

Traffic Stops: Ensuring Safe Driving Practices, or A Pretext for an Informal Criminal Investigation?

Presentation to the Executive Committee for Highway Safety
NC Department of Transportation

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Two aspects of traffic stops

- Reduce crashes and fatalities, keep the roads safe
- Use the traffic code and the vehicle code, which provide hundreds of potential violations, as a way to conduct informal criminal investigations.
 - The courts have validated police practices of asking questions during traffic stops, as long as the traffic stops are not unduly prolonged.
 - Since virtually every driver is breaking some law, this is a very welcome tool to the police.
 - Timothy McVeigh was apprehended in a traffic stop...
 - Middle-class white Americans are unaffected and largely unaware of how many traffic stops are “pretextual.”

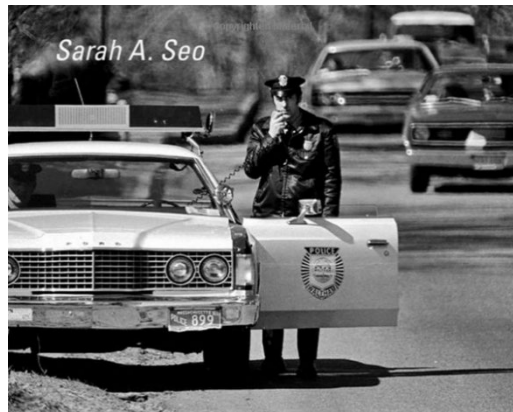


The background on pretextual traffic stops.

- Sheriff Bob Vogel, originally a state trooper, but later elected Sheriff of Valusia County, FL, working from 1988 through 2000:
 - “drug courier” profile...
 - Judges often threw out his “hunches” about why a car might harbor drugs based on racial profiling.
 - He went to the books and studied the traffic and the vehicle code, looking for “legally valid reasons” to pull a car over and start a conversation.
 - He found these legal justifications “by the hundreds” in the traffic code and in the vehicle code.
- This became a best practice, supported by the US Supreme Court, and a strong part of police culture. If a person breaks a law, they open themselves to investigation.



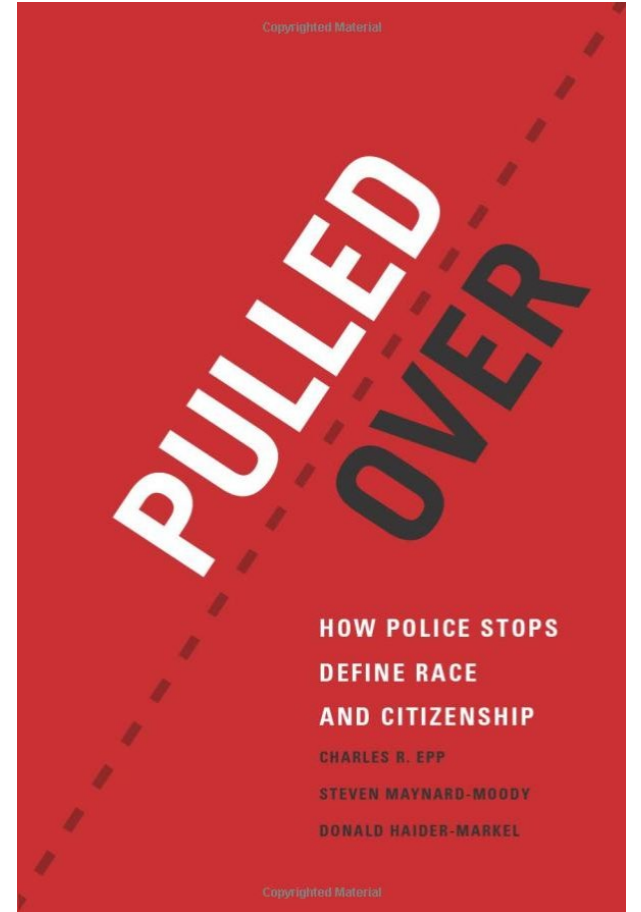
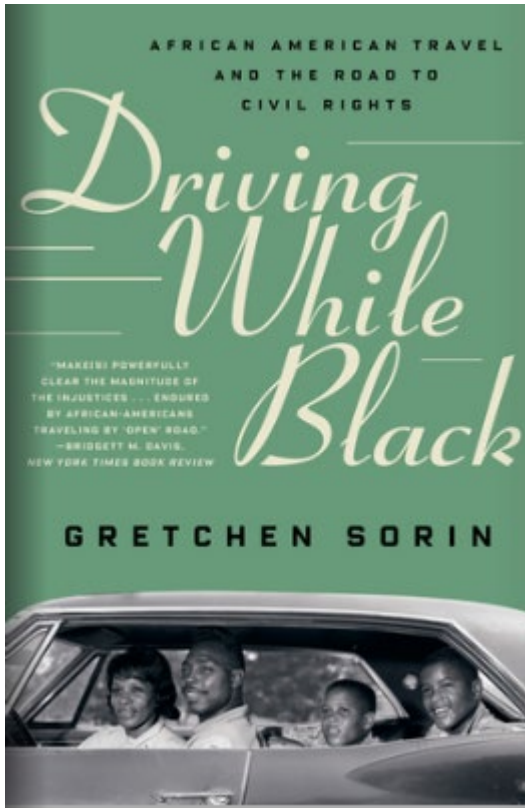
Three useful books on the topic.



POLICING THE OPEN ROAD

How Cars Transformed American Freedom

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What were those books again?

