because it is quite possible that some level of underreporting is present in all jurisdictions. A review of surveys of the racial demographics of the driving population done pursuant to racial profiling studies found that the success with which researchers were able to identify the race of drivers ranged from the high-80 to high-90 percentiles. Comparing these rates to reported "yes" rates by participating jurisdictions is problematic, however, given that these surveys were designed to allow researchers to successfully identify the race of drivers and were not designed to replicate the conditions of law enforcement.

<sup>39</sup> The daylight yes rates varied from 0% to 55.1%, while the nighttime yes rates varied from 0.7% to 28.5%. For a complete breakdown of rates for each jurisdiction, see Appendix 3.

<sup>40</sup> For a complete breakdown of rates for each jurisdiction, see Appendix 3.

<b>Minneapolis, Distribution of Race by Whether Officer Knew Race</b>					
	Total Searches	Knew Race	Did Not Know Race	% of Race Known Pop.	% of Race Not Known Pop.
American Indian	816	55	761	* 0.8%	1.6%
Asian	1808	193	1,615	* 2.8%	3.5%
Black	21250	3,418	17,832	* 49.1%	38.3%
Latino	5740	357	5,383	* 5.1%	11.6%
White	23941	2,943	20,998	* 42.2%	45.1%
Total People of Color	29614	4,023	25,591	* 57.8%	54.9%
Total	53555	6,966	46,589	100.0%	100.0%

\*% of race known pop. differs from % of race not known pop. in statistically significant manner (p<.05).

This table shows the race/ethnicity of drivers stopped when officers reported prior knowledge of the drivers' race/ethnicity and when officers reported no prior knowledge. According to this table, officers were significantly more likely to stop Black drivers when they reported knowing the drivers' race/ethnicity than when they did not (49.1% of all drivers were Black when race/ethnicity was reported known, 38.3% when it was reported unknown). All other racial/ethnic groups were significantly less likely to be stopped when officers reported prior knowledge of the driver's race/ethnicity than when officers reported no prior knowledge.

#### **B. Analysis of Search Data**

Data was recorded regarding three types of searches conducted during traffic stops: driver searches, passenger searches, and vehicle searches. Our analysis focuses on driver and vehicle searches. We did not include passenger searches in our analysis because the traffic stop forms did not require officers to provide information about the race/ethnicity or other characteristics of passengers subjected to searches. Without such information, it is very difficult to evaluate whether racial bias plays a role in the decision to search a passenger.<sup>41</sup>

As research into racial profiling has advanced, there has been an increased focus on search data. One reason for this is that a number of studies have revealed more substantial racial disparities in searches following traffic stops than in the stops themselves. Another reason is that research on search data is not subject to some of the same methodological challenges associated with research on traffic stops. The issue of officer knowledge of the race/ethnicity of the driver is not applicable when a stop has already been made and thus there is no concern that officers are being scrutinized for bias in a situation where they are unaware of the race/ethnicity of the person being searched. In addition, the stopped population provides a clear comparison, or baseline, population for the searched population. Assuming that enforcement activity is accurately

<sup>41</sup> We did not include passenger searches when calculating search rates. As is discussed below, however, we did consider passenger searches when interpreting data on the authority for searches conducted.

reported, the stopped population can be measured directly and there is no need to make estimates or further assumptions, as is the case with the driving population.

It is important to consider the driving population as an additional baseline for comparison to the searched population, however. Although resources have not allowed us to calculate comparisons to both the driving and stopped populations in our jurisdictional reports, the driving population is a useful baseline because it reveals the accumulation of disparities across stops and searches. When members of a particular racial/ethnic group are disproportionately stopped, they are disproportionately represented among the population of people eligible to be searched. If drivers of one group are disproportionately stopped, drivers of that group will also be disproportionately searched, even when search rates are equivalent across racial/ethnic groups. Where disparities exist in both stop and search rates for a particular racial/ethnic group, these disparities are compounded.<sup>42</sup>

To understand the role that racial bias might play in the decision to search drivers, it is important to distinguish between searches that are discretionary and searches that are non-discretionary. Non-discretionary searches are those searches that an officer is required to conduct given the circumstances of the traffic stop. Discretionary searches are those searches that an officer decides to conduct, based on his or her own assessment of circumstances. When an officer is required to conduct a search, he or she is not making the decision to conduct a search and thus the potential for bias is limited.<sup>43</sup> Note that an officer's exercise of discretion may also be influenced by departmental policies and protocol related to searches and thus where questions of bias arise individual officer decision-making and departmental factors that influence it should be examined.

#### *Categorizing Searches as Discretionary and Non-discretionary*

On the traffic stop forms, officers were given five options for the authority to search: the driver gave verbal permission; the driver signed a consent to search form; the search was conducted to ensure the officer's safety; the search was conducted because the officer observed contraband; and the search was conducted incident to arrest. Each form allowed the officer to check one authority for search even though up to three searches could be reported (driver, passenger, and vehicle).

Searches conducted pursuant to the verbal permission of the driver and searches conducted pursuant to the driver signing a consent to search form are known collectively as "consent searches." Consent searches are considered discretionary and some studies have shown that

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<sup>42</sup> The Minnesota Supreme Court Racial Bias Task Force described the effect of racial bias at multiple stages of the criminal justice system as a "funnel effect" through which disparities in specific areas of the system compound one another. Minnesota Supreme Court Task Force on Racial Bias in the Judicial System, "Final Report" (May, 1993) at p.9.

<sup>43</sup> Note that it is possible for racial bias to affect the circumstances leading up to a non-discretionary search. For example, driver searches are required when a driver is arrested and vehicle searches are required when a vehicle is impounded. The decision to arrest and/or impound will be based to some extent on an officers assessment of a situation and it is possible for this assessment to be influenced by racial bias.

people of color are more likely to be subjected to consent searches than Whites.<sup>44</sup> The concern that officers may target drivers of color in initiating consent searches has led to restrictions on consent searches in several jurisdictions.<sup>45</sup>

The decision to search on the basis of "officer safety" is also considered discretionary. Such searches occur whenever officers tell drivers and/or passengers to exit their vehicle and/or to sit in the squad car. Officers exercise discretion when they tell drivers and passengers to exit their cars and doing so can serve as a pretext for searching the driver. The potential for such searches to be pretextual is illustrated in two Minnesota court cases. In one case, the court reversed a conviction for possession of a controlled substance discovered during a pat-down search of a driver stopped for a cracked windshield. The court found no reasonable basis for placing the driver in the back of the squad car (and the search that occurred incident to that) given the circumstances for which the driver was stopped.<sup>46</sup> In another case where an officer safety search was found to be pretextual, the court stated: "We are not to be understood as holding that the police have no right, for their own protection, to search a person before placing him in a squad car if there is a valid reason for requiring him to enter the vehicle and it is not merely an excuse for an otherwise improper search."<sup>47</sup>

