

Profiles in Injustice

DAVID A. HARRIS 

WHY RACIAL PROFILING CANNOT WORK

RACIAL PROFILING: THE RIGHT THING AT THE RIGHT TIME?

2009 Judicial Conference

**U.S. Court of Appeals for the Armed
Forces**

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COMMENTARY

IMMIGRATION

Wake up: Arabs should be profiled

By STANLEY CROUCH

Last Monday night, we were reminded by those two columns of light that six months ago there were two silver towers rising above all Manhattan.

Last Tuesday, we were reminded by a horrendous Immigration and Naturalization Service foulup that America is still trying to get its immigration policy right. Shockingly, the INS sent a Florida flight school a notice that it had just approved visa requests for two of the Sept. 11 hijackers.

We hear that Arabs are targets now, and everyone else tomorrow. Yes, vigi-

lance to protect our liberties is forever a necessity. But all those who denounce so-called Arab profiling, or who object to a moratorium on immigration from Islamic countries hostile to this nation, need to put their faces in a bowl of cold water for a few seconds and wake up.

I would remind them that those two beams of light rising from Ground Zero represent something beyond an interesting design. They symbolize the lives lost because fewer than 20 men were able to harness enough technology to kill thousands.

Never, ever forget that: It doesn't take many. That is the real point.

So if pressure has to be kept on inno-

cent Arabs until those Arabs who are intent on committing mass murder are flushed out, that is the unfortunate cost they must pay to reside in this nation.

If 500,000 Muslims must be denied immigration so that 20 members of al-Qaida are not admitted, it should be OK with everyone. There is no place in the Constitution that provides immigration as a right.

Those who say we have become hysterical should notice that more than 400 Muslims were recently slaughtered in western India because some of their faith had set fire to a train and burned 78 Hindus to death.

Imagine if this nation had respond-

ed to Sept. 11 with the same murderous rage — and with the same ratio of Muslim victims to our victims. Instead of such bloodshed, we have taken measured steps toward self-protection — although as the INS blunder shows, we have much improving to do.

Above all, our nation must be protected as we argue our way into our next version of ourselves. No amount of paranoia and outdated sentimentality about immigration should get in the way of that.

Stanley Crouch is a columnist for the New York Daily News.

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“So if pressure has to be kept on innocent Arabs until those Arabs who are intent on committing mass murder are flushed out, that is the unfortunate cost they must pay to reside in this nation.”

Stanley Crouch, “Wake Up: Arabs Should be Profiled,”

**St. Louis Post-Dispatch, Mar. 19,
2002**

RACIAL PROFILING: DEFINED

- **THE USE OF RACIAL OR ETHNIC APPEARANCE AS ONE FACTOR, AMONG OTHERS, TO DECIDE WHICH PERSONS SHOULD BE STOPPED, QUESTIONED, AND/SEARCHED.**
- **DOES NOT INCLUDE DESCRIPTION-BASED STOPS.**

THE QUESTIONS

- **MORAL ISSUES: GIVE ALL PERSONS IN A RACIAL OR ETHNIC GROUP THE SAME NEGATIVE TREATMENT, BECAUSE OF ACTIONS OF A VERY FEW?**
- **SOCIAL COST: LARGE, AND THEY TOUCH EVERYONE, NOT JUST THE MINORITY PROFILED.**

MY QUESTION: DOES IT WORK?

- **THAT WAS THE BASE-LINE ASSUMPTION.**
- **REPEAT: AN ASSUMPTION.**
- **PRAGMATIC APPROACH**
- **HOW TO MEASURE?**

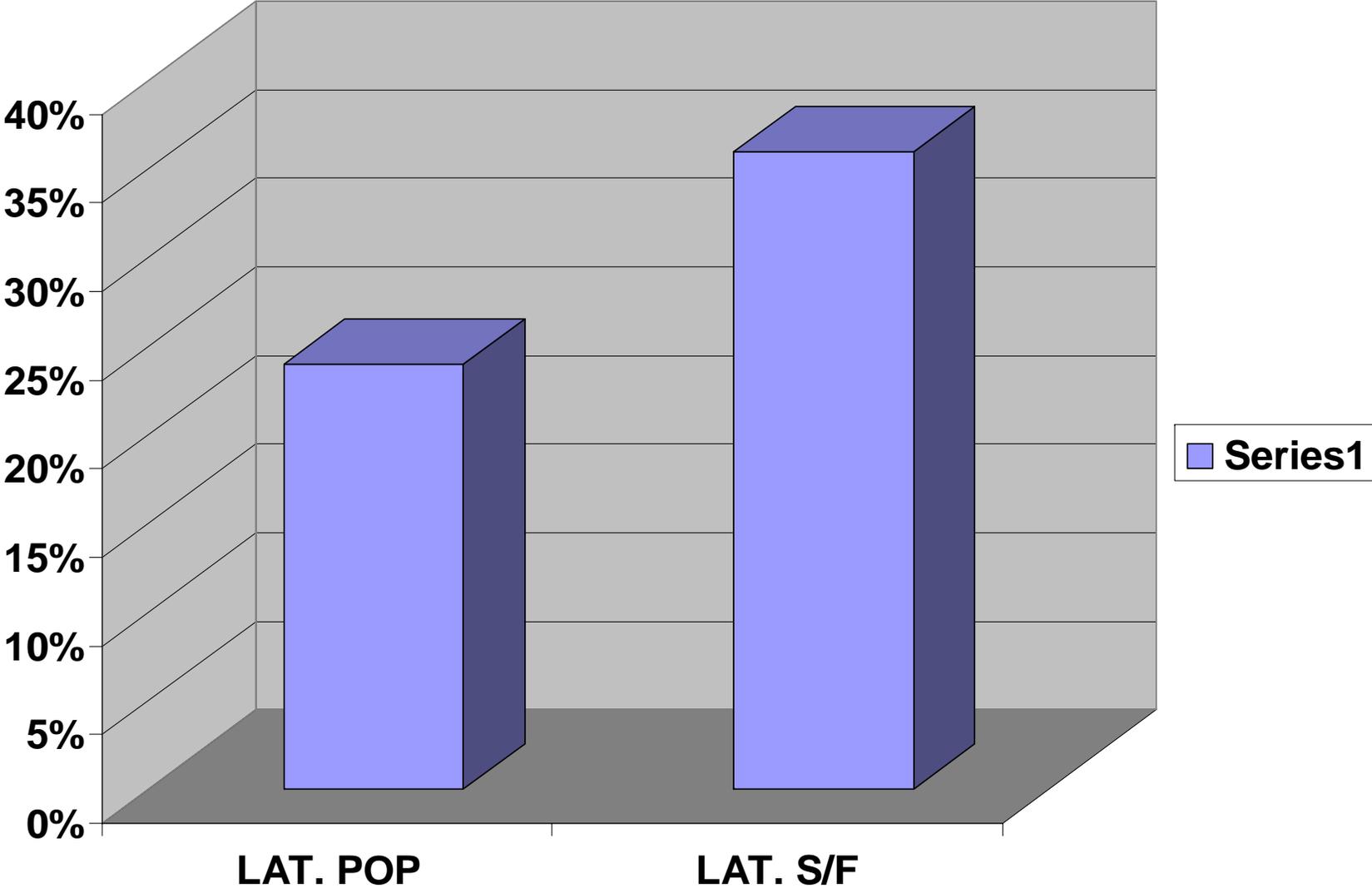
TO MEASURE WHETHER IT WORKS:

- **HIT RATES: THE RATE AT WHICH OFFICERS “HIT” – FIND CONTRABAND, MAKE ARREST, ETC. – WHEN THEY STOP, QUESTION OR SEARCH. SO:**
- **DOES AGENCY X TARGET BY RACE?**
- **IF SO, DO THEY “HIT” AT A HIGHER RATE WHEN THEY TARGET RACE, COMPARED TO WHEN THEY DO NOT?**