- Seo, Sarah A. 2019. *Policing the Open Road: How Cars Transformed American Freedom*. Cambridge: Harvard University Press.
 - Seo is a law professor and the book focuses on how the law and our expectations of privacy changed with the arrival of the automobile.
- Sorin, Gretchen. 2020. *Driving While Black: African American Travel and the Road to Civil Rights*. New York: W.W. Norton.
 - A review of the impact of cars on the African American community during a time when public transportation was segregated.
 - Also a PBS documentary: <https://www.pbs.org/show/driving-while-black/>
- Epp, Charles R., Steven Maynard-Moody, and Donald P. Haider-Markel. 2014. *Pulled Over: How Police Stops Define Race and Citizenship*. Chicago: University of Chicago Press.
 - Based on a survey of drivers, making the distinction between "safety" and "investigatory" stops and how these make drivers feel.
- See also: Oregon Supreme Court, 365 Or 695 (S066119) *State v. Arreola-Botello*, November 15, 2019.
 - Oregon Supreme Court decision ruling that a search following a traffic stop for "illegal right turn" is illegal, since it has no relation to understanding the cause of the illegal behavior that caused the stop.



A quick summary of a long book:

- Black drivers in NC 2x as likely to be pulled over
- Once pulled over, 2x as likely to be searched
- Typical contraband “hit” is very small
- Only about 10 percent of searches lead to arrest.
- Disparities are ubiquitous: all states and localities show similar patterns
- Targeting seems clearly based on stereotyping.
 - Each time we find a new database with another variable, we find more evidence of stereotypes: out of state plates, older car, luxury v. less expensive vehicles, cars v. work vans, each variable predicts higher rate of search.
 - If we had a variable for “air freshener hanging from the rear-view mirror”, that would probably predict search as well.

FRANK R. BAUMGARTNER
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SUSPECT CITIZENS

WHAT 20 MILLION
TRAFFIC STOPS TELL US
About POLICING
and RACE



Quick anecdote that may or may not surprise you.

- Texas Highway Patrol records the make and model of the car.
- Cadillac DeVille: over 3,000 traffic stops
 - Over 40% Black drivers
 - Search rate: over 8%
- Subaru Outback: over 3,000 traffic stops
 - About 2% Black drivers
 - Search rate: about 1%



SBI-122



TRAFFIC STOP REPORT

Agency Name _____ Date (Month/Day/Year) _____ Time _____

County of Stop _____ Officer ID Number _____

City of Stop _____

Part I

Initial Purpose of Traffic Stop (check only one)

- Checkpoint Other Motor Vehicle Violation Stop Light / Sign Violation
 Driving While Impaired Safe Movement Violation Vehicle Equipment Violation
 Investigation Seat Belt Violation Vehicle Regulatory Violation
 Speed Limit Violation

Vehicle Driver Information

Driver's Age _____ Driver's Race White Black Native American Asian Other
 Driver's Sex Male Female
 Driver's Ethnicity Non-Hispanic Hispanic (Person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish Culture)

Enforcement Action Taken as a Result of the Traffic Stop (check only one)

- Citation Issued On-View Arrest If arrest made, who was arrested?
 No Action Taken Verbal Warning Driver
 Written Warning Passenger(s)

Physical Resistance Encountered

- Did Officer(s) encounter any physical resistance from Driver and/or Passenger(s)? Yes No
 Did Officer(s) engage in the use of force against the Driver and/or Passenger(s)? Yes No
 Did injuries occur to the Officer(s) as a result of the stop? Yes No
 Did injuries occur to the Driver as a result of the stop? Yes No
 Did injuries occur to the Passenger(s) as a result of the stop? Yes No

Vehicle/Driver/Passenger(s) Search

Was a search initiated subsequent to the traffic stop? Yes* No

*If search was initiated, complete Part II

Traffic Stop Report

Part II

Type of Search (check only one)

- Consent Search Warrant Probable Cause Search Incident to Arrest Protective Frisk

Basis for Search

- Erratic/Suspicious Behavior Observation of Suspected Contraband Suspicious Movement
 Informant's Tip Other Official Information Witness Observation

Person(s)/Vehicle Searched

- Was the Vehicle Searched? Yes No
 Was the Driver Searched? Yes No
 Was a Passenger(s) Searched? Yes No
 Were the Personal Effects of the Driver and/or Passenger(s) Searched? Yes No

Identify the sex, race, and ethnicity of each passenger searched

	Age	Sex		Race				Ethnicity		
		Male	Female	White	Black	Native American	Asian	Other	Hispanic	Non-Hispanic
Passenger 1										
Passenger 2										
Passenger 3										
Passenger 4										

Contraband Found

- Contraband found as a result of the search: None **OR** complete the following:
 Drugs _____ Ounces _____ Pounds _____ Dosages _____ Grams _____ Kilos
 Alcohol _____ Pints _____ Gallons
 Money _____ Dollar Amount
 Weapons _____ Number of Weapons
 Other _____ Dollar Amount

Property Seized

Property seized as a result of the search: None **OR** complete the following:

