

The Heat is On: Does Civil Litigation Affect Policing Practices?

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Abstract

We investigate the relationship between civil litigation and policing activity at a systems level and take a step toward a more rigorous understanding of the effect of civil litigation as an accountability mechanism for law enforcement misconduct. To investigate, we assemble original data on every civil lawsuit filed against a police department in North Carolina between 2003 and 2011, which we pair with existing traffic stops data from 2002 to 2016. We hypothesize that as an agency faces an accumulation of lawsuits, the agency will scale back its discretionary enforcement activities. Empirical tests reveal a 16 percent drop in the number of monthly stops made by officers in the aftermath of new civil litigation against their department. However, reductions in discretionary police behavior appear to benefit white motorists while rates of stops of Black motorists remain relatively unchanged. Our findings highlight the role of litigation in police accountability as well as the seeming intractability of racial disparities in discretionary police behavior.

Keywords

public policy, urban politics, policing, litigation, legalized accountability, bureaucratic responsiveness

Introduction

The civil litigation system in the United States has a long history of relying on citizens to enforce civil rights laws via private litigation, including complaints against law enforcement agencies. The rise of liability lawyers, