THE CRIMINALIZATION OF POVERTY

Friday February 3rd, 2017 - 10:10 AM

(1.0 CLE) The speakers will focus on the role of law in remedying or reinforcing inequality. There is an increasing overlap between the welfare and criminal justice systems and the individuals who are caught in them.

Speakers: Chuck Epp, Kaaryn Gustafson
Pulled Over

How Police Stops Define Race and Citizenship

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CHAPTER ONE

“I Felt Violated”

NARRATIVE 1.1.
Joe, African American male: “I Felt Violated”

One time that I particularly remember, I was just, I don’t know how to explain it—I felt violated.

I was doing the speed limit, I got pulled over and was asked for my driver’s license and registration. I went and asked why I was being pulled over. He just pretty much stated that there was a warrant check. And pretty much ran my license and asked if I had any warrants for my arrest and I told him, “No.” And he ran my plate and driver’s license and asked if that was my current address and all that good stuff and then released me.1

The stop Joe describes in his brief narrative might appear, at first glance, to be inconsequential. Some might say it was merely a minor inconvenience in the police war on crime. The officer was professionally courteous and, in the end, issued no citation. It was all over in a few minutes. Research tells us stopped drivers are most concerned about police rudeness and sanctions, and on these dimensions, Joe could hardly have fared better. Yet Joe’s emotional response was palpable and raw. This African American man was not merely annoyed or angry. He felt violated.

Joe’s experience and indignation are common among African American drivers. In this book we will share similar stories from many African American drivers and will verify that their experiences fit widespread patterns revealed in a survey of 2,329 drivers. For example, Deana, an African American woman, was stopped twice within five minutes one night by different officers who only asked where she was going.2 Lisa was followed home from work at 10:30 every night for two weeks—every
night—by police officers who looked closely at her and asked whether she owned the Corvette she was driving. Billy was stopped and questioned and his car was searched on two different occasions. Kenneth was stopped, held in a police car and questioned, and then released. In some cases the stop was more intrusive. Joe, the driver in our opening narrative, told us of a previous stop in which an officer pulled him over, approached him with his hand on his gun, handcuffed him, and ran a warrant check. Darrell was stopped along with several high school buddies while driving through a white neighborhood, held in handcuffs on the sidewalk for an hour, and then released. In most of these stops, the African American driver described the officer as “polite” or even “nice.” In none was the driver given a ticket. And yet in each case, the driver described to us fear and resentment of the experience. White drivers rarely share these experiences, making police stops a defining aspect of the racial divide in America.

Police stops matter. No form of direct government control comes close to these stops in sheer numbers, frequency, proportion of the population affected, and, in many instances, the degree of coercive intrusion. The police make some eighteen million traffic stops per year in the United States. Nationally, 12 percent of drivers are stopped per year by the police. Among racial minorities the rate is considerably higher: 24 percent or more by some estimates. In a police stop the driver (or pedestrian) is arrested for the duration of the stop, is not free to leave, and is sometimes subjected to the most searching of inquiries, ranging from intrusive questions (What are you doing in this area?) to a physical pat-down, a search of the vehicle, or handcuffing. Being stopped is a potent experience. Drivers vividly remember the details and share stories of police stops with family and friends. While driving, they note who is stopped by the police and what is transpiring in the stop: a single officer writing a ticket or several officers conducting a vehicle search while the driver stands alone at the front of his vehicle.

Police stops convey powerful messages about citizenship and equality. Across millions of stops, these experiences are translated into common stories about who is an equal member of a rule-governed society and who is subjected to arbitrary surveillance and inquiry. With the growing push to use local police in immigration enforcement, Latinos are increasingly likely to share African Americans’ long experience of inquisitorial stops. “Show me your papers” will become a common command to people who look stereotypically Latino. When people like Joe, Deana, Lisa,
Billy, Kenneth, Darrell, and others we will introduce in this book are subjected to intrusive, arbitrary inquiries when stopped, and other people—white people—are largely free of these inquiries, police stops actively re-create and enforce the country’s racial divide. Stops contribute to what Michael Dawson has called African Americans’ “linked fate,” or the sense, based directly on experience, that racial discrimination is still a defining feature of American life.  

In a country that celebrates democracy and racial equality, this police-defined racial divide is a deep and festering wound. In an era of police reforms, among them community policing and the growing diversity of the ranks of officers, it represents an institutional failure. From the controversies over highway drug interdiction in Maryland and New Jersey in the 1990s to the recent debates over racial profiling of Latinos in Arizona and racially discriminatory stopping and frisking of pedestrians in New York City, it is well established that racial minorities are more likely than whites to be stopped by the police. But disparities in who is stopped are only the most obvious indicator of how police stops both reflect and define racial division in the United States. In stops, racial minorities are questioned, handcuffed, and searched at dramatically higher rates than whites are; they are much more likely than whites to perceive the stop as unfair; and they distrust the police in general at much higher rates than whites do. On each of these dimensions the racial gap is wide. These patterns appear in the frisking of pedestrians by big-city police, stops and searches of vehicles on interstate highways by state patrols, and, our focus, stops of drivers on city and suburban streets by local police. Although these types of stops differ in some ways, they are united by their essential racial characteristics: in each, police officers disproportionately stop racial minorities and act more intrusively toward them during the stop.  

Why do racial disparities in police stops persist despite a widespread legal and moral commitment to nondiscrimination? This question is the subject of considerable research and controversy, much of it conducted via increasingly sophisticated statistical studies. The standard answers fall roughly into two competing camps. One is that racial disparities reflect racism (whether deliberate or implied) on the part of individual officers, the other that these disparities are the natural product of racial disparities in who commits crimes and in officers’ rational and justified crime-fighting strategies.  

Missing from much of this commentary is attention to how police
stops are organized and conducted, and how the people who are subjected to these stops think about them. This study returns the focus to these basic issues. Here, the focus is on the lived practice and the lived experience of police stops.

This shift in focus has led us to believe that current debates over “racial profiling,” as it is commonly called, rest on two basic assumptions that are, at best, incomplete. By enlarging the discussion, we hope to increase understanding and open new possibilities for reform. The first assumption is that what African Americans find offensive—and what ultimately distinguishes a racially problematic stop from a racially legitimate stop—is primarily officer rudeness and disrespect, not other elements of the stop itself. This assumption reflects the widespread belief that racism is mainly a personal animus and is expressed in interpersonal rudeness. It is further based on the psychological theory of procedural justice, which teaches that people evaluate the legitimacy of official decisions on the basis of whether the process seems fair, not whether they got a favorable outcome.13 For example, a driver is likely to accept the legitimacy of a traffic ticket if he or she feels the officer acted fairly. Drivers do value fair treatment and feel demeaned when treated unfairly, and this fact supports a legal theory that runs parallel to the psychological one: fair procedures are valuable not only because they minimize mistakes but also they affirm the inherent dignity of the individual.14 According to this legal theory, an essential purpose of fair procedure is to treat the people subjected to official procedures as “people,” not “things.”15 In the narrative above, Joe’s sense of violation reflected his sense that he was not accorded this dignity.