- Motor Vehicle Personal Property Other Property

Office Use Only	Date	Initials
Reviewed		
Entered		



“Safety” v. “Investigatory” Stops

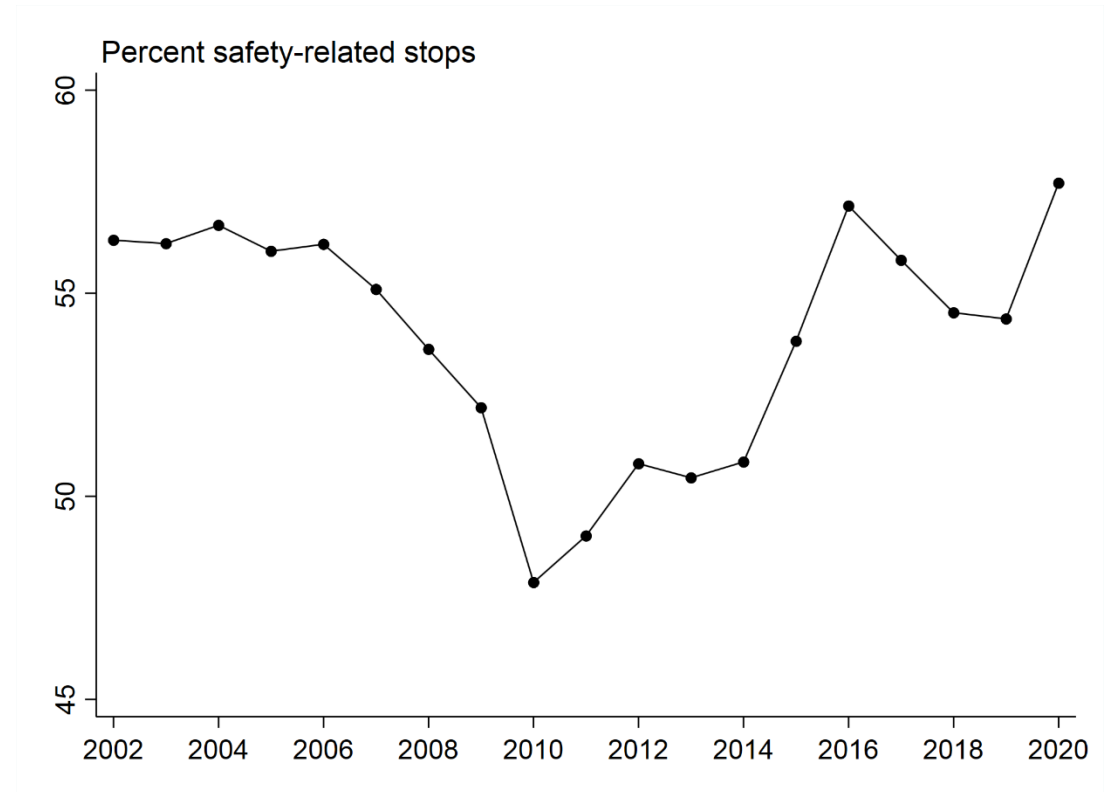
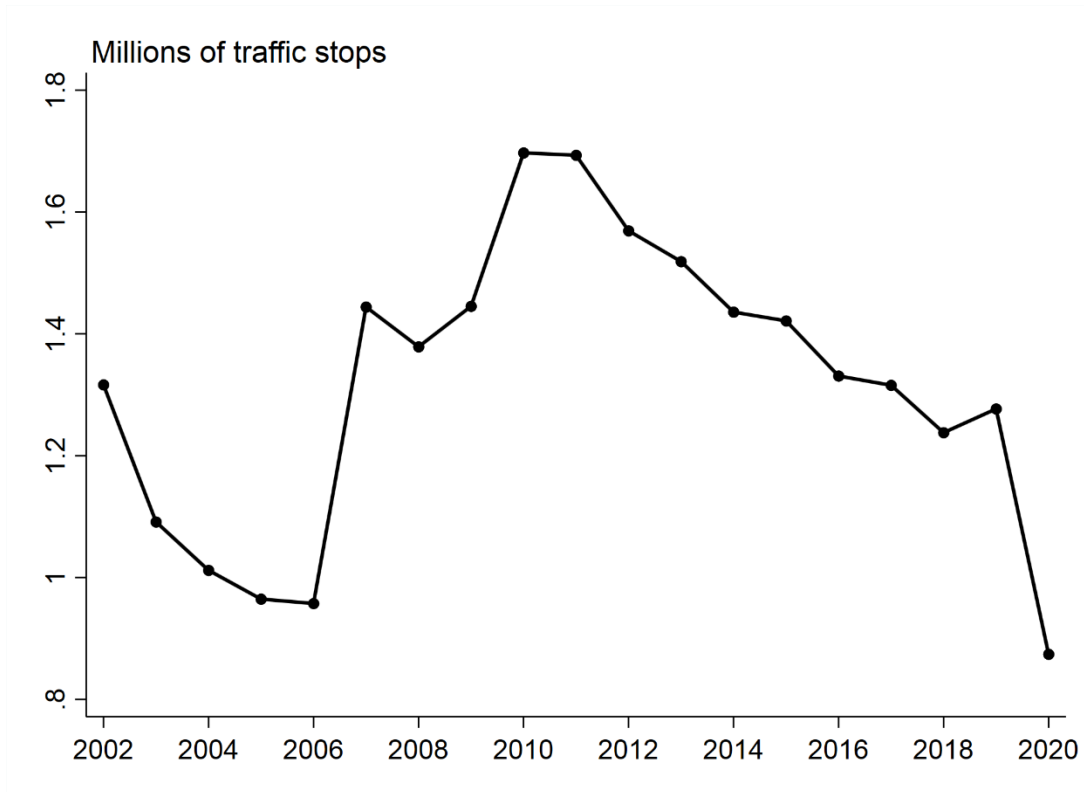
- The traffic and vehicle codes render every single motorist a lawbreaker.
- What we would like: compare enforcement of the traffic laws for the purpose of keeping the roads safe with use of the traffic or vehicle code to fight the war on drugs or crime.
- What we can do: compare the 10 traffic stop purposes...



Safety and Investigatory Stops (2002-2020)

Purpose	# of Stops	% of Stops
Safety	13,365,910	53.50
Speed Limit	10,478,769	41.95
Stop Light/Sign	1,246,413	4.99
Driving Impaired	198,646	0.80
Safe Movement	1,442,082	5.77
Investigatory	11,614,867	46.50
Vehicle Equipment	2,346,627	9.39
Vehicle Regulatory	4,431,263	17.74
Seat Belt	2,052,828	8.22
Investigation	1,623,228	6.50
Other Vehicle	1,160,921	4.65
(Checkpoint stops excluded)		
Total Stops (Drivers only)	24,980,777	100.00

1 to 1.7 Million stops per year, about 50/50 safety v. investigatory purposes...