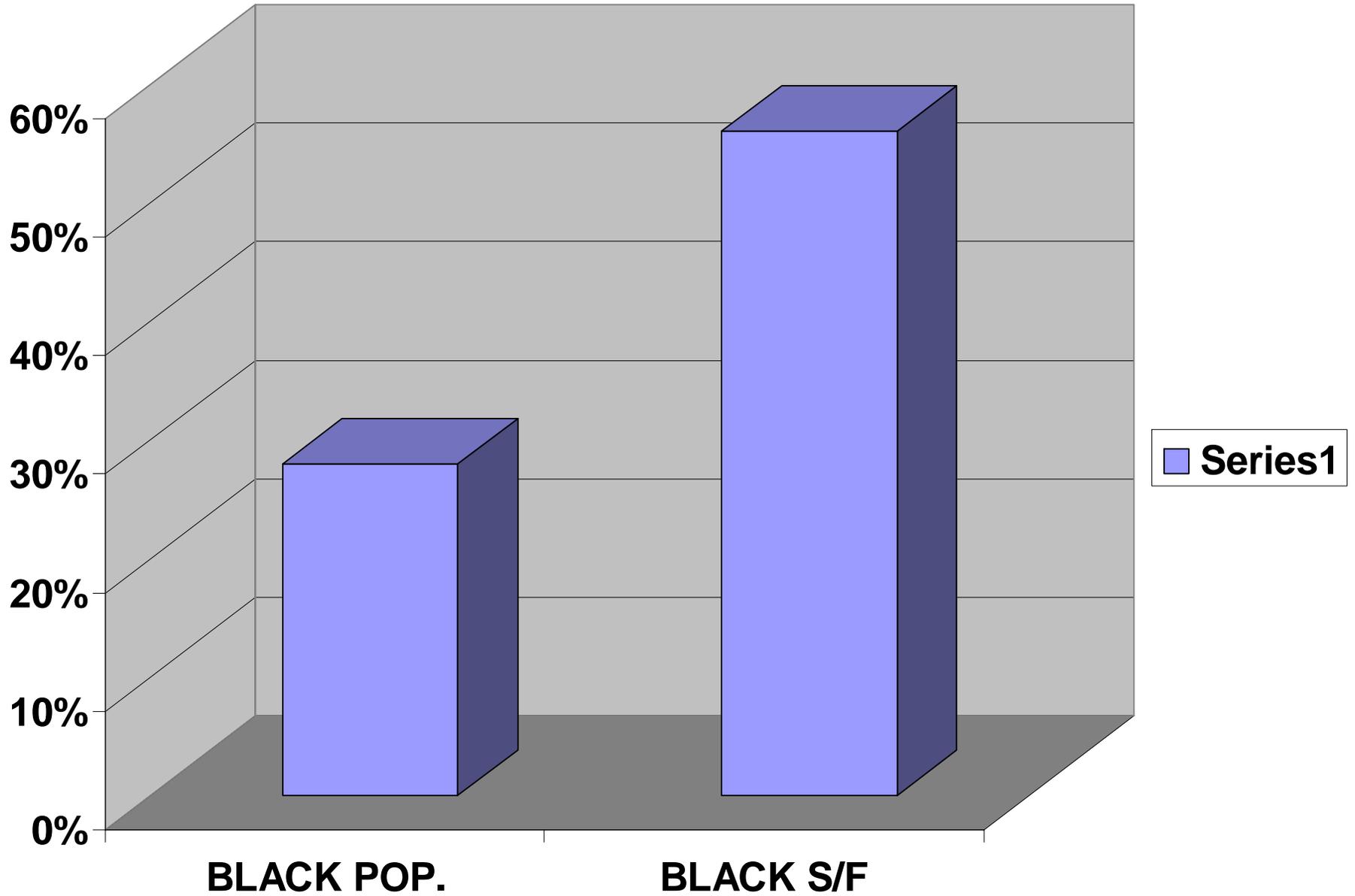
THE PROFILING/HIT RATES HYPOTHESIS

- **POLICE WILL “HIT” AT HIGHER RATES WHEN THEY USE RACE