Searches prompted by the observation of contraband, which provides probable cause for a search, are considered non-discretionary. Searches incident to arrest are also generally considered non-discretionary as they are searches that an officer is required to conduct once the decision had been made to make an arrest. Under Minnesota law, a search "incident to arrest" is valid without an arrest as long as the officer had probable cause to arrest the driver for a custodial offense prior to conducting the search.<sup>48</sup>

All searches incident to arrest that resulted in arrest are considered non-discretionary for our analysis. We discovered, however, that in a number of instances officers reported "incident to arrest" in the authority to search section of the form, but did not report "arrest" as the disposition of the stop. Because it is the arrest that necessitates the search incident to arrest, where no arrest occurs one cannot simply assume that the search is non-discretionary. In order to better understand why a search would be reported as incident to arrest but arrest would not be reported

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<sup>44</sup> Ramirez Report at p.8. See also McMahon Report at p. 92. The law on consent searches following traffic stops in Minnesota has changed since the conclusion of the data collection period. On May 20, 2003, the Minnesota Court of Appeals restricted the exercise of officers' discretion in requesting consent to search. The court ruled that an officer conducting a traffic stop may not expand the scope of the traffic stop by questioning the driver about possible contraband or requesting the driver's consent to a search, unless the officer has a reasonable, articulable suspicion that the driver is engaged in criminal activity. *State v. Syhavong*, 661 N.W.2d 278 (Minn. App. 2003).

<sup>45</sup> Both the Saint Paul Police and the New Jersey State Police are prohibited from conducting consent searches during traffic stops unless they obtain written consent after providing the driver with a form advising the driver of his or her right to refuse consent. Curt Brown, *St. Paul City Council Adopts Anti-Racial-Profilng Accord*, Minneapolis Star Tribune, July 12, 2001; Joint Application for Entry of Consent Decree, *United States v. State of New Jersey*, December 30, 1999. The California Highway Patrol, pursuant to a consent decree arising from a racial profiling lawsuit, is banned for the next three years from conducting any consent searches during traffic stops. CNN, *Highway Patrol to Ban Some Searches in Racial-Profilng Settlement* (Feb. 28, 2003), <http://www.cnn.com/2003/LAW/02/27/profilng.settlement.ap>.

<sup>46</sup> *State v. Varnado*, 582 N.W.2d 886, 890-91 (Minn. 1998)

<sup>47</sup> *State v. Curtis*, 190 N.W.2d 631, 636 (Minn. 1971) (emphasis added).

<sup>48</sup> *State v. Bauman*, 586 N.W.2d 416 (Minn. App. 1998), *review denied* (Minn. Jan. 27, 1999).

as the disposition of the stop, we spoke with officials from two of the jurisdictions in which there were high percentages of searches incident to arrest with no arrest. From these conversations, we learned of several potential explanations for this pattern and were able to develop a methodology for categorizing searches incident to arrest with no arrest as discretionary and non-discretionary.<sup>49</sup>

#### *Analysis of Search Rates*

In the tables below, we have calculated total search rates for each racial/ethnic group and discretionary search rates for each racial/ethnic group.<sup>50</sup> In subsequent tables our analysis focuses on discretionary searches. As is discussed below, in order to evaluate whether bias plays a role in discretionary searches we compare the rates at which contraband is discovered in discretionary searches of members of different race/ethnicity, age, and gender groups.

	Total Stops	Total Searches	Total Search Rate	Discretionary Searches	Discretionary Search Rate
American Indian	816	234	* 28.7%	103	* 12.6%
Asian	1,808	224	* 12.4%	144	* 8.0%
Black	21,250	5,666	* 26.7%	3,094	* 14.6%
Latino	5,740	1,634	* 28.5%	633	* 11.0%
White	23,941	2,253	* 9.4%	1,169	* 4.9%
Total People of Color	29,614	7,758	* 26.2%	3,974	* 13.4%
Total	53,555	10,011	18.7%	5,143	9.6%

\* differs from total search rate in a statistically significant manner (p < .05)  
 A search is each case where a driver search, vehicle search, or both searches were conducted.

Officers in Minneapolis subjected drivers of color of every race/ethnicity to searches in general, and to discretionary searches at higher rates than White drivers. Search rates and discretionary search rates were more than twice as high for American Indian, Black and Latino drivers as they were for White drivers.

#### *Analysis of the Searched Population by Race/Ethnicity, Gender, and Age*

As discussed earlier, past research on racial profiling has found that gender and age, operating in conjunction with race/ethnicity, can be sources of bias for law enforcement. To evaluate whether this is the case in participating jurisdictions, we have also broken out the population of people subjected to discretionary searches by gender and by age. Specifically, for each racial/ethnic group in each jurisdiction we have calculated search rates for males and females born before 1972 and born in or after 1972.

<sup>49</sup> For a full discussion of this methodology, see Appendix 4.

<sup>50</sup> For our analysis, we counted each stop in which there was a driver and/or a vehicle search as a search. As mentioned earlier, we did not include passenger searches because no racial/ethnic data was collected for passengers.

**Minneapolis, Discretionary Search Rates by Race, Gender and Age**

	Total Stops				Discretionary Search Rate			
	Female Stops		Male Stops		Female		Male	
	Born Before 1972	Born in 1972 or After	Born Before 1972	Born in 1972 or After	Born Before 1972	Born in 1972 or After	Born Before 1972	Born in 1972 or After
American Indian	170	223	186	237	* 7.1%	* 16.1%	7.5%	* 17.3%
Asian	167	289	414	938	1.8%	* 2.4%	* 4.1%	12.5%
Black	2,017	2,322	7,747	9,155	* 6.8%	* 9.3%	* 12.9%	* 19.0%
Latino	202	331	1,657	3,550	4.0%	7.6%	9.2%	12.6%
White	3,724	4,023	8,378	7,802	* 2.3%	* 3.8%	* 4.7%	* 6.8%
Total People of Color	2,556	3,165	10,004	13,880	* 6.3%	* 9.0%	* 11.8%	* 16.9%
Total	6,280	7,188	18,382	21,682	3.9%	6.1%	8.6%	13.3%

\*differs from total rate for column in statistically significant manner ( $p < .05$ ).

A search is each case where a driver search, vehicle search, or both searches were conducted.

Discretionary search rates in Minneapolis were more than twice as high for Black drivers as they were for White drivers in every age/gender category. American Indian drivers in every age/gender category were also more likely to be searched than White drivers, with a more than two-to-one disparity in every category but males born before 1972. Latinos of every age/gender category were searched at almost twice the rate of their White counterparts.

#### *Analysis of Hit Rates*

When considering whether the decision to conduct discretionary searches is being influenced by racial bias, it is important to look at the rate at which contraband is discovered in these searches. This is known as the "hit rate." When the hit rate in discretionary searches is lower for one racial/ethnic group than another in a jurisdiction, it suggests that officers are subjecting members of that group to searches more often than is warranted by the likelihood that they are in possession of contraband.

Interpreting a situation where one group is searched more often than another and the hit rates in these searches are equivalent is less clear-cut. When hit rates in discretionary searches are equivalent across different groups, it can be argued that officers are assessing situations and exercising their predictive capabilities with equal effectiveness and fairness across these groups. When hit rates are high, officers are exercising their discretion effectively and the decision to conduct these searches is justified. When hit rates are low, however, hit rates may be less a reflection of an officer's properly exercised discretion and more a reflection of the fact that there is some likelihood that any search will produce contraband, even if the officer has no legitimate reason to believe that contraband may be present.<sup>51</sup> When there are racial/ethnic disparities in

<sup>51</sup> Put another way, if people were randomly selected to be searched without any evaluation of the likelihood that they are carrying contraband, we would still expect some of those searches to produce contraband.

search rates and hit rates are similarly low for these racial/ethnic groups, one could argue that bias plays a role in the search rate disparities.

When members of certain racial/ethnic groups are disproportionately subjected to discretionary searches that do not produce contraband, questions are also raised about whether members of these groups are being subjected to pretextual stops. Concerns about racial profiling in traffic stops arose from evidence that in some cases officers were disproportionately stopping drivers of color for minor traffic violations so that they could investigate whether more serious illegal activity was taking place. Because of the investigative nature of these pretextual stops, they often led to drivers, passengers, and vehicles being searched improperly.<sup>52</sup> Where members of a particular group are stopped in disproportionately high numbers and subjected to a disproportionately high number of discretionary searches that do not produce contraband, concerns are raised, not only about the legitimacy of the officers' search decisions and the departmental policies and practices that might affect the search decision, but also about the legitimacy of the officers' stop decisions and the policies and practices that might affect that.

*Hit Rates for Discretionary Searches by Race/Ethnicity*

For each jurisdiction, we have broken down discretionary searches by race/ethnicity and by whether contraband was discovered to determine whether "hit rates" varied by race/ethnicity.<sup>53</sup>

<b>Minneapolis, Discretionary Search Hit Rates</b>			
	Total Searches	Contraband Found	Contraband Found Rate
American Indian	103	13	12.6%
Asian	144	15	10.4%
Black	3,094	340	11.0%
Latino	633	30	* 4.7%
White	1,169	156	* 13.3%
Total People of Color	3,974	398	10.0%
Total	5,143	554	10.8%

\* differs from total hit rate in a statistically significant manner (p < .05)  
 A search is each case where a driver search, vehicle search, or both searches were conducted.

<sup>52</sup> See, e.g. David A. Harris, *Driving While Black: Racial Profiling on Our Nation's Highways*, p. 7 (1999) ("The constitutionality of pretextual traffic stops – using a minor traffic infraction, real or alleged, as excuse to stop and search a vehicle and its passengers – reached the U.S. Supreme Court in 1996 in a case called *Whren v. U.S.*"); The Sentencing Project, *Reducing Racial Disparity in the Criminal Justice System: A Manual for Practitioners and Policymakers*, p. 12 (2000) ("On the highways, road patrol officers often stop people for apparent traffic violations, and use the occasion to search the vehicle for drugs. These "pretext" stops have become a matter of considerable concern in several states based on the belief that people of color are grossly over-represented among those stopped.)"

<sup>53</sup> In some cases, officers did not indicate whether contraband was discovered on the traffic stop form. Because there is no way to interpret such omissions, these cases have been excluded from hit rate calculations. As a result, the number of searches used to calculate hit rates may vary from the number of searches represented in earlier tables.

Minneapolis police were more likely to find contraband in discretionary searches of White drivers than in discretionary searches of drivers of any other race/ethnicity. Hit rates for Latinos were less than half the average hit rate and hit rates for American Indians, Asians, and Blacks did not vary from the jurisdictional rate in statistically significant ways. Hit rates for Whites, however, were higher than the jurisdictional average by a statistically significant margin. These findings indicate that the decision of Minneapolis officers to search drivers of color at much higher rates than Whites is not justified by a greater likelihood that such drivers are in possession of contraband.

*Analysis of Hit Rates by Race/Ethnicity, Gender, and Age*

Just as we have done with search and stop rates, we have also broken out discretionary search hit rates by the race/ethnicity, gender, and age of drivers.

	Total Discretionary Searches				Contraband Found Rate			
	Female Searches		Male Searches		Female		Male	
	Born Before 1972	Born in 1972 or After	Born Before 1972	Born in 1972 or After	Born Before 1972	Born in 1972 or After	Born Before 1972	Born in 1972 or After
American Indian	12	36	14	41	8.3%	11.1%	14.3%	14.6%
Asian	3	7	17	117	0.0%	0.0%	29.4%	8.5%
Black	137	217	999	1,740	4.4%	8.3%	10.9%	11.9%
Latino	8	25	152	448	0.0%	0.0%	* 4.6%	* 5.1%
White	87	151	397	533	* 17.2%	13.9%	13.1%	12.8%
Total People of Color	160	285	1,182	2,346	* 4.4%	7.7%	10.4%	10.5%
Total	247	436	1,579	2,879	8.9%	9.9%	11.1%	10.9%

\*difference from total rate for the column is statistically significant (p<.05).  
 A search is each case where a driver search, vehicle search, or both searches were conducted.

Because of the small numbers involved when discretionary searches are separated by race, age and gender, we were unable to calculate statistical significance for many of these variations. Note that hit rates were higher for White drivers than for drivers of color as a group in every age/gender category. Hit rates were very low for Latinos of every age/gender category.

*Analysis of Authority for Searches*

As discussed earlier, when officers conducted searches they were to report the authority for the search(es). Officers were given five options from which to choose: Officer safety; Driver gave verbal permission; Consent to search form; Contraband observed; and Incident to arrest. For each jurisdiction, we broke down searches by race/ethnicity and by the authority for the search to determine whether the authority for the searches varies by race/ethnicity.

**Minneapolis, Authority for Search**

	Total Searches	Consent to Search	Contraband Observed	Incident to Arrest - Discretionary	Incident to Arrest -Non Discretionary	Officer Safety
American Indian	234	4.3%	0.4%	33.3%	* 55.6%	* 6.4%
Asian	224	* 9.4%	0.9%	31.7%	* 34.8%	* 23.2%
Black	5,666	6.0%	0.3%	* 36.1%	* 45.1%	* 12.6%
Latino	1,634	* 2.7%	0.1%	* 31.6%	* 61.2%	* 4.5%
White	2,253	* 7.2%	0.2%	* 30.2%	47.9%	* 14.4%
Total People of Color	7,758	* 5.3%	0.2%	* 34.9%	48.5%	* 11.0%
Total	10,011	5.8%	0.2%	33.9%	48.4%	11.8%

\* differs from total rate for column in a statistically significant manner (p < .05)

A search is each case where a driver search, vehicle search, or both searches were conducted.

A higher percentage of searches of drivers of color were discretionary incident to arrest searches than searches of Whites. A greater percentage of searches involving White drivers were consent and officer safety searches, both of which are also discretionary.

#### **IV. Recommendations**

Note to individual jurisdictions:

The recommendations that appear below were designed with the statewide findings of the study in mind. Local officials will want to tailor these recommended actions to the specific findings and unique circumstances of their jurisdiction.

The following Recommendations flow from the basic finding of the study, which is: drivers of color are over-represented among those stopped; over-represented among those searched; and under-represented among those found to have contraband on their person or in their vehicle as a result of being searched. The finding applies to all regions of the state. While many factors may have contributed to this finding, the finding is indisputable. It is a situation that should command continued attention and action.

To better understand the issues raised in our report it is critical that public officials engage the community, particularly the communities of color, in constructive conversation so that the information presented in this report can be better understood and so that it can be augmented. This will lead to a fuller understanding of the extent to which racial profiling/bias is a factor in traffic stops made by law enforcement officers and in the searches that ensue from them. The Recommendations identify some important ways through which this can occur.

While the Recommendations focus on the jurisdictions that participated in the study, it should be acknowledged that there would have been no study without their participation. Their leadership, and honesty in reporting their data, is greatly appreciated. Finally, while we cannot conclude that the findings of this study are representative of those jurisdictions that did not participate, the consistency of the observed disparities across participating jurisdictions creates a strong likelihood that similar issues are also present in some, if not all, of the jurisdictions that did not participate. Thus, the non-participating departments and agencies should also review these Recommendations and respond accordingly.

##### **1. Involve the community.**

The data collected by law enforcement officers reveals a number of trends that warrant further investigation. In order to ensure that this investigation is effective, the general public needs to have sustained participation in the review of this study, in the fair and effective identification of problem areas, and in assuring that the appropriate public officials act in an expeditious manner consistent with the seriousness of the issues raised. This participation should occur at each level of government and involve the communities of color in particular.<sup>1</sup>

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<sup>1</sup> The importance of community involvement in addressing the possibility of biased law enforcement is stressed by a number of people and organizations experienced in this areas. See, e.g., McMahon Report, pp. 2, 46, 65; National Organization of Black Law Enforcement (NOBLE), *Racial Profiling: "What Does the Data Mean?"*; Ramirez Report, p. 43.

## **2. Involve local elected officials.**

The local elected officials for each of the participating jurisdictions need to become knowledgeable about the study and its findings, engage the community and the chief law enforcement officer in assessing its relevance to departmental policy and practices, and assure that the appropriate action is taken to ensure fair treatment of motorists and to mitigate any unnecessary or inappropriate racial/ethnic disparity in traffic stops and searches.

## **3. Hold community forums.**

Each of the participating jurisdictions should hold at least one community forum at which the data and findings from the study are presented and discussed. Feedback should be sought in particular from the populations of color as to the significance of the findings relative to departmental policy and practice.

Other governmental bodies, educational institutions and community-based organizations should also sponsor community forums to increase public understanding of the issues surrounding traffic stops and searches. The Council on Crime and Justice and the Institute on Race and Poverty will jointly sponsor a public forum to present the study findings on Friday, September 26, 2003 from 4:00 – 6:00 p.m. at the University of Minnesota Law School.

## **4. Examine departmental policies and practices.**

Our analysis has identified racial/ethnic disparities in stops and searches, but as discussed in the main body of the report, we are unable to determine the extent to which these disparities are caused by departmental policy and practice. In order to better achieve this understanding, the chief law enforcement officer from each of the participating departments should assure that the data and findings for their jurisdiction are examined and that any departmental policies and practices, whether formal or informal, that may have contributed to any existing disparity are identified and evaluated. This review should include an analysis of the unique jurisdictional circumstances relevant to a fair and thorough understanding of the data. Input should be sought from the officers who recorded data for the study and from the general public, particularly the communities of color, through public forum(s) and other appropriate means.

Two complementary measures would assist in developing an improved and continued understanding of traffic stop policies and practices. These are:

- *The continued collection and analysis of data regarding traffic stops and searches, including comparison of such data against the baseline established by this study; and*
- *The use of video camera equipment (obtained through participation in the study or otherwise) to record the behavior of the driver and officer in connection with each traffic stop and search. The use of video recording is not a substitute for data collection. If systematically used in conjunction with data, however, it is useful in verifying the accuracy of the data and in observing the roles that officer and driver conduct may play in generating outcomes.*

## **5. Examine the wide variances in practices relating to stops and searches.**

The sixty-five participating departments should collectively examine the appropriateness of the wide variances among the jurisdictions with respect to the reasons recorded (i) for stopping motorists, (ii) for searching drivers once stopped and (iii) for disposing of the stops. In doing so, the departments should determine whether there is a need for more consistency among departmental policies and/or more consistent implementation of existing policies. The departments should also identify any improvements that should be made in data collection, including the consistency with which data is recorded, for purposes of on-going data collection by the departments.

## **6. Provide state-level leadership and assistance.**

Given that racial/ethnic disparities in traffic stops and searches occur in all geographic regions, state government should remain actively involved in seeking to identify and assess the factors that generate the disparities and to develop a richer understanding of issues of racial profiling in law enforcement jurisdictions. To be effective, such involvement could include:

- *Clarifying the law pertaining to stops and searches;*
- *Providing continuing incentives for law enforcement jurisdictions to video record all traffic stops and searches and to use them as a tool for understanding traffic stop and search dynamics;*
- *Assuring that the public has available, both at the state and local level, an adequate opportunity to raise concerns about law enforcement policy and practices relating to traffic stops and searches.*

## **7. Provide ongoing and improved statewide data collection.**

In order to make a more definitive and nuanced assessment of the extent to which racial profiling/bias is present in traffic stops and searches in Minnesota, ongoing data collection is necessary. An improved and ongoing data collection system will address some of the limitations of our current analysis and will make it possible to evaluate the effectiveness of current and future efforts to address issues of profiling. To be effective, periodic individual reports will need to be generated for each law enforcement jurisdiction.

In designing on-going data collection, ample time should be allowed to incorporate the expertise of the participants in this study as well as input from a broad range of community members, advocates and elected officials. Additionally, the following improvements would create a data collection system that effectively analyzes issues of bias in stops and searches:

- *Make the data collection forms scannable in order to eliminate the potential for data entry error and save resources spent on data entry and on auditing of the data;*

- *Include residence of the stopped driver so that the data collected and the driving population baseline are more compatible;*
- *Create categories for "reason for stop" and "authority for search" that more clearly delineate high and low discretion decisions;*
- *Include information on whether an arrest warrant was involved;*
- *With respect to passengers, the data entry form should separately list the race/ethnicity of passenger(s) searched, the legal authority for searching a passenger and the disposition of the stop and search relative to passengers;*
- *Allow the data entered for each stop to be correlated with the particular officer making the stop. The resulting analysis with this additional data will shed much greater light on the extent to which the conduct of individual officers, as contrasted with departmental policy or practice, may have contributed to any observed disparity;<sup>2</sup>*
- *Include an effective, independent auditing mechanism to insure the accuracy of data collected. Such a mechanism could include providing for the numerical coordination of the data entry forms with dispatch records or providing a copy of the completed traffic stop form to all stopped drivers so that they can verify the accuracy of its contents and creating an avenue for them to report inaccuracies.*

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<sup>2</sup> The McMahon Report states the following about collecting officer identifying information:  
 [it is] a valuable tool for both early warning systems and officer management and efficiency considerations. Administrators must also ensure that the individual officer information is treated as strictly 'confidential' and to the extent possible, afford the information the same protections as personnel files. ... Identifying officer characteristics such as age, length of service, race, and gender may also provide valuable information. (McMahon p.94)

The Ramirez Report similarly state that this information:  
 [E]nables organizations to identify potential problem officers ... functions as an early warning system, alerting management to problems and allowing them to investigate possible extenuating circumstances and, if necessary, to intervene early with counseling, training, or some other intervention. ... an alternative to officer identification may be the use of unit or district information." (Ramirez p.46)

## Appendix 1: Questionnaire sent to Jurisdictions

As you know, the data collection period for the Statewide Racial Profiling Study is nearing conclusion and we will soon begin analysis of the traffic stop data that your jurisdiction has collected over the course of this year. In analyzing this data we will document patterns and variations within the data set (including variations in the number of stops over the course of the year, the location of stops, the number of searches, the reason for stops and searches, and the characteristics of those stopped and searched). We will also compare the traffic enforcement data to the driving population of your jurisdiction. To ensure that our analysis is as thorough and accurate as possible, we would appreciate it if you would take time to thoroughly answer the questions listed below. Where appropriate, you are encouraged to include any supporting documentation that will aid our analysis. If there are questions for which the answer is simply "no," please indicate this so that we know that you have considered the question.

- 1) Are there any elements of your police operations in general or traffic enforcement in particular that could lead to variations in the reported enforcement activity or to differences between the reported enforcement activity and the driving population of your jurisdiction? Specifically:
  - A) Has the method/process by which your jurisdiction has collected and processed this data changed over the course of the year?

If so, can you please describe as specifically as possible the nature of these changes, when these changes have occurred, and the effect, if any, that you believe these changes may have on the nature or amount of data collected?
  - B) Are there any enforcement policies/practices in your jurisdiction that may create variations in the reported enforcement activity (for example, policies that focus enforcement resources in specific geographic areas of your jurisdiction; policies, practices and/or events that may cause fluctuations in the number and/or nature of stops during the course of the year)?

If so, can you please provide detailed descriptions of these policies, practices, and/or events (including the period(s) during which they have been in effect), and the affect that you believe they may have on the data collected?
  - C) Are there any other enforcement policies or practices that will affect the data collected?
- 2) Are there any factors unrelated to law enforcement policies that could lead to variations in reported law enforcement activity within your jurisdiction or variations in the driving population of your jurisdiction? Specifically:
  - A) Are you aware of changes in the driving population (for example, due to tourism) over the course of the data collection period? If so, what are the nature and timing of these changes?

- B) Are there other phenomena that you are aware of that may affect the driving population and/or the population stopped/searched in your jurisdiction? If so, what are the nature and timing of these phenomena?
- 3) Has your jurisdiction already received some or all of the video cameras given as a result of your participation in this study? If so, please provide information on each time that cameras were installed and the percentage of your traffic enforcement vehicles possessing these cameras at each relevant point in time.
- 3) Please describe the method by which your jurisdiction has been collecting and submitting traffic information (for example, via paper forms, web-interface, FTP).
- A) Has your jurisdiction used this method of submission for the entire study period? If not please list each method used with dates for when that method was employed.
- B) Have there been issues related to data collection/submission that may affect the consistency and content of data that your jurisdiction has submitted? If so, please provide details.

Please submit your responses no later than **December 23rd, 2002**. Responses should be sent to:

Gavin Kearney  
Institute on Race & Poverty  
N150 Mondale Law Center  
229 19<sup>th</sup> Avenue South  
Minneapolis, MN 55455

You may also submit your answers electronically to [kearn008@umn.edu](mailto:kearn008@umn.edu). Should you have any questions please contact Mr. Kearney at (612) 625-5344.

Thank you for your attention to this.

Sincerely,

Gavin Kearney  
Institute on Race & Poverty

Laura Schauben  
Council on Crime and Justice

## Appendix 2: Methodology for Bridging Census and Traffic Stop Data

For the purpose of direct comparison, it was necessary to group the driving population and the stopped population into identical racial/ethnic categories. There are fundamental differences between how the census and the racial profiling study classify race and ethnicity. Unlike the Census data, the police stop data do not include "other" race or multiple race combination categories. In addition, the Census considers Hispanic as an ethnicity distinct from race and individuals are both racially categorized by the Census and recorded as Hispanic or non-Hispanic. The traffic stop data considers Hispanic a distinct race.

Several steps were necessary to make these two data sets compatible. We used the Census' Hispanic or Latino and Not Hispanic or Latino by race for the population age 18 and over to get detailed multiple race combinations for our baseline driving population. To "bridge" the Census data to the police stop data we allocated Hispanic Whites, Hispanic other race and Hispanic multiple race persons to the Hispanic category and Hispanics of all other races to their race (e.g. Hispanic African Americans to African American). This is similar to the method proposed by the Office of Management and Budget for working with the Census' racial categorization.<sup>56</sup> We allocated Hispanic other race persons to Hispanic because there is no "other race" comparison group in the police stop data.

The second step in bridging the data included using a fractional assignment to allocate non-Hispanic multiple race respondents. This method assigns equal fractions to each race checked by a multi-race respondent. For example, for a respondent that indicated that they were Asian and American Indian we would add 0.5 to the Asian and 0.5 to the American Indian populations. We used the fractional assignment of non-Hispanic multiple race respondents because it enables us to directly compare the two data sets and it has been found to be a statistically defensible way of bridging multiple race respondents into single race categories.<sup>57</sup>

Last we adjusted our baseline data with data for the age 16 and 17 population and the 85 and over population. The Census does not provide detailed race data by age, instead it provides age data for Hispanic/Non Hispanic respondents where only one race is identified and a two or more race category for all multiple race respondents. In order to make the age specific data consistent with the data from the adult population, we assumed that the racial proportions of multiple race respondents age 16 to 17 and ages 85 and over were identical to the racial proportions of the adult multiple race respondents.

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<sup>56</sup> This method is similar to that of the historical series approach illustrated in the Office of Management and Budget's (OMB) *Results of the 1996 Race and Ethnic Targeted Test (RETT)*, which designated Hispanic as a race. The historical series approach is a useful bridging method for agencies that use data on race and ethnicity to monitor and enforce civil rights legislation.

<sup>57</sup> See Office of Management and Budget's Provisional Guidance on the Implementation of the 1997 Standards for Federal Data on Race and Ethnicity.

**Appendix 3: Jurisdictional Breakdown of Analysis of "Officer Knew Race Prior to Stop"**

Rates at which officers answered yes to "knew race prior to stop" Daylight vs Nighttime			
	Overall race known rate	Daylight 10am to 4pm	Nighttime 10pm to 4am
Akeley	2.4%	5.4%	2.0%
Anoka County	16.3%	31.4%	12.0%
Becker County	7.4%	20.9%	4.6%
Beltrami County	5.6%	8.9%	5.2%
Bemidji	11.8%	21.4%	9.2%
Cass County	18.0%	31.5%	10.7%
Cass Lake	1.4%	5.0%	0.8%
Cloquet	5.1%	8.3%	4.2%
Cook County	8.4%	11.8%	6.2%
Crosby	4.5%	0.0%	4.9%
Dakota County	16.2%	34.1%	11.2%
Dodge County	2.4%	4.7%	2.1%
Eagle Lake	12.8%	27.3%	7.2%
Fairfax	2.5%	0.0%	2.9%
Faribault	13.9%	31.3%	9.8%
Fridley	18.1%	28.8%	13.8%
Gibbon	10.5%	16.7%	9.8%
Goodhue County	16.9%	27.5%	12.6%
Granite Falls	8.4%	8.9%	8.3%
Grant County	2.2%	4.6%	0.9%
Henning	0.6%	0.0%	0.7%
Houston County	2.4%	5.6%	2.1%
International Falls	19.9%	24.8%	18.8%
Jackson County	6.9%	9.5%	6.2%
Kandiyohi County	12.5%	24.1%	7.6%
Kittson County	7.9%	4.5%	10.5%
Lac qui Parle County	15.7%	22.6%	11.8%
Lake County	16.6%	19.0%	14.4%
Leech Lake	1.7%	1.4%	1.8%
Little Falls	7.0%	18.9%	5.4%
Mahnomen County	3.1%	5.2%	2.7%
Marshall County	10.1%	5.9%	11.1%
Minneapolis	13.0%	23.9%	11.1%
Minneota	19.5%	34.5%	16.2%
Moorhead	18.7%	24.0%	17.1%
New Hope	8.0%	13.1%	6.4%
Norman County	13.0%	17.9%	12.1%
Olmsted County	19.0%	27.8%	15.9%
Plymouth	28.4%	42.2%	23.6%
Pope County	2.3%	6.3%	1.2%
Ramsey County	20.1%	29.1%	15.6%
Red Lake County	3.4%	0.8%	3.8%
Red Wing	10.7%	24.3%	7.0%
Redwood County	19.2%	30.6%	13.2%
Rochester	6.3%	10.6%	4.9%

<b>Rates at which officers answered yes to "knew race prior to stop" Daylight vs Nighttime</b>			
Sauk Rapids	6.3%	5.5%	6.6%
Savage	22.4%	44.2%	17.3%
Scott County	11.5%	15.8%	10.6%
Sherburne County	30.4%	55.1%	19.2%
Sibley County	15.4%	51.3%	10.4%
Springfield	29.6%	37.7%	28.6%
St. Cloud	24.1%	36.1%	20.2%
Stevens County	5.6%	11.8%	3.9%
Swift County	18.7%	24.1%	16.1%
Todd County	7.4%	17.6%	5.1%
Truman County	1.8%	2.7%	1.7%
Wadena County	25.0%	20.0%	25.8%
Walker	8.7%	12.0%	7.0%
Waseca County	10.1%	27.1%	6.2%
Wilkin County	18.0%	36.6%	14.4%
Willmar	11.8%	18.8%	10.2%
Winnebago	9.1%	11.1%	8.7%
Winthrop	17.0%	24.7%	15.4%
Worthington	24.5%	43.8%	19.5%
Yellow Medicine County	4.4%	11.6%	2.8%

**Rates by Race of Driver at which officers answered yes to "knew race prior to stop"**

		Stops of American Indian Drivers	Stops of Asian Drivers	Stops of Black Drivers	Stops of Latino Drivers	Stops of White Drivers	Stops of All Drivers of color
Akeley	Number of Stops	19	2	2	4	432	27
	% Knew Race	10.5%	0.0%	0.0%	0.0%	2.1%	7.4%
Anoka County	Number of Stops	28	81	101	105	8,220	315
	% Knew Race	21.4%	3.7%	16.8%	9.5%	16.4%	11.4%
Becker County	Number of Stops	178	8	14	16	1,946	216
	% Knew Race	6.2%	0.0%	21.4%	0.0%	7.5%	6.5%
Beltrami County	Number of Stops	204	13	24	8	1,386	249
	% Knew Race	6.4%	0.0%	0.0%	0.0%	5.6%	5.2%
Bemidji	Number of Stops	310	15	31	12	2,317	368
	% Knew Race	11.9%	6.7%	12.9%	0.0%	11.9%	11.4%
Cass County	Number of Stops	99	2	1	3	557	105
	% Knew Race	17.2%	0.0%	100.0%	0.0%	18.1%	17.1%
Cass Lake	Number of Stops	74	1	0	1	69	76
	% Knew Race	0.0%	0.0%	No Stops	0.0%	2.9%	0.0%
Cloquet	Number of Stops	49	8	7	3	400	67
	% Knew Race	10.2%	0.0%	0.0%	0.0%	4.8%	7.5%
Cook County	Number of Stops	56	15	11	4	1,027	86
	% Knew Race	7.1%	0.0%	9.1%	25.0%	8.5%	7.0%
Crosby	Number of Stops	9	1	2	0	279	12
	% Knew Race	11.1%	0.0%	0.0%	No Stops	4.3%	8.3%
Dakota County	Number of Stops	56	244	268	364	9,997	932
	% Knew Race	5.4%	11.1%	17.9%	14.0%	16.5%	13.8%
Dodge County	Number of Stops	0	30	57	153	2,018	240
	% Knew Race	No Stops	3.3%	1.8%	3.9%	2.3%	3.3%
Eagle Lake	Number of Stops	0	8	10	17	588	35
	% Knew Race	No Stops	25.0%	10.0%	0.0%	13.1%	8.6%
Fairfax	Number of Stops	9	3	6	19	205	37
	% Knew Race	0.0%	0.0%	0.0%	5.3%	2.4%	2.7%
Faribault	Number of Stops	10	67	115	486	3,490	678
	% Knew Race	20.0%	14.9%	16.5%	12.8%	14.0%	13.7%
Fridley	Number of Stops	22	189	431	143	2,917	785
	% Knew Race	18.2%	11.6%	27.4%	9.1%	17.6%	20.0%
Gibbon	Number of Stops	4	4	8	28	194	44
	% Knew Race	0.0%	0.0%	37.5%	21.4%	8.2%	20.5%
Goodhue County	Number of Stops	26	80	72	113	3,206	291
	% Knew Race	7.7%	1.3%	15.3%	13.3%	17.5%	10.0%
Granite Falls	Number of Stops	18	5	6	15	386	44
	% Knew Race	33.3%	20.0%	0.0%	6.7%	7.3%	18.2%
Grant County	Number of Stops	6	6	2	8	858	22
	% Knew Race	0.0%	0.0%	0.0%	0.0%	2.2%	0.0%
Henning	Number of Stops	1	0	1	1	159	3
	% Knew Race	0.0%	No Stops	0.0%	0.0%	0.6%	0.0%
Houston County	Number of Stops	5	8	20	10	1,700	43
	% Knew Race	0.0%	0.0%	5.0%	10.0%	2.3%	4.7%

**Rates by Race of Driver at which officers answered yes to "knew race prior to stop"**

		Stops of American Indian Drivers	Stops of Asian Drivers	Stops of Black Drivers	Stops of Latino Drivers	Stops of White Drivers	Stops of All Drivers of color
	% Knew Race	7.7%	0.0%	23.5%	0.0%	20.5%	12.0%
Jackson County	Number of Stops	0	5	4	8	287	17
	% Knew Race	No Stops	0.0%	0.0%	25.0%	6.6%	11.8%
Kandiyohi County	Number of Stops	8	8	18	118	1,982	152
	% Knew Race	0.0%	0.0%	16.7%	11.9%	12.6%	11.2%
Kittson County	Number of Stops	0	2	2	2	196	6
	% Knew Race	No Stops	0.0%	0.0%	0.0%	8.2%	0.0%
Lac qui Parle County	Number of Stops	0	3	0	1	289	4
	% Knew Race	No Stops	0.0%	No Stops	0.0%	15.9%	0.0%
Lake County	Number of Stops	13	8	9	10	1,198	40
	% Knew Race	7.7%	0.0%	11.1%	10.0%	16.9%	7.5%
Leech Lake	Number of Stops	279	7	10	8	566	304
	% Knew Race	2.5%	0.0%	0.0%	0.0%	1.4%	2.3%
Little Falls	Number of Stops	10	4	9	8	693	31
	% Knew Race	0.0%	0.0%	0.0%	12.5%	7.2%	3.2%
Mahnomen County	Number of Stops	163	4	3	6	401	176
	% Knew Race	4.9%	0.0%	0.0%	16.7%	2.2%	5.1%
Marshall County	Number of Stops	3	2	0	12	238	17
	% Knew Race	0.0%	50.0%	No Stops	25.0%	8.8%	23.5%
Minneapolis	Number of Stops	816	1,808	21,250	5,740	23,941	29,614
	% Knew Race	6.7%	10.7%	16.1%	6.2%	12.3%	13.6%
Minneota	Number of Stops	2	1	1	7	136	11
	% Knew Race	0.0%	0.0%	0.0%	57.1%	19.9%	36.4%
Moorhead	Number of Stops	123	127	240	432	7,178	922
	% Knew Race	17.1%	7.9%	15.0%	23.4%	18.7%	18.2%
New Hope	Number of Stops	21	176	749	234	3,391	1,180
	% Knew Race	0.0%	1.7%	10.5%	8.5%	7.8%	8.6%
Norman County	Number of Stops	11	4	1	20	302	36
	% Knew Race	0.0%	0.0%	0.0%	30.0%	12.6%	16.7%
Olmsted County	Number of Stops	2	59	102	106	3,732	269
	% Knew Race	0.0%	10.2%	16.7%	2.8%	19.7%	9.7%
Plymouth	Number of Stops	50	437	1,106	540	10,037	2,133
	% Knew Race	32.0%	14.2%	30.7%	22.8%	29.1%	25.3%
Pope County	Number of Stops	2	4	6	11	786	23
	% Knew Race	0.0%	0.0%	0.0%	9.1%	2.2%	4.3%
Ramsey County	Number of Stops	23	187	313	134	4,255	657
	% Knew Race	4.3%	14.4%	19.2%	23.9%	20.4%	18.3%
Red Lake County	Number of Stops	19	8	5	9	761	41
	% Knew Race	0.0%	0.0%	0.0%	0.0%	3.5%	0.0%
Red Wing	Number of Stops	60	69	103	84	2,692	316
	% Knew Race	18.3%	2.9%	18.4%	4.8%	10.6%	11.4%
Redwood County	Number of Stops	29	13	4	13	394	59
	% Knew Race	17.2%	7.7%	25.0%	0.0%	20.3%	11.9%
Rochester	Number of Stops	23	651	1,407	678	11,587	2,759
	% Knew Race	4.3%	2.9%	9.1%	4.1%	6.2%	6.4%

Rates by Race of Driver at which officers answered yes to "knew race prior to stop"							
		Stops of American Indian Drivers	Stops of Asian Drivers	Stops of Black Drivers	Stops of Latino Drivers	Stops of White Drivers	Stops of All Drivers of color
	% Knew Race	0.0%	0.0%	4.3%	0.0%	6.5%	2.3%
Savage	Number of Stops	8	146	102	85	1,660	341
	% Knew Race	37.5%	18.5%	14.7%	17.6%	23.4%	17.6%
Scott County	Number of Stops	16	46	47	70	2,353	179
	% Knew Race	6.3%	6.5%	10.6%	7.1%	11.7%	7.8%
Sherburne County	Number of Stops	15	26	37	40	3,588	118
	% Knew Race	13.3%	19.2%	27.0%	7.5%	30.8%	16.9%
Sibley County	Number of Stops	3	2	11	71	556	87
	% Knew Race	0.0%	50.0%	36.4%	19.7%	14.4%	21.8%
Springfield	Number of Stops	1	15	2	17	557	35
	% Knew Race	0.0%	0.0%	0.0%	23.5%	30.7%	11.4%
St. Cloud	Number of Stops	34	291	580	126	7,799	1,031
	% Knew Race	14.7%	13.1%	33.4%	17.5%	24.0%	25.1%
Stevens County	Number of Stops	9	11	12	17	994	49
	% Knew Race	0.0%	0.0%	25.0%	0.0%	5.5%	6.1%
Swift County	Number of Stops	5	5	10	27	926	47
	% Knew Race	0.0%	0.0%	20.0%	22.2%	18.8%	17.0%
Todd County	Number of Stops	4	3	5	19	1,004	31
	% Knew Race	0.0%	0.0%	0.0%	0.0%	7.7%	0.0%
Truman	Number of Stops	2	6	8	24	401	40
	% Knew Race	0.0%	0.0%	0.0%	0.0%	2.0%	0.0%
Wadena County	Number of Stops	2	0	3	0	135	5
	% Knew Race	0.0%	No Stops	0.0%	No Stops	25.9%	0.0%
Walker	Number of Stops	59	3	3	1	269	66
	% Knew Race	10.2%	0.0%	0.0%	0.0%	8.6%	9.1%
Waseca County	Number of Stops	0	6	24	27	833	57
	% Knew Race	No Stops	0.0%	25.0%	3.7%	10.0%	12.3%
Wilkin County	Number of Stops	16	4	23	17	816	60
	% Knew Race	6.3%	0.0%	8.7%	23.5%	18.5%	11.7%
Willmar	Number of Stops	10	17	63	675	2,607	765
	% Knew Race	0.0%	0.0%	11.1%	13.9%	11.4%	13.2%
Winnebago	Number of Stops	3	1	3	23	247	30
	% Knew Race	33.3%	100.0%	0.0%	4.3%	9.3%	10.0%
Winthrop	Number of Stops	4	2	6	32	367	44
	% Knew Race	0.0%	0.0%	0.0%	21.9%	17.2%	15.9%
Worthington	Number of Stops	7	193	69	856	1,567	1,125
	% Knew Race	14.3%	27.5%	18.8%	26.2%	23.5%	25.9%
Yellow Medicine County	Number of Stops	21	5	14	25	796	65
	% Knew Race	4.8%	0.0%	0.0%	12.0%	4.3%	6.2%

#### **Appendix 4: Categorizing Searches Incident to Arrest with no Arrest**

From our conversations with law enforcement officials, we learned of several potential scenarios in which an officer would conduct a search, cite incident to arrest as the authority for the search, and not cite arrest as the disposition of the stop. Two of these explanations relate to limitations in the traffic stop forms that drivers were required to fill out. The third relates to departmental policy on arrests.

First, we learned that in some cases officers searched vehicles prior to impounding them, as required by state law, without searching the driver of the vehicle. Because the traffic stop forms did not include "incident to impound" as a possible search authority, some officers reported the search as incident to arrest as this authority offered the most similar explanation.

Second, we learned that that a search might be listed as incident to arrest when arrest was not reported as the disposition of the stop because of the inability of officers to list multiple search authorities where multiple searches were conducted and multiple stop dispositions where more than one person was in the stopped vehicle. Thus, is it possible that in some circumstances "incident to arrest" was the authority for a passenger or vehicle search and arrest would not be listed as the disposition of the stop because the driver was not arrested (although presumably the passenger was arrested or the car was impounded).

Finally, from a conversation with the head of one jurisdiction we learned that officers in this jurisdiction were required to contact their supervisor prior to making an arrest and explain the circumstances leading to their decision to make an arrest. The supervisor would then approve or overturn their decision to make the arrest. In those cases where the decision is overturned, searches incident to arrest may occur prior to the officer contacting his or her supervisor.

In order to ensure that searches reported as incident to arrest were properly allocated between discretionary and non-discretionary we developed a methodology for categorizing them based on the possible scenarios discussed above:

- All searches incident to arrest where arrest was reported as the disposition are categorized as non-discretionary.
- We have also assumed that all searches incident to arrest where there is a vehicle search, but no driver search, involve impounding and thus are also non-discretionary.
- When both the vehicle and the driver were searched, the authority was reported as incident to arrest, and arrest was not reported as the disposition, we have assumed that the incident to arrest authority applies to the vehicle search (as no arrest occurred). We then assume that the driver search is discretionary because of the small very small number of searches that were non-discretionary and did not include an arrest.
- Where there is a driver and passenger search, but no vehicle search, we assume that incident to arrest applies to the passenger search and again assume that the driver search

is discretionary because of the small very small number of searches that were non-discretionary and did not include an arrest.<sup>58</sup>

Where there is only a driver search incident to arrest and no arrest, we assume that the search is discretionary. Although such searches may have been legitimately conducted based on a subsequently reversed decision to arrest, the fact that the decision to arrest was reversed indicates that the officer exercised discretion in this decision and thus the search that resulted from it is also a product of the officer's discretion.

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<sup>58</sup> Fourteen percent of all traffic stop forms that report searches fit this and the preceding pattern. There is small likelihood that these searches are non-discretionary. Searches incident to arrest that result in arrest do not fit this pattern. Only 6 percent of all searches were made because contraband was observed, the other non-discretionary category and in nearly one-fourth of such searches arrest was listed as the disposition of the stop. Thus approximately 4.5 percent of all searches would fit this pattern and be non-discretionary and 95.5 percent would be discretionary.