Very clear patterns over the hours of the day; only minor changes by day of week

Number of stops (high during driving hours, and at night)

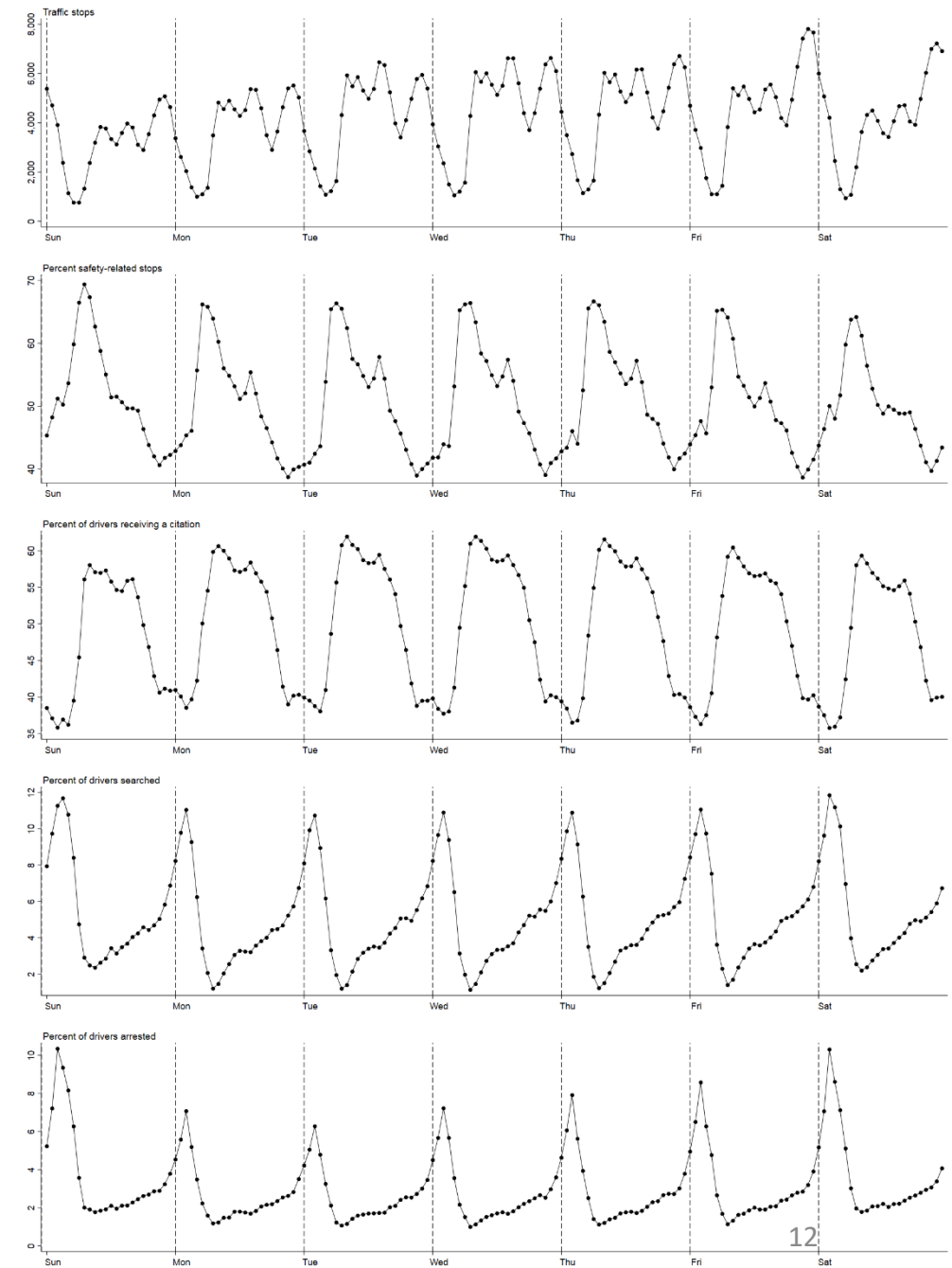
Percent safety-related (peaks in morning)

Percent receiving a citation (high during the day)

Percent searched (high late at night)

Percent arrested (high late at night)

Traffic stops by hour across the week



Very clear patterns over the hours of the day

Number of stops (high during driving hours, and at night)