OR ETHNICITY TO TARGET WHO TO STOP, QUESTION AND SEARCH.**

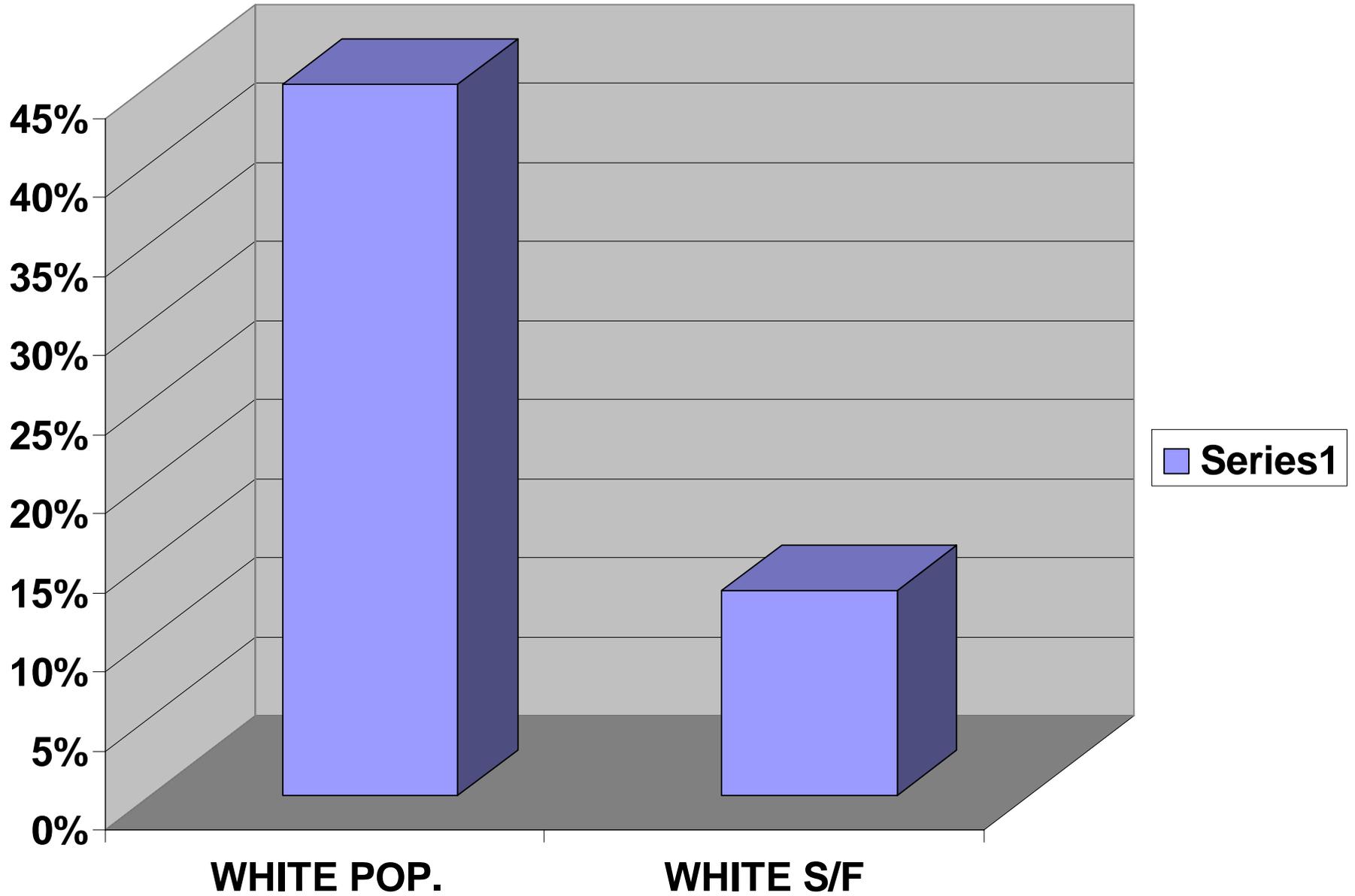
NYC, 98-99: WHO GETS S/F?