But we emphatically depart from how the psychological version of this theory has been interpreted in the context of police stops. In that context, it has been claimed that since people have difficulty knowing whether a stop is truly fair, they make an inference based on whether the officer seemed respectful. As Tom Tyler, the leading scholar of procedural justice, has put it, while officers should be fair as well as politely respectful; appearing to be respectful “is especially advantageous in reducing public dissatisfaction about [racial] profiling.”16

This claim that people will view police stops as legitimate if the officers are polite and respectful has allowed the widespread stopping of racial minorities to fester. William Stuntz, the noted Harvard criminal law professor, said as much: “If Tyler’s claims are even partly true, the police could simultaneously increase the number of Terry stops [stop-and-
frisks], decrease the injury those stops cause, and substantially reduce complaints of police discrimination—all without changing the way they select search targets. . . . Worrying about how street stops happen makes more sense than worrying about how many of them happen.”17 By saying officers could gain acceptance of investigatory stops “without changing the way they select search targets,” Stuntz suggests that officers could continue to target large numbers of racial minorities for these stops—so long as investigatory stops are “carried out more politely” and suspects are “treated with more dignity.”18 As we will show in chapter 2, the leaders of professional policing responded to the racial profiling controversy by urging departments to train their officers to be unfailingly respectful when stopping people—as if this would address the problem.

Joe, Deana, Lisa, Kenneth, Billy, and many other African Americans who we will introduce in this book certainly prefer to be treated politely in police stops. But in their experience, official politeness could not convert an otherwise offensive police stop into a fair and legitimate one. Some police stops are recognized to be fundamentally unjust no matter how “polite” or “nice” the officer. The deeper problem in these polite but unjust stops is that they are part of a broad, continuing pattern in which racial minorities are disproportionately subjected to suspicious inquiries without any particular basis or justification. Pervasive, ongoing suspicious inquiry sends the unmistakable message that the targets of this inquiry look like criminals: they are second-class citizens. Law professor Sherry Colb called this “targeting harm”: the person targeted by such a stop “is left wondering, ‘Why me? Why have the police singled me out when they lacked an evidentiary basis? Why didn’t they search someone else instead or as well? What gave them the gut feeling that I am a criminal?’”19 These harms are compounded when the person targeted believes, on the basis of widely known patterns, that he or she has been selected because of race. Targeting in this way generates especially pernicious social costs, as Bernard Harcourt observes, by turning increasing numbers of the targeted groups into convicted criminals or innocent but distrustful subjects of surveillance who feel treated like criminals—and by giving others the comparative freedom from such control.20 Accompanying these harms is the invasion of privacy imposed by the officer’s questions and searches. To the question “Why are you in this neighborhood?” most people will think with considerable justification, “Why is that any business of yours?” But when the questioner is a police officer, they will offer an answer while feeling their privacy invaded and their
dignity eroded. Patting down a person’s body in search of a weapon or a bag of drugs or rifling through the contents of a vehicle only on the basis of the hope that by chance some such searches will turn up contraband are even deeper intrusions of privacy and assaults on dignity.

The earliest psychological research on procedural justice acknowledged that politeness may not be enough. If people who are subjected to an ongoing, discriminatory pattern learn to recognize it as such, they will come to conclude that the process is deeply unfair even if the officials carrying it out are unfailingly respectful and polite. As Tyler put it in an early, prescient caveat to the psychological theory of procedural justice, even if officials appear to be respectful “a procedure that consistently produces unfair outcomes will eventually be viewed as unfair itself.”

This deeper truth has been forgotten in the effort to legitimate inquisitive police stops by making the officers more polite. What makes inquisitive police stops so offensive to so many African Americans and Latinos is not that the officers carrying them out are impolite or even frankly bigoted, but that these stops are common, repeated, routine, and even scripted. This scripted practice treats its targets not as individuals worthy of dignity but as numbers to be processed in search of the small percentage who are carrying contraband or have an outstanding warrant.

This leads to the second faulty assumption in current debates over “racial profiling”: it is the belief that racial disparities in police stops are the product of discriminatory police officers rather than an institutionalized practice that is inherently unfair and discriminatory. The focus has been on identifying and reducing “intentional” discrimination. Was the officer who stopped Joe frankly racist but careful to hide it? If not deliberately bigoted, was he acting on the basis of implicit negative stereotypes of black people, stereotypes that he may not have been aware that he held? Or was he acting rationally, on the assumption that his warrant checks would be more efficient if focused on black men? These are the positions in a growing debate over the source of racial disparities in police stops and, more broadly, on the status of racism in American society.

The Supreme Court, too, assumes that discriminatory intent, rather than discriminatory practice, is the problem. Under the constitutional law governing fair procedure in police stops, if an officer deliberately stops a person only because that person is black, then the officer is acting with discriminatory intent and the stop is illegitimate. But this is only a
theoretical possibility, because the court requires direct evidence that a stop is intentionally biased. If the officer has some legal justification for the stop, however trivial—for example, the driver’s car has a burned-out license-plate light—and does not frankly admit to targeting minorities, then the stop is constitutionally acceptable, according to current standards.

The search for discriminatory intent is a distraction. Few people, and virtually none in positions of authority, frankly acknowledge racist intent. Occasionally people make a verbal slip, and then their opponents and the media cry “gotcha!” But these gotcha moments do not speak to the real issues at stake. For Joe and other minorities, it matters little if we somehow know whether the officer merely recognized that Joe was black or actually thought, “I’m going to check out that black guy because he’s black.” The distinction is exceedingly fine and virtually unknowable, yet constitutional law gives any police stop a free pass unless it can be shown that the officer did think such a thing.

This book rests on the different assumption that every member of our society, police officers included, recognizes the social fact of race and widespread stereotypes of blacks and whites. Who doesn’t know the prejudicial stereotype that blacks are lazy, prefer to live on welfare, are prone to complaining, and are aggressive or violent? Awareness of these stereotypes is enough to make acting on the stereotypes a possibility. Fifty-eight percent of whites in a recent survey even acknowledged agreeing with at least one of these common negative stereotypes of black people. But even if people do not agree with these stereotypes, the existence and persistence of these stereotypes is enough to make acting on their basis a possibility.