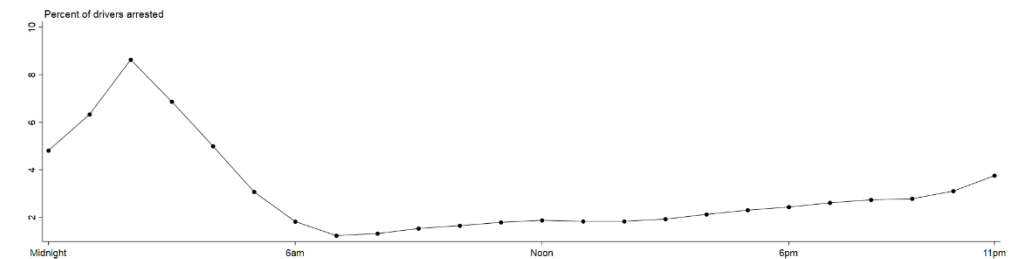
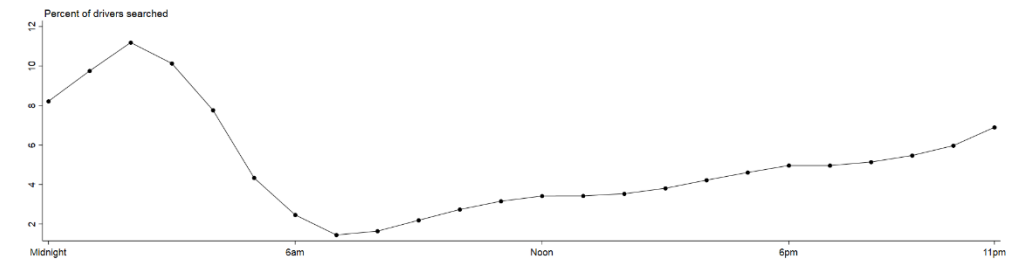
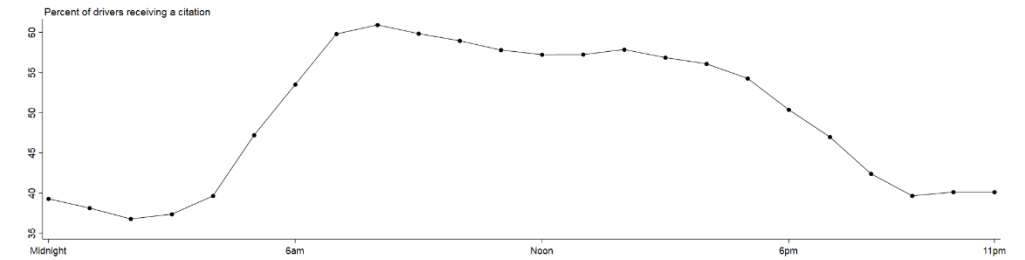
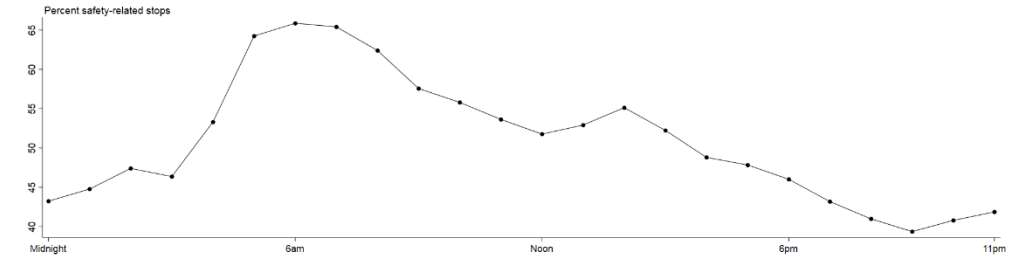
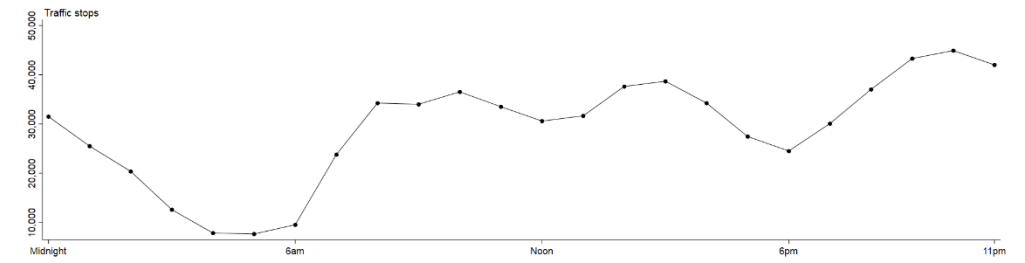
Percent safety-related (peaks in morning)

Percent receiving a citation (high during the day)

Percent searched (high late at night)

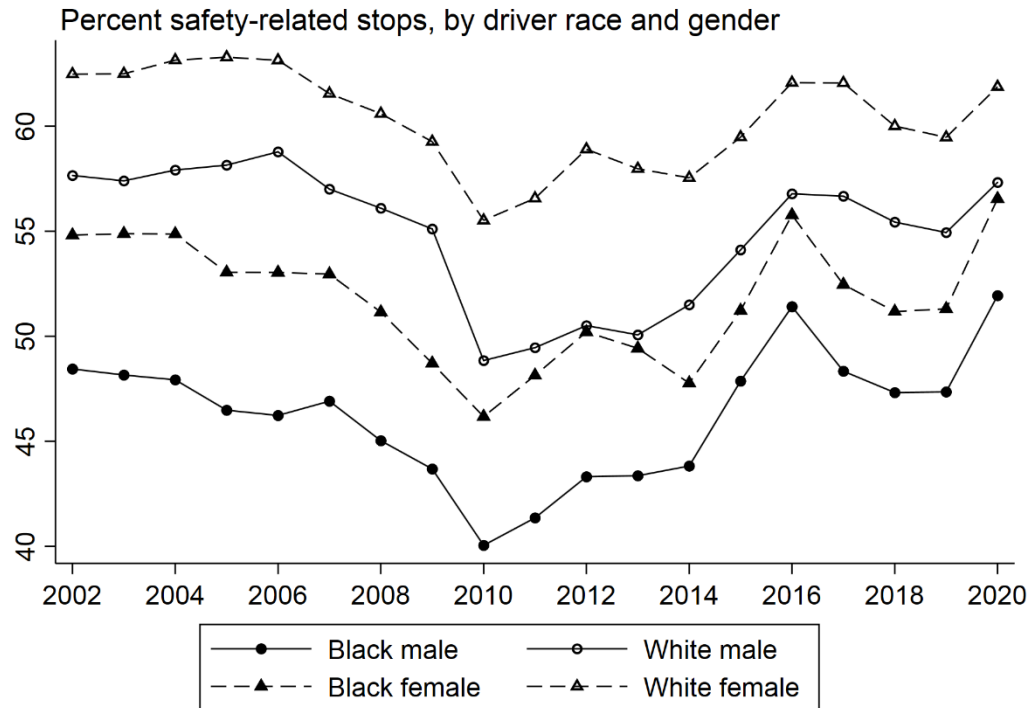
Percent arrested (high late at night)