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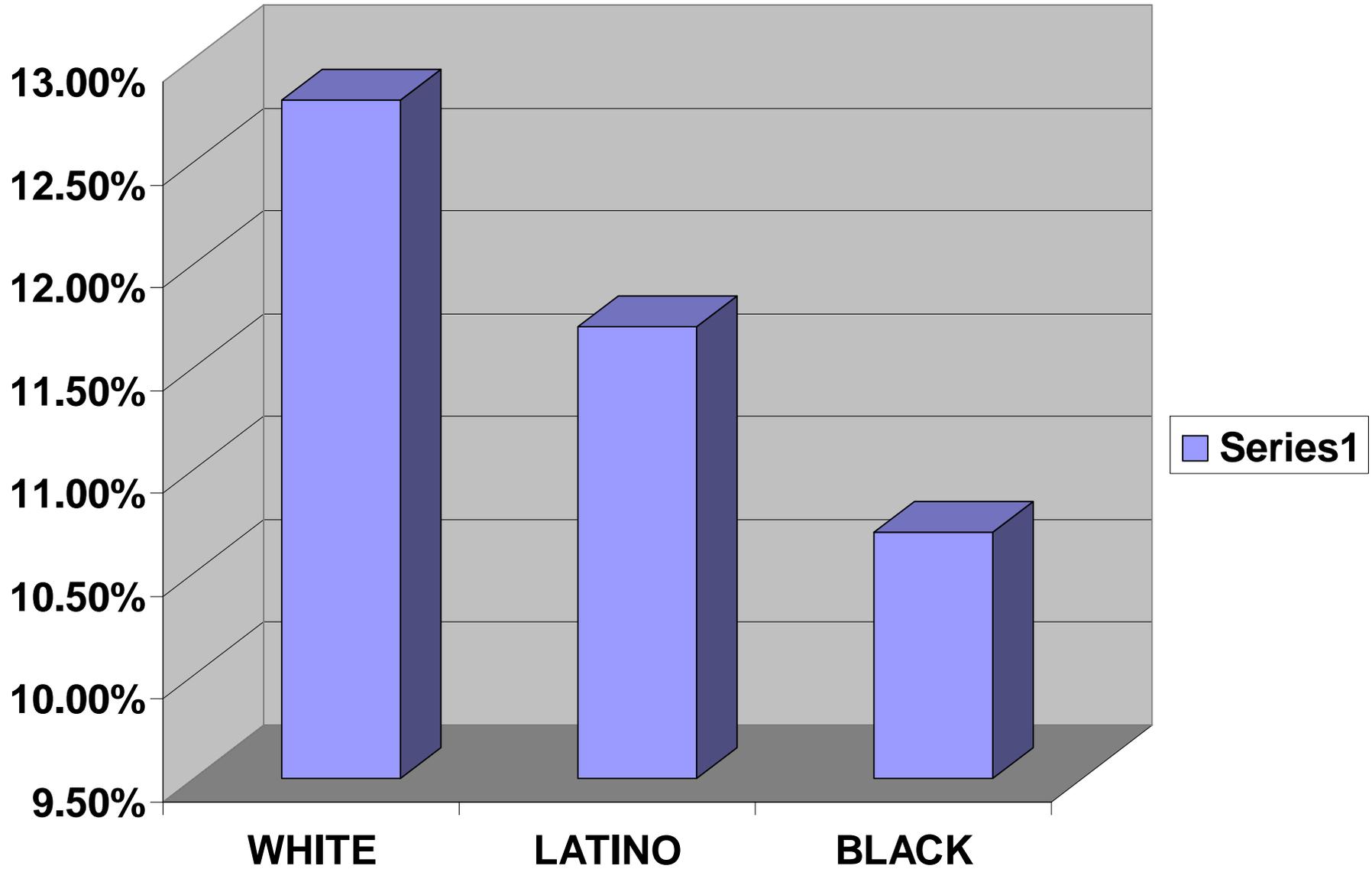
NYC, 98/99: WHO GETS S/F?



ALTERNATIVE EXPLANATIONS

- **THESE DISPARITIES ARE THE RESULT OF CRIME REPORTS; BLACKS AND LATINOS ARE SIMPLY REPORTED AS OFFENDERS MORE OFTEN.**
- **HIGHER CRIME NEIGHBORHOODS, WHERE MORE MINORITIES LIVE, HAVE MORE POLICE PRESENT; THEREFORE, THOSE CITIZENS ARE MORE LIKELY TO BE STOPPED AND FRISKED.**

HIT RATES, NYPD S/F BY RACE, 98-1st QTR. 99 (n=175k)



LEGAL THEORIES

- **GOV'T TREATING PEOPLE DIFFERENTLY, BY RACE: STRICT SCRUTINY.**
- **WHO HAS BURDEN?**
- **STANDARD: COMPELLING STATE INTEREST?**

The New York Times

November 21, 2007

City Police Stop Whites Equally but Frisk Them Less, a Study Finds

Whites and members of minorities have a roughly equal chance of being stopped by police officers and questioned on the street in New York City. But officers are more likely to frisk, search or arrest black and Hispanic people -- or to use force against them -- according to a study released yesterday.

HIT RATES: MAKE SURE TO NOTE

- **IS THE HIT RATE CHART ABOUT CRIME RATES? WHO OFFENDS, BY RACE?**
- **DOES THIS MEAN “DON’T USE RACE IN POLICE WORK”?**
- **WHAT IT DOES MEAN**
- **WHO HAS THE BURDEN?**

WHY HIT RATES DROP WITH PROFILING

- **POLICE WORK REGARDING UNKNOWN CRIMES AND SUSPECTS IS ABOUT OBSERVING BEHAVIOR CLOSELY**
- **WITH RACE OR ETHNICITY AS ONE FACTOR: THE EYE IS OFF THE BALL**

PROFILING AND TERRORISM

- **TAKES THE FOCUS OFF BEHAVIOR; LOWERS ACCURACY**
- **“BETTER SAFE THAN SORRY” – WASTING RESOURCES**
- **THE DAMAGE TO INTELLIGENCE GATHERING: THE ALLIES WE NEED NOW**

ALTERNATIVE: BEHAVIOR PROFILING

- **WEAPONS-RELATED
BEHAVIOR**
- **STRATEGIC BEHAVIOR**
- **PHYSIOLOGICAL BEHAVIOR**

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