Instead, attention should focus on institutionalized practice: how the structure of incentives, training, and policy in contemporary policing makes it more likely that officers will act on the basis of bigotry or implicit stereotypes, leading to racial disparities in outcomes. It is our thesis that a specific, well-entrenched, institutionalized practice of the investigative stop is the main source of racial disparities in police stops and why the racial minorities subjected to these stops view them as deeply unfair even if carried out by a politely respectful officer. The investigatory stop is the deliberate creation of police leaders, led by police professional associations, policing researchers, and police chiefs. It is implemented through professional training and the fostering of shared professional norms and culture. Following directives and guidance, offi-
cers on the street widely use investigatory stops to check out people who look suspicious. The investigatory stop is made not to enforce traffic laws or vehicle codes but to investigate the driver. Is this driver carrying a gun or illegal drugs? What is he up to? Why is he in this neighborhood? Is there a warrant for his arrest? Because officers are not supposed to stop a driver without a legal justification, most investigatory stops are nominally justified by minor violations: a burned-out license-plate light, failing to signal a lane change, driving 2 miles per hour over the speed limit, and the like. (In the case of Joe’s stop, the officer was uncommonly frank and offered no pretextual justification.) But the purpose of these stops is to criminally investigate the driver in the hope of making an arrest.

The investigatory stop is why blacks are stopped at much higher rates than whites and why police pursue intrusive lines of questioning and searches more commonly in stops of blacks than of whites. While whites mainly experience conventional traffic-safety stops, racial minorities—blacks especially—commonly experience investigatory stops. As a result of this and shared stories of police stops, African Americans and Latinos have developed a shared knowledge of the investigatory stop: how to know when one has been stopped in such a way, how to endure the experience, and how to go on with life. This racial difference in police practices and people’s lived experience and shared knowledge of these practices is why black people commonly rate stops that they have experienced as unfair, while whites are generally more sanguine about the stops that they have experienced. It is a key reason why, compared to whites, African Americans so distrust the police.

Although police officers have carried out investigatory stops for decades, police leaders introduced a new twist in the 1980s that considerably heightened the level of racial discrimination in these stops, and then made this reinvented investigatory practice a core tactic in the wars on drugs and crime. This innovation was to encourage the typical street-level officer to engage in proactive stopping of many drivers (and pedestrians) so as to carry out as many intrusive investigations of people as possible. “Proactive” is the key word. It means that officers are to stop drivers and pedestrians not only, or even primarily, when they do something wrong; officers are to stop as many people as possible so as to be able to investigate them more closely. As one of the early supporters of this tactic advised, officers are to “maximize the number of citizen contacts” in the hope that some yield fruit. But because officers cannot possibly stop all drivers or pedestrians and scrutinize all communities, they
must focus on some, and, in the context of enduring racial stereotypes of black criminality and violence, they tend to target racial minorities and their neighborhoods. The vast majority of these stops and searches yield no contraband or illegal guns, and, as Jon Gould and Stephen Mastroski found in an observational study of street searches, a high proportion are clearly unconstitutional. The officer who stopped Joe had little justification for the stop but hoped to be able to arrest him, and Joe had experienced precisely this pattern before. These facts underlie Joe’s feeling of violation.

Simply put, what has emerged in the past two decades is an institutionalized practice rather than the haphazard activity of individual officers. As police professional associations and leaders in the past twenty years deepened their commitment to investigatory stops, the practice has become more widespread, frequent, and racially discriminatory. This deepening of the pattern reflects the growth of research, court decisions, and especially professional training and guidance that all support the practice of racially biased investigatory stops. We trace the origins of this practice to the period of deep institutional reforms in policing and crime-control policy in the late 1970s and 1980s. In that period, the police faced widespread critiques that they were too insular and unresponsive to local communities, that their officers were exclusively white and male even when policing minority communities, and that officers engaged in brutality and spoke insultingly to people they had stopped. Under intense pressure from these critiques, police departments widely adopted a number of reforms. They adopted “community policing” initiatives that emphasized listening and responding to the concerns of ordinary people and neighborhoods. They hired racial minorities and women. They developed extensive rules, training, and oversight to control excessive use of force.

At the same time, however, police departments began more harshly enforcing laws against ordinary street disorder and drugs, and these initiatives relied on police stops as their key enforcement tool. The “broken windows” initiative encouraged police to crack down on loitering, public drinking, and graffiti, viewing these things as precursors to serious crime. The Reagan and first Bush administrations launched a war on drugs that fostered large numbers of arrests of ordinary drug users and low-level dealers. This war was built from the start, as Doris Marie Provine argues eloquently, on the empirically false imagery of black people as the main users and sellers of dangerous drugs.

Contemporary police departments are far less frankly racist, less bla-
stantly abusive, and less insulated from the communities they serve than even a generation ago. They are also more intent on proactive control of the population and discovery of drugs held by the ordinary citizens on the street and their enforcement has focused disproportionately on young black men. The result has been a massive growth in investigatory stops, arrests, and imprisonment of racial minorities. “Stoked by fear and political opportunism, but also the need to address a very real social problem,” Glenn Loury writes, “we threw lots of people in jail, and when the old prisons were filled we built new ones.” The increase and pervasiveness of various forms of criminal supervision, from heightened surveillance to prison and probation, have led scholars to refer to the current institutionalized criminal justice policy regime as the “carceral state.” The carceral state both reflects our history and culture of racial subjugation and helps define the contemporary meaning of race.

While the investigatory stop was a key part of this broader context, it was neither a natural nor inevitable consequence of these other initiatives: it was a deliberate, specific invention that directly contributed to the explosion in arrests and imprisonment of racial minorities. The inventors of this practice honed techniques for targeting some types of drivers for stops, for questioning the driver and passengers, for inquisitorial observation of the visible contents of the vehicle, and for getting the driver to “consent” to a search of the vehicle. While some officers had done some of these things in the past, the inventors of the investigatory stop turned these actions into a systematic, formalized practice, pioneered formal training in how to do it, and spread this knowledge widely among police departments through a committed campaign of proselytization. The inventors of this practice knew it would disproportionately target racial minorities for reasons that we will summarize below and spell out in more detail in the second chapter. Nonetheless, they honed the practice and encouraged its widespread adoption.

Although police departments differ in many ways—big cities versus small towns, urban departments versus state highway patrol agencies, traditional versus progressive agencies—the investigatory stop has spread widely among these agencies. This type of stop is increasingly and widely deployed in other countries in much the same way it is used in the United States: to target racial minorities for intrusive, inquisitorial stops. Thus, the widespread use of investigatory stops of pedestrians in Britain fueled deep resentments among urban minority youth and sparked the huge riots that engulfed that country’s major cities in 2010.
In focusing attention on the specific invention of the investigatory stop, this study joins a growing body of scholarship on how institutions contribute to racial (and other) disparities. An old body of writing attributes racial disparities to “institutional” or “institutionalized” racism. These theories rightly recognize that individuals’ beliefs are part of broader patterns, but they are justifiably criticized for failing to identify how these broad patterns produce specific disparate outcomes, especially when, as in the present case, few individual police officers acknowledge being deliberately racist (and few probably are deliberately racist). The alternative has been to focus on either the voiced beliefs of individuals or the articulated policies of particular organizations. But too often this fails to recognize that patterns of practice may be widespread (even if not formally expressed), may have distinct racial implications (even if containing no frank racial expression), and may contribute to racially disparate outcomes (even if few individuals carrying out these practices specifically intend to produce these outcomes).

Important recent studies bridge this gap by showing how some racial disparities result from official policies that, in turn, reflect and reproduce racial stereotypes. The policies that are the focus of these studies are more specific than the abstract and inchoate “institutional” racism of the older writings. Thus, Doris Marie Provine showed how the federal government’s war on drugs, and specifically the extraordinarily heavy penalty for possession of crack cocaine, reflected racial stereotypes and directly produced horrific racial disparities in criminal sentencing and imprisonment. Likewise, Joe Soss, Richard Fording, and Sanford Schram have shown how specific state welfare policies reflect racial stereotypes and in turn directly produce troubling racial disparities in welfare benefits and the punitive control of its beneficiaries.

Like these studies of policies, ours strives to identify the specific sources of racial disparity; but unlike them, we identify these sources in official practices that are not directed by specific official policy but which nonetheless are institutionally supported and endorsed. Borrowing from sociological studies, we call these less-formal sources of disparity institutionalized practices. Institutionalized practices are common ways of doing things that, while not required by any specific official policy, are supported and legitimated by rules, training, and law, and that spread widely to become a commonly accepted activity. As practices gain increasing support via rules and law, they assume “value beyond the technical requirements of the task at hand,” in the words of
Philip Selznick, which is to say that they come to be viewed not only as effective, but as *professionally right and proper*. These practices enjoy the endorsement of key formal institutions: in the present case, of professional associations and the courts. Through the mechanisms of shared professional recommendations and formal training, these norms, rules, and procedures are translated into individuals’ actions. Individuals’ perceptions and activities turn these rules and norms into practice on the street. Institutionalized practices are thus a form of what some have called “inhabited institutions,” which is to say, institutional norms, rules, and procedures expressed in the shared practices of individual officials and employees.\(^\text{38}\)

Institutionalized practices are racially framed when they grow from and reproduce negative racial stereotypes. These stereotypes influence peoples’ perceptions, but in often-hidden ways. Even people who are opposed to racism often implicitly perceive others in racially stereotypical ways. We will have more to say about these psychological processes in chapter 2, but for now the important point is that implicit negative racial stereotypes help to support punitive practices like the investigatory stop. In turn, these practices contribute to racial disparities in who is stopped by encouraging officials to act on implicit stereotypes when deciding whom to stop.

The investigatory stop is such a racially framed, institutionally supported practice. It is supported by scholarly research, numerous individual departmental policies, state-level training regimens, professional association resolutions, federal agency support, and judicial approval all the way up to the Supreme Court, and it is widely viewed in policing as a quintessentially professional practice. While it generates racial disparities in who is stopped, these disparities are seen (by many) as acceptable because the practice is professionally and judicially endorsed, is claimed to be necessary to fight crime, and is thought to be controlled by professional training aimed at eliminating intentional racism. Police officers particularly believe that investigatory stops are among their most effective tools for finding and arresting criminals and preventing crimes. In many departments, very large proportions of all arrests are made in “routine” investigatory traffic stops.\(^\text{39}\)

The “show me your papers” provision of Arizona law S.B. 1070 extends the racial framing of investigatory stops into the area of immigration-law enforcement.\(^\text{40}\) Like investigatory stops generally, this Arizona law and others like it are likely to encourage officers to target people for immi-
migration inquiries on the basis of ethnic stereotypes. Here, too, the issue is not whether an individual officer has intentionally selected a person for inquiry on the basis of the person’s race or ethnicity. States like Arizona will claim that they carefully train officers to be “unbiased.” But in the context of culturally defined ethnic stereotypes, the vast majority of officers are likely to conflate illegal immigrant status and looking “Hispanic.” A policy that directs officers to ask for documentation when they are suspicious of a person’s immigration status will inevitably lead officers to focus on Latinos and Hispanics for investigatory stops. A recent survey revealed that 79 percent of registered Hispanic voters—American citizens all—believe that Arizona-style laws will increase the likelihood that the police will target legally present Hispanics for inquiries. 41

This is not a hypothetical fear. Marco Sanchez, a psychologist who is a U.S. citizen, reported the following experience that parallels many of our observations in this book:

I didn’t know the reasons why this police officer stopped me. Of course, I was very surprised, anxious, tried to understand what I did wrong. And the first the police officer asked me was, “Do you have legal documents?” Sure, I’ll give you my driver’s license, my registration and my insurance. And he asked me, again, did you have legal documents? I thought that he meant my insurance documents were expired. We received these insurance documents periodically, and I’m not always on top of the newest one in the wallet compartment. So, I’m, again, looking for those documents. He asked me directly, are you legally in the country? That got me by surprise and I started asking him why did you stop me? . . . He didn’t say anything. Walked back to the patrol car with my driver’s license. 42

Others report similar experiences. 43 While our data do not address the emerging issue of ethnic disparities in police enforcement of immigration law, our focus on investigatory stops helps to explain these disparities and how experiencing these “show me your papers” stops shapes people’s sense of their place in American society.

Our unique dataset, described at the end of this chapter, makes it possible to empirically distinguish investigatory police stops from their conventional counterpart, traffic-safety stops, and doing so brings into clear focus a number of things that have only been hinted at in previous studies. One is that racial disparities in police enforcement are singularly concentrated in investigatory stops. When the police are enforcing
traffic-safety laws, they are not more likely to stop black drivers. Whatever are the psychological and cultural sources of racial disparities in police stops, these forces do not appear in traffic-safety enforcement, the most common street-level activity of police officers. But when the police are carrying out investigatory stops, they are dramatically more likely to stop black and other minority drivers. In speeding stops, the most important influence on who is stopped is how fast you drive. In investigatory stops, the most important influence on who is stopped is not what you do but who you are: young black men are by far the most likely to be stopped. This inquisitorial focus on young black men is a classic instance of what scholars call “intersectionality,” or how disadvantages associated with race, gender, and youth are compounded when combined. Our data reveal such intersectional compounding throughout the several stages of the investigatory stop.

Likewise, inquisitive intrusions, like probing questioning and searches, are not scattered across all types of stops. They are concentrated in investigatory stops, and officers are much more likely to pursue these intrusions of African Americans than whites. Among drivers stopped for excessive speeding, black people are not significantly more likely to be questioned or searched. Intrusive questions and searches are concentrated in investigatory stops, and in these stops African Americans are significantly—dramatically—more likely to be questioned and searched. And, again, young black men are the most subject to these heightened investigatory intrusions.

Another issue clarified by this key distinction between types of stops is whether people are more accepting of police stops if the officer is professionally courteous and respectful. As we will discuss more fully in chapter 2, this claim has helped to legitimate investigatory stops in the eyes of the police and policy makers. Stopped drivers do prefer polite to rude officers, but our findings reveal a more fundamental source of a driver’s evaluation of a stop’s legitimacy. From the perspective of people who are stopped, black and white, traffic-safety stops are a proper use of state power. In contrast, investigatory stops are at best dubious and often seen by those who are stopped as violations of rights and dignity. Black drivers reported to us that they recognized the patterned character of investigatory stops and feared and resented these stops even when the officer remained professionally courteous and respectful.

Distinguishing investigatory from traffic-safety stops also brings into clearer focus why African Americans are considerably less trust-
ing than whites of the police overall. Our evidence suggests that the different types of police stops experienced by whites and African Americans contribute to this trust gap. Whites almost exclusively experience traffic-safety stops and generally judge these stops to be basically fair. In addition to routine traffic-safety stops, African Americans also experience investigatory stops and generally judge these stops to be fundamentally unfair. These differences in underlying experiences and judgments of fairness have broader implications. Psychological research shows that people care about procedural fairness because they view whether they are treated fairly as a measure of their standing in the community. Fair treatment implies that a person is viewed as a full and equal member of the community who is deserving of respect. Unfair treatment implies lower status, that you do not belong or deserve respect. Some psychological research suggests that people who are members of traditionally stigmatized groups, like racial minorities, are especially attentive to whether they are treated fairly. Knowing that they and their group have long been viewed as second-class citizens (or worse), members of traditionally stigmatized groups are attentive to whether this official in this instance is treating them with the respect due a full and equal member of the community. It should come as no surprise that a police stop based on a pretext to criminally investigate the driver causes the person so targeted—Joe, for example—to feel violated. His rights and dignity were violated; he was treated as a thing, not a person.

The broadest implication of distinguishing traffic-safety from investigatory stops is our observation that these two types of stops have profound consequences for people’s sense of their place and status in American society. A pioneering study by Joe Soss found that when people’s experience of government is limited to programs with arcane rules and arbitrary decision making, they come to believe that government in general is arbitrary and unfair and that they have little efficacy in shaping their own fate in its hands; but when people experience programs with predictable rules and reasonable decision making, they come to believe in their personal efficacy and equal status in a fair democratic system. Other studies, on such diverse topics as the post–World War II GI Bill and Social Security, similarly have found that these egalitarian policies contributed to their beneficiaries’ sense of efficacy and political engagement. It is increasingly clear that policies shape politics and even the basic conditions of democracy.

But as Joe Soss, Jacob Hacker, and Suzanne Mettler show, a grow-
ing number of public policies undermine democratic equality and erode people’s sense of political efficacy.59 The investigatory stop is a key one of these inequality-inducing policies. Vesla Weaver and Amy Lerman have found that experiencing a police stop reduces one’s likelihood of voting.51 But this may go too far: the problem is not police stops in general but investigatory stops in particular. Our data show that while white drivers’ experience of predictable, reasonable traffic-safety stops contributes to their perception of their equal status in a rule-governed democracy, African Americans’ common experience of investigatory stops contributes to their perception that they are not regarded as full and equal members of society. Investigatory stops, we find, are significantly more likely to foster the perception that the police are “out to get people like me,” and they render people significantly more likely to change the clothes they wear and avoid driving in some areas of the city for fear of how the police might treat them and to feel less comfortable calling the police for help. The notorious pass laws in South Africa under apartheid, which allowed black people into white areas only if carrying a pass authorizing entry, worked a similar evil, and no amount of professional courtesy and respectfulness can hide the deep violation at the core of this practice.

Leaders of professional policing occasionally have acknowledged these deeper truths, as we will explore in more detail in chapter 2. In a conference among police chiefs in 1999, just as racial disparities in police stops first reached national attention, two police leaders observed:

Despite the constitutionality of the practice [of investigatory stops], motorists understand that they are being stopped for a different reason than the one provided and are angered by the inference needed to make the stop. The resulting anger could escalate hostility and risk greater physical danger for both the officer and motorist. The anger continues after the stop and is shared within the motorist’s peer group. As more anecdotal stories circulate about such stops, the long-term effect on race relations must be balanced against the short-term effect on drug enforcement. Police managers may legitimately weigh race relations as more important than the potential arrest of a drug user or street level dealer.52

These comments acknowledge our central thesis: investigatory stops are an institutionally supported practice under the control of police leaders, not the isolated acts of individual police officers. This practice by de-
sign sacrifices the liberty and dignity of large numbers of innocent people, who are disproportionately racial minorities, in pursuit of a small number who are dangerous or carrying contraband. The innocent victims of this practice rightly feel that their status as free and equal members of society has been diminished, and they resent this implication and the police for enforcing this message.

**Driving as a Condition of Democratic Citizenship and Equality**

Racially defined investigatory stops, even if little more than a brief question or records check, are thus far more than a minor inconvenience. They strike at the heart of democratic citizenship and racial equality.

Outside our most densely populated urban cores, Americans drive to work, to see family and friends, to shop, and to visit places for recreation, worship, and political involvement. We drive to parks where we can walk or bike safely distant from cars and their noise, pollution, and the road-scarred landscape. We drive to commit crime, and we may even drive to protest the building of a new highway. In the United States and increasingly around the globe, the mobility provided by cars has become essential for participation in economic and civic life. As John Urry writes, the car “is a sign of adulthood, a marker of citizenship and the basis of sociability and networking.” Our car-based social system is so pervasive, Urry continues, that we should reconceptualize the social landscapes “as a civil society of ‘car-drivers’ and ‘car-passengers.’”

In comparison to the essential democratic rights to speak, vote, and run for office, the freedom to drive may seem less important. Most traditional views of urban public spaces, such as Hannah Arendt’s polis or Jurgen Habermas’s coffee house, emphasize the democratic *discourse* in these settings. From this deliberation-based perspective, driving—which is about getting places, not about shared deliberation—may seem less essentially democratic. Individual drivers, in their steel mobile living rooms insulated from others are, in many ways, the antithesis of engaged, deliberative citizens. Cars and roads thus can be viewed as “non-places of super modernity,” to borrow Mimi Sheller and John Urry’s phrase.

Still, to many Americans, the freedom to drive is just as basic as the freedom to speak, and we should take seriously this popular assumption. “It’s not just your car—it’s your freedom!” Thus proclaimed an advertising campaign for a major auto manufacturer. It powerfully conveyed
Americans’ dependence on, and celebration of, driving. While American law treats driving as a privilege, not a right, and personal vehicles as meriting less privacy from police intrusion than the constitutionally sacrosanct home, the American economy and culture treat driving and the car as something more. Given American society’s limited public transportation systems, driving and the car are at once economic necessities and prerequisites for personal freedom. The economic necessity of driving is obvious. Eighty-six percent of working Americans drive to work; only 5 percent use public transportation. Driving is not merely a choice; it is a requirement imposed on most Americans by the structure of our metropolitan areas and economy.

But driving is more than an economic necessity. It is for many in our car-centered society a prerequisite of freedom and full citizenship. For most Americans, coming of age is marked not by the right to vote or drink or the obligation to register with the selective service system. Earning a driver’s license proclaims the step into adulthood with its opportunities for freedom and self-determination and its obligations of responsible behavior. In the 1950s, early advocates of drivers’ education focused not just on safety and etiquette but also on how good driving is an expression of good citizenship. In teaching to stop and yield, to obey traffic laws, and to respect others on the road, drivers’ education aimed to create the good citizen necessary to our mobile society. Safe drivers are safe citizens, these writers claimed, while inattentive or reckless drivers are dangerous citizens.

As economic success became increasingly dependent on mobility, automobility became associated with upward social mobility. Cars, and now vans, trucks, and SUVs, have come to signify economic standing, lifestyle choices, and even political beliefs. Even choosing not to drive is a social or political statement as much as a practical choice. For most Americans the personal auto is a measure of status, and it has been so for decades.

The freedom to drive is especially important for African Americans and other racial minorities. “From its earliest days, the automobile symbolized mobility and freedom for blacks,” Thomas Sugrue has observed. “Cars became a powerful symbol of ‘making it,’” and, by driving, African Americans could escape the rampant segregation of public buses, subways, and trains. In September 1949, *Ebony*, the magazine of African American upward mobility, published an essay, “Why the Negro Drives a Cadillac.” At a time when no ads for Cadillac appeared in
Ebony and Cadillac hired only white salesmen, the big expensive car was the symbol of economic success. Jeremy Packer comments, “The automobile is the quintessential sign of American success, and for African Americans this was especially the case, as it also signified freedom from the restriction on mobility blacks had suffered since their arrival in the Americas centuries before.” Long into the post–civil rights era Cadillacs and other classic American luxury cars, along with the freedom to drive, have symbolized freedom and equality for many African Americans. Likewise, in Latino communities, as Ben Chappell has shown, the carefully crafted lowrider is both an expression of personal artistry and a proud symbol of “making it.” In the lowrider, as in the lovingly restored classic Cadillac in African American neighborhoods, mobility, equality, and expression come together.

Perhaps the strongest evidence of the link between mobility and citizenship is found in the enduring effort of societies to manage the mobility of groups deemed unworthy of full citizenship. Long before U. S. governments issued driver’s licenses, passports, or visas and decades before emancipation, African Americans, both slave and free, were issued traveling papers to document who was free to travel to what locations. As Packer notes, “This documentation was a form of both verification and surveillance.” Even as driving gave newfound freedom to African Americans, Sugrue observes, it exposed them to a new form of discrimination: intrusive police stops of vehicles. During the long years of apartheid, South African pass laws mapped where blacks were allowed to live and travel. “Effectively, to be African and not employed in such areas [near or in white population centers] became a crime against which police forces could be used,” writes Julia Wells. “Passless Africans faced fines, imprisonment, forced labour or expulsion from the area until they contracted employment.” In the United States, controversy recently followed the decision by some states to allow undocumented immigrants to have driver’s licenses, as if having a driver’s license was tantamount to becoming a citizen. For example, Utah created special “driving privilege cards” that declared in bold red ink, “cannot be used as a legal identification’ to allow the undocumented necessary mobility while restricting their citizenship.” Moreover, denying a driver’s license created one more layer of illegality to the status of undocumented immigrants: driving to work, church, or the grocery store were no longer routine aspects of living, but breaking the law.
Study Design and Methods

This book is based on an extensive survey of drivers and dozens of traffic stop narratives told by drivers and police officers. We surveyed by phone a stratified random sample of the driving population in the Kansas City metropolitan area in 2003 and 2004; 2,329 drivers completed the survey. Approximately 12 percent of drivers are stopped over the course of a year, and to achieve an adequate sample of stopped drivers, we oversampled those who reported being stopped in the past year. Among drivers, we contrast the police-stop experiences of white and African American drivers. To adequately sample African American drivers, we oversampled these drivers as well. We received responses from 708 drivers who reported being stopped in the year prior to answering the survey. Among these stopped drivers, 497 (70 percent) were white and 211 (30 percent) were black.

Using a driver survey allows us to address several problems vexing much past research on racial profiling. The first is whether the deep racial disparities observed in pedestrian stop-and-frisks, as has occurred in New York City, are typical of police activities generally. Unfortunately, the studies of stop-and-frisks, although methodologically state-of-the-art, are not able to address this fundamental question, because their data are limited to one particular activity; they have no data on racial disparities in other police activities. Our survey of drivers allows us to compare patterns in investigatory stops and more-conventional traffic-safety stops. A second problem vexing past research is the difficulty of measuring a population baseline for comparing the stop rates of whites and African Americans. Many studies rely on the racial composition of the local population in general, but it is widely recognized that the driving population may be quite different from the residential population. Our survey allows careful measurement of the baseline. The third problem is the lack of information in past studies on drivers who are not stopped: do they drive better than those who are stopped, or are they free of stops for some other reason, like being white? Our survey allows us to address these questions. Fourth, many studies lack adequate data on many key aspects of the stop experience. Past studies have relied on official traffic-stop data, but these do not include information on driving behavior, value and condition of their vehicle, how the driver and officer acted during the stop, and drivers’ perceptions and evaluations of
the stop. Again, our survey offers data on these key matters. In developing our survey, we drew on a handful of earlier survey-based studies, but ours goes beyond these by eliciting from drivers a broader range of information about their own personal characteristics, the nature of the stop experience, their evaluations of it, and their level of trust in the police and their perceptions of their own place in society.

Survey questions are necessarily limited, however, and we dig deeper into drivers’ perceptions and the dynamic character of police stops by drawing on drivers’ narratives of stops. After completing the survey, we conducted in-depth follow-up interviews with a systematic, unbiased subsample of drivers who had been stopped in the past year. The narrative opening this chapter is one such story. For these follow-up interviews we sampled both whites and African Americans, young and old, and responsible and risky drivers. We specifically did not select these respondents based on their survey responses regarding their experiences in police stops. These interviews yielded narratives of stop experiences in the drivers’ own words. As Richard Delgado and Mario Barnes have argued, narratives often offer a more complete view of peoples’ experiences and perceptions of discrimination than can be gained by analyzing statistical patterns alone. Drivers’ narratives also help us to avoid placing our own interpretations on peoples’ perceptions and experiences. While journalistic accounts of racial profiling often rely on drivers’ narratives, skeptics may fairly ask whether the narratives chosen for presentation are extreme and unusual: how often—really—do officers stop drivers for tiny violations and then immediately search the vehicle? Our survey-based sampling for drivers’ narratives helps to ensure that the narratives we present in this book represent typical patterns rather than extreme examples. In sum, unlike other studies that report patterns in traffic tickets (but thereby ignore all of the stops that result in no ticket) or report a handful of anecdotes of horrific or simply offensive pretextual stops, our random survey and systematic sampling strategy for the follow-up interviews ensures that our conclusions are drawn from a broad cross-section of the population.

Two other methodological issues deserve brief discussion. One is why we focus on black/white differences. Other ethnic and racial differences are essential research topics but are beyond the scope of this book. Punitive anti-immigration policies and police surveillance increasingly target Latinos, and the prison population of Latinos is growing rapidly. But investigatory stops have targeted primarily African Americans, and
several studies of patterns in police stops observe that the black/white disparities are the heart of the problem; Latino/white disparities are somewhat less severe. Likewise, as observed by noted books on racial disparities in the criminal justice system, among them Michelle Alexander’s *The New Jim Crow*, Michael Tonry’s *Punishing Race*, and Jerome Miller’s *Search and Destroy*, the heart of the problem is the disparity between whites and African Americans. Further, while the Latino population in the Kansas City metro area is growing, it remains proportionally small and difficult to feasibly study via a survey focusing on drivers. By concentrating on differences between white and black drivers, we focus on the area of deepest racial disparity.

The other issue is whether our research site, the Kansas City metropolitan area, is somehow unique and thus may skew our findings. We think it is not unique. With some two million residents in a multicounty area, it is like many throughout the country, and there is every reason to believe that our findings apply elsewhere as well. The Kansas City area is typical of urban-suburban sprawl cities that cover many jurisdictions and vary dramatically in racial composition and wealth. The contiguous city boundaries of the Kansas City metro area span two states, Missouri and Kansas, six counties, and forty-four cities. Median household income just prior to the survey varied by city from a low of $33,011 in Kansas City, Kansas, to a high of $188,821 in Mission Hills, Kansas. African Americans represent a low of zero percent of the population in several small, extremely wealthy suburban city jurisdictions and a high of 31 percent in Kansas City, Missouri.

Nor are the sharp racial disparities that we find in Kansas City-area police stops unique. Numerous studies have found racial disparities in police stops throughout the country: in the dense, multiracial and multiethnic coastal cities of Los Angeles and New York City, but also the large Midwestern sprawls of Wichita, Kansas, and St. Louis, Missouri; in progressive, reform-oriented police departments like those in some of the Kansas City jurisdictions, but also traditional “political” departments like that of Boston; on major interstate highways in Maryland and New Jersey but also rural highways in Louisiana. We argue that the institutional rules undergirding investigatory stops and the practice of these stops are not unique to Kansas City but instead are national phenomena, and in chapter 2 we will examine the development of these institutional rules. Here, one point from that discussion is relevant: investigatory stops have been widely implemented throughout the country,
and the Kansas City metro area is in this respect no different. One way to illustrate this is to highlight the expert sources used by police consultant Charles Remsberg in developing his widely followed training manual *Tactics for Criminal Patrol*, a recipe book for how to make investigatory stops. Remsberg drew on the contributions of police trainers and patrol officers in dozens of police agencies around the country, among them the state police in the West (California and Oregon), Midwest (Illinois and Ohio), Northeast (New Jersey and New York), the Great Plains (Kansas), Southwest (Arizona), and the South (Louisiana, Arkansas, and Alabama). Among city police departments and local sheriff’s departments, his sources are again drawn from every region of the country and every size of city: Tupelo, Mississippi; Chicago, Illinois; Washington DC; Anaheim, Los Angeles, and San Diego, California; Jacksonville and Ft. Lauderdale, Florida; Little Rock and West Memphis, Arkansas; Phoenix, Arizona; Milwaukie, Wisconsin; Tillamook County, Oregon; and Albany, New York, among many others. Police departments in all of these areas were the source of professional knowledge about how to carry out investigatory stops. The Kansas City metropolitan area is no different from communities across the nation with regard to investigatory stops.

When we report that the vast majority of African American drivers have experienced at least one highly intrusive police stop, and when we offer illustrative examples of these stops in the drivers’ own words, we can be reasonably sure that these are representative patterns. We discuss our research design and methods in more detail in the appendix.

**Meaning of “Race”**

The United States is historically divided by race, but who is “black” and who is “white” and who belongs to other racially defined groups has no fixed meaning. Shared understandings of these categories are shaped by culture, politics, and policy. For this reason scholars increasingly question the common practice of defining “race” in binary terms (black/white), treating these terms as if they had an obvious meaning, and assuming that race is a cause—of different rates of high school graduation, for example—rather than an effect—of school policies, for example. We have incorporated some of these lessons in this study. We asked our survey respondents to self-identify their race, and we allowed them
to identify whatever category or categories of race or ethnicity they wished.\textsuperscript{82} But we also recognized that a person’s race, in the current ordinary language meaning of that term and in the specific context of a police stop by an officer who does not know the driver, may be as much a matter of how the person looks, or, to put it slightly differently, may be a matter of the person’s street presentation. This may include not only skin pigmentation, hair type, and so forth, but also style of dress, linguistic accent, and perhaps even type of vehicle. Therefore, we also asked our survey respondents to tell us what race they would appear to be in the view of somebody who had just met them on the street and did not know them.

We also asked respondents to tell us how much they look like a number of different types of people: construction worker, lawyer or doctor, hip-hop artist, factory worker, retiree, professional athlete, businessperson, twenty-something college student, working person trying to make ends meet, and so forth. These are not racial categories, per se, but that is in part the point. In the eyes of a police officer, what it means for a driver to be “black” might be shaped by how much the person looks like a lawyer or a hip-hop artist.

But a basic point of the recent research on the meaning of race is that the racial divide in American society is not simply a carryover from the past, but is also a product of current practices and policies.\textsuperscript{83} We share this view. When the police stop an African American man, require him to stand at the front of his car, perhaps in handcuffs, while the officer searches the car and other drivers stare as they whiz by in comparative freedom, the drivers’ race may have been a key part of what sparked the decision to make the stop. But it is also likely that this widespread practice shapes perceptions of stopped driver and passers-by alike of who is black and the meaning of race. Blacks and other minorities are ones who are held by the side of the road while police officers rummage through their cars. In this way police stops shape the meaning of race in an ongoing way.

The Plan of the Book

Police stops flow in several stages, and we have devoted a chapter to each of these stages. Chapter 2 examines the planning and development of the investigatory police stop, placing it in the context of police reform in
the wake of the civil rights movement and the urban riots of the 1960s and in the context of what is known about the psychology of implicit racial stereotypes. Chapter 3 examines the decision to stop a driver and how investigatory stops and traffic-safety stops yield different patterns in who is stopped; while the key explanation of who is stopped in traffic-safety stops is how you drive, the key explanation of who is stopped in investigatory stops is who you are. Chapters 4 and 5 examine what transpires during the stop. It is an interactive process shaped by the actions of both driver and officer. Chapter 4 shows that the type of stop determines the script governing this interaction; both officers and drivers follow different scripts in investigatory stops versus traffic-safety stops. Chapter 5 goes on to show that officers’ investigatory inquiries are largely targeted at African Americans and that these inquiries unfold in a rationally managed pattern, under the control of officers, rather than emerging in response to provocations by drivers. Chapter 6 examines how drivers evaluate the legitimacy of police stops. It shows that white and black drivers view stops through different evaluative frames that reflect their very different patterns of experiences in these stops. Black drivers, having a familiarity with intrusive investigatory stops, recognize when they are being subjected to such a stop and evaluate it negatively no matter how polite or respectful the officer. Chapter 7 expands the view to show that the experience of investigatory stops erodes drivers’ overall trust in the police, willingness to call the police for help, sense of their own freedom to drive, and sense of their place in society. Chapter 8 offers a concluding analysis and suggestions for reform.