Traffic stops by hour over the day

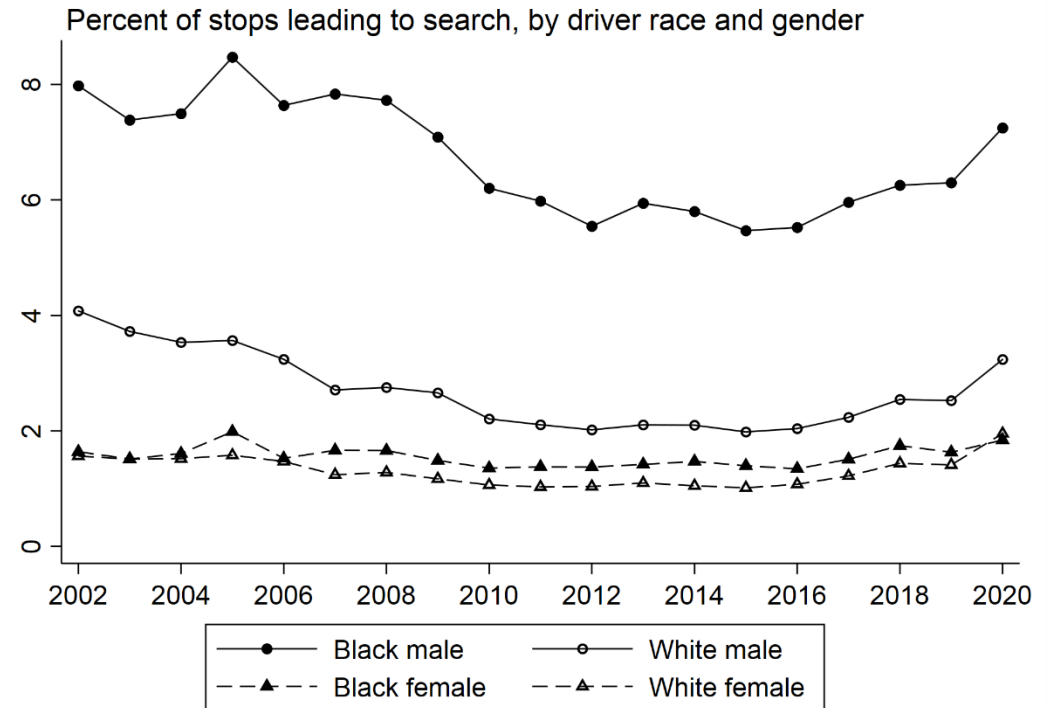


More safety stops depending on driver demographics, and this relates to searches.

Percent of drivers stopped for safety-related reasons:

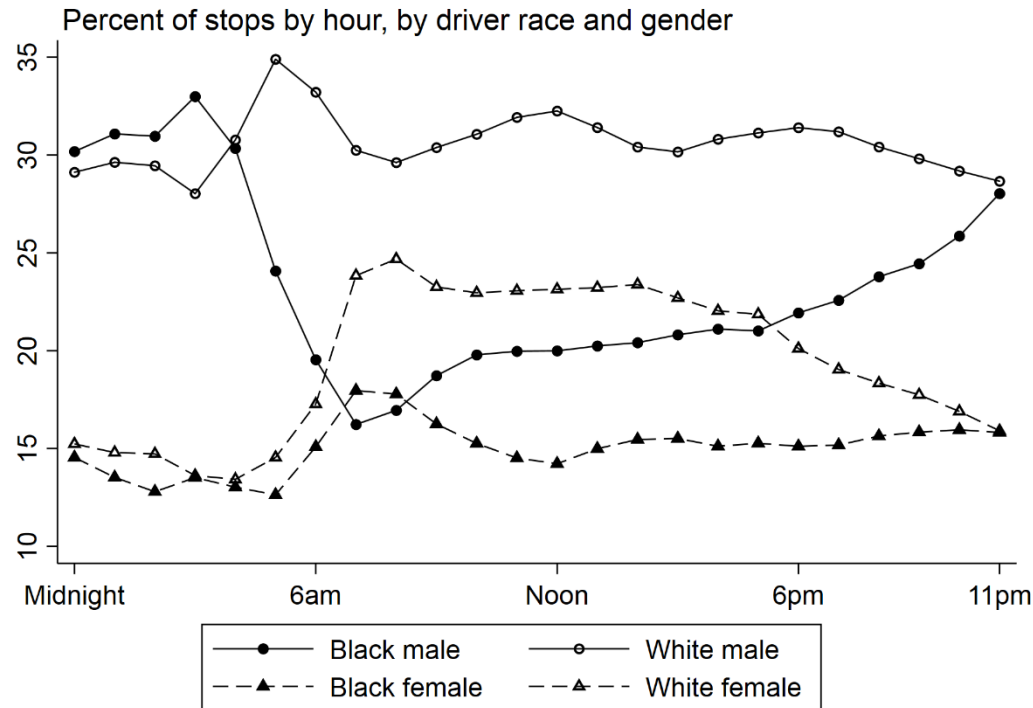


Percent of drivers searched:

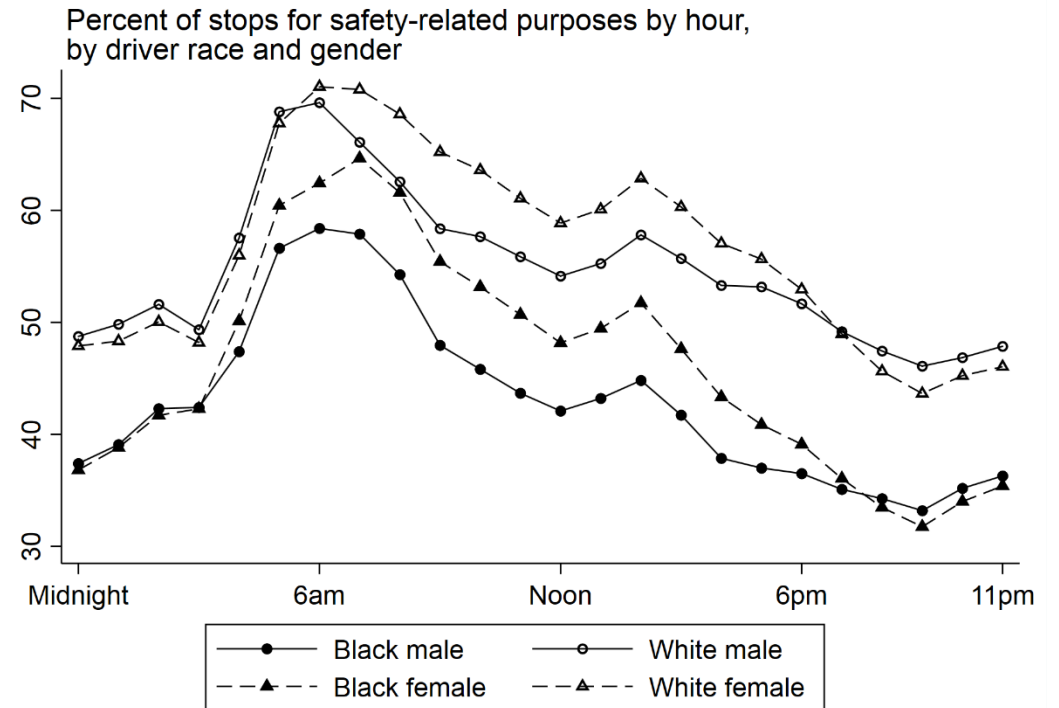


Black male drivers stopped at night, much more likely to be investigatory stops than safety

Stops by hour of the day, by race / gender.

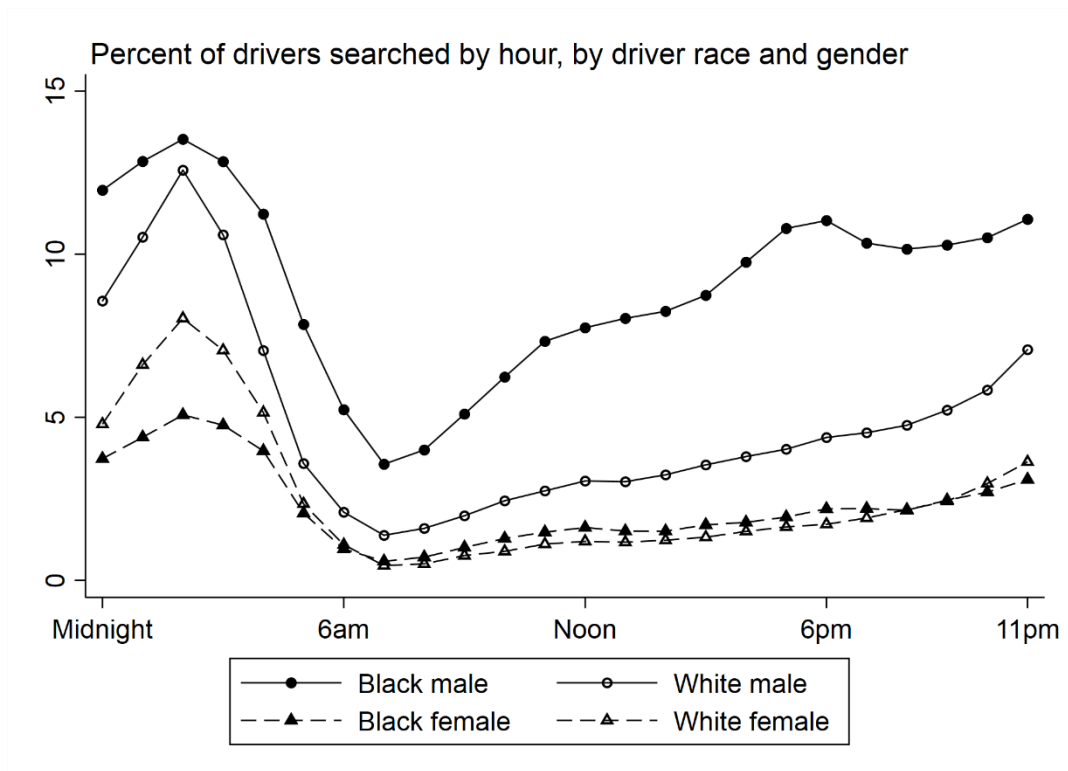


Percent safety-related stops

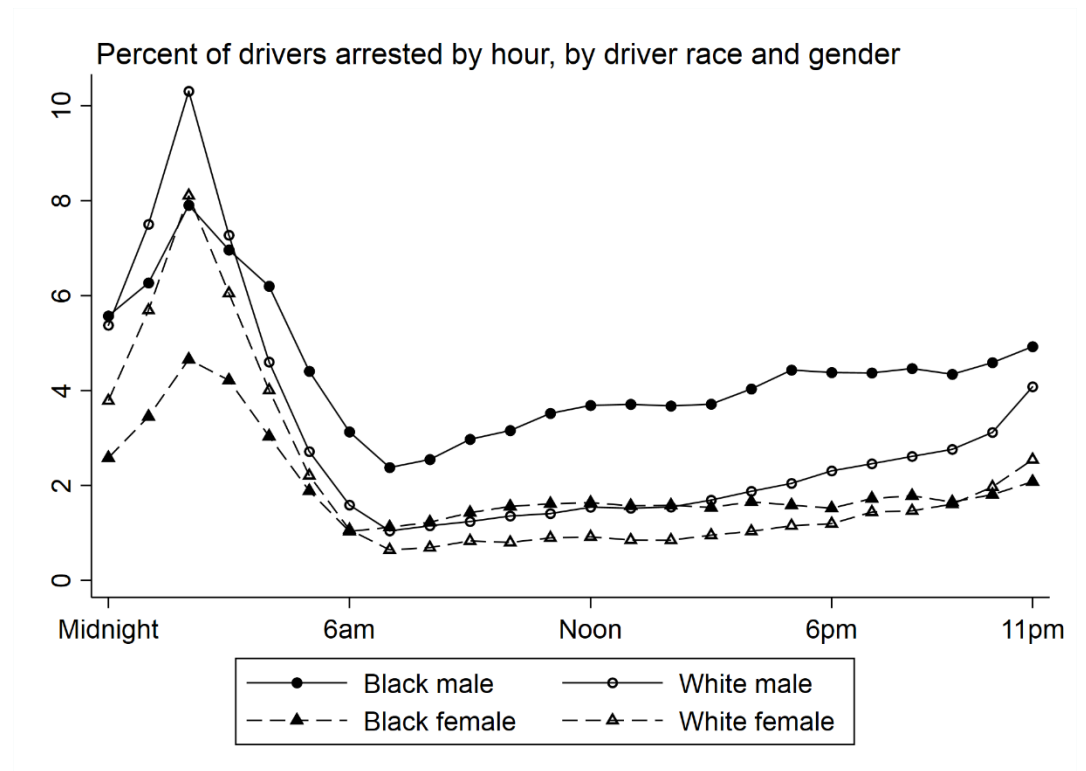


Searches and arrests following traffic stops

Percent of drivers searched

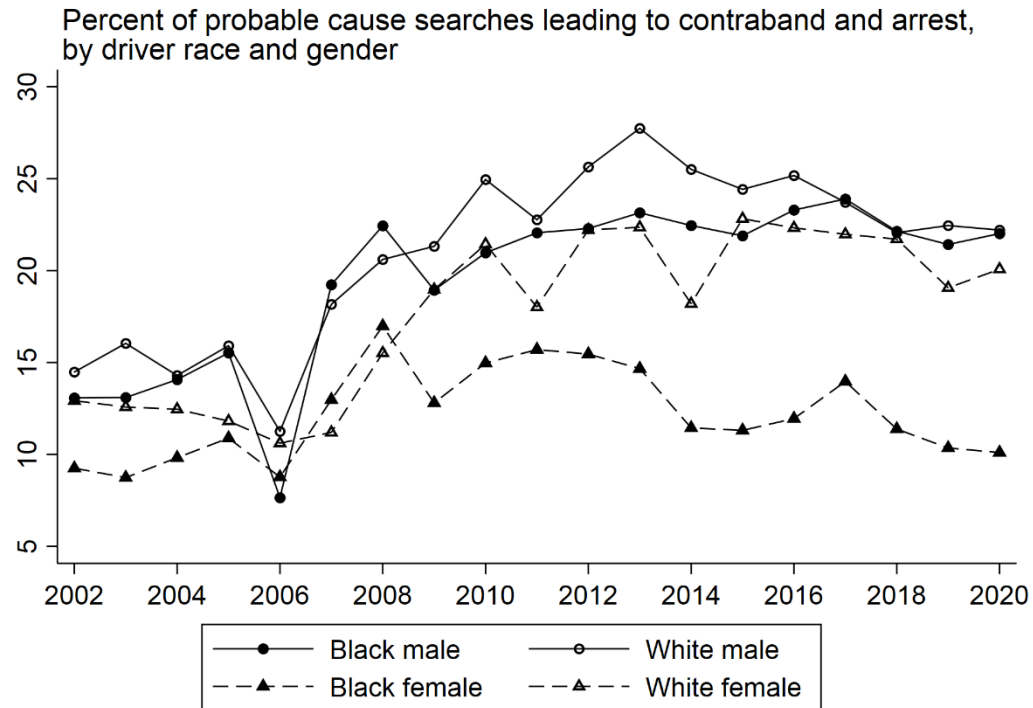


Percent of drivers arrested

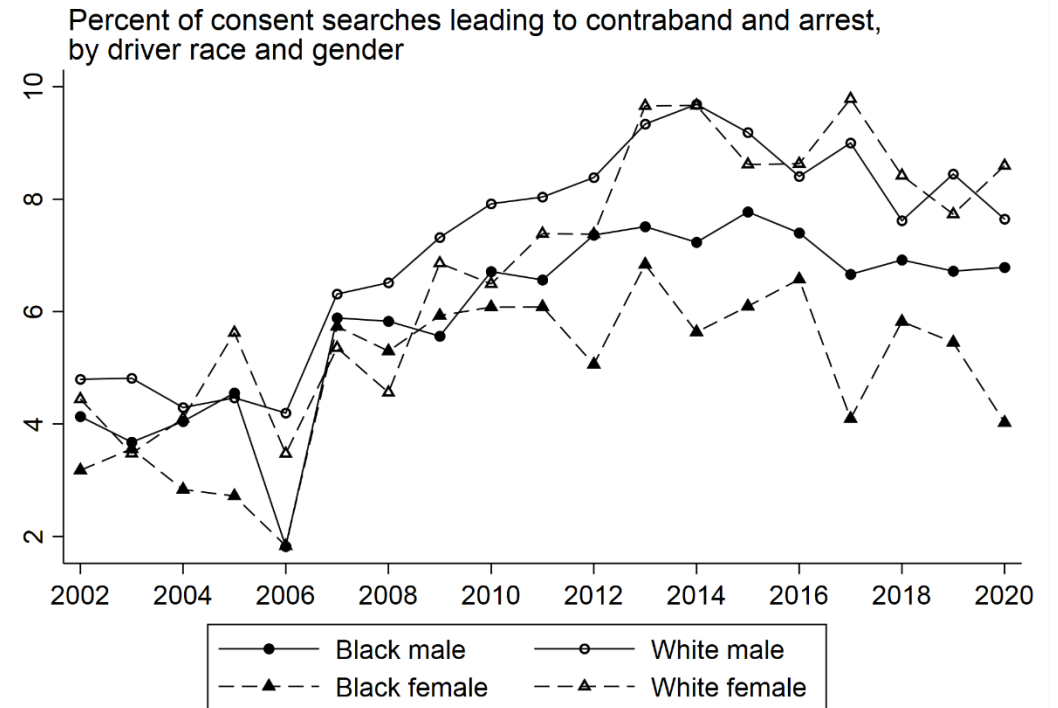


These searches generate a lot of anger, but surprisingly few lead to arrest

Probable cause searches leading to contraband and arrest



Consent searches leading to contraband and arrest



From 25 million traffic stops to 100,00 arrests.

Category	Number	Percent
Total traffic stops	24,980,776	100.00%
Searches	763,343	3.06%
Contraband hit	280,152	1.12%
Arrests from hit from search	105,784	0.42%