In the debate over whether (or how many) individual police officers are racists, whether stopping black people at higher rates is helpful in fighting crime, and how stop-and-searches can be made less offensive by training officers to be polite and respectful, two basic points have been missed. Racial disparities in who is stopped and searched are the product not simply of myriad individual officers’ decisions but of coordinated guidance from above. The investigatory stop is an institutionalized practice. And investigatory stops cause harm—real, palpable harm to real people, most of whom are innocent.
Notes

Chapter 1

1. Charles R. Epp, Steven Maynard-Moody, and Donald P. Haider-Markel, “Driver Interview Archive,” in Reconstructing Law on the Street: Transcripts of Interviews and Focus Groups (Lawrence, KS: KU ScholarWorks, 2011), 33, http://hdl.handle.net/1808/8544. All of the names of those interviewed have been changed. For most names, pseudonyms were chosen from lists of the most popular names. For distinctly ethnic names, we chose substitutes from lists of popular ethnic names.

3. Ibid., 70–78.
5. Ibid., 64–68.
8. See, e.g., Robin Shepard Engel and Jennifer M. Calnon, “Examining the Influence of Drivers’ Characteristics during Traffic Stops with Police: Results From a National Survey,” Justice Quarterly 21 (2004): 49–90; our data indicate that the stop rate of African American drivers in the Kansas City area is 24 percent per year (compared to 12 percent for whites).
10. David A. Harris, Profiles in Injustice: Why Racial Profiling Cannot Work (New York: New Press, 2002); Andrew Gelman, Jeffrey A. Fagan, and Alex Kiss,
the Public: Findings from the 1999 National Survey (Washington DC: Department of Justice, 2001); Lundman and Kaufman, “Driving While Black.”

11. Both the institutional setting of these stops and the laws governing them differ by type of stop. Highway stops are typically conducted by officers of the state police; these forces employ officers who are specially trained to do one thing: conduct stops (and generally encourage safety) on state and federal highways. As part of the war on drugs, many state police agencies have trained their officers to participate in drug interdiction by looking for illegal drug couriers. Stops of drivers on urban and suburban streets are conducted by officers of city police departments; these forces provide a much broader range of services, including but not limited to traffic-safety enforcement and criminal law enforcement. This broader responsibility has led to the use of vehicle stops not only for drug interdiction, as is more typical of the state police, but also for a wide range of criminal investigation purposes. Stops and frisks of pedestrians are conducted mainly by large urban police departments; these stops share the diverse crime-control and investigation purposes of vehicle stops by urban police departments. The case law authorizing vehicle stops for investigative purposes (e.g., Whren v. U.S. 517 U.S. 806, 1996) is distinct from the case law authorizing stops and frisks of pedestrians (e.g., Terry v. Ohio, 392 U.S. 1, 1968), but in practice these distinct lines of cases blend together in governing officers’ actions, as Terry authorizes officer pat-downs of drivers in Whren-based vehicle stops (see, e.g., David A. Sklansky, Traffic Stops, Minority Motorists, and the Future of the Fourth Amendment, Supreme Court Review [1997]: 271).


15. Tribe, American Constitutional Law, 666 (original emphasis).


18. Ibid.


34. Provine, Unequal under Law.


43. For example, Jim Shee, a U.S. citizen of Chinese and Hispanic descent, reported the following experience: “It was very vivid April the 6th in 2010, I was leaving a car wash, and I received a text on my way out and so I pulled over and was answering my text. A couple minutes later I saw the flashing lights behind my car, and a Phoenix police officer tapping on my window. So I rolled down my window and he immediately responds, ‘Let me see your papers.’ So I produced my papers. He took them out the window, went to the back of the car, must have called in by his radio and came back a few minutes later, and he said, ‘Well,
you’re all clear. You’re free to go.’ I questioned him and I says, ‘Why did you stop me?’ And I says, ‘Well all I was doing was texting, and which I understand the law says that don’t text while you’re driving so I’m not driving and I’m checking my text. So you stopped me because I look suspicious.’ And he says, ‘Yeah, but you’re free to go now’” (“SB 1070: ‘I Look Suspicious,’ American Civil Liberties Union, http://www.aclu.org/immigrants-rights/sb-1070-i-look-suspicious; accessed October 31, 2012).


47. See, e.g., Tribe, Constitutional Law, 666–76.


53. In these densely populated urban centers, such as New York City, police “stop and frisk” practices are similar to the investigatory traffic stop.


55. Ibid., 130.


61. Ibid.


63. Ibid., 196.

64. Sugrue, “Driving While Black.”


67. Sugrue, “Driving While Black.”


text of our survey of drivers is available in “Kansas City Driving Survey: Selected Items from Questionnaire,” Reconstructing Law on the Street (Lawrence, KS: KU ScholarWorks, 2011), http://hdl.handle.net/1808/8544.


80. Other city or county departments included Harrison County, MS; Blackhawk County, IA; Yavapai County, AZ; Baton Rouge, LA; Schoharie County, NY; Lansing, IL; Anson County, NC; Alice, TX; Wildwood, FL; Shaker Heights, OH; Millcreek Township, PA; Milwaukee County, WI; Butts County, GA; Calgary, Alberta, Canada; Ortero County, NM; Orange County, FL; Fairmont, IL; Lake County, FL; Milwaukee, WI; Vancouver, BC, Canada; Sevier County, TN; Coconut Creek, FL; Montgomery County, MD; Dearborn, MI; Los Angeles County, CA; Wauwatosa, WI; Fulton County, GA; and Phelps County, MO.


82. Epp et al., “Kansas City Driving Survey.”


Chapter 2

Definition of pull over phrasal verb from the Oxford Advanced Learner's Dictionary. pull over. phrasal verb. phrasal verb Motoring problems and accidents, Driving. jump to other results. Phrasal Verbs. pull over. jump to other results. (of a vehicle or its driver) to move to the side of the road in order to stop or let something pass She saw the ambulance coming up behind her and pulled over. pull somebody/something over. jump to other results. pull over definition: If a vehicle pulls over, it moves to the side of the road and stops: . Learn more. pull over meaning in English. pull over. phrasal verb with pull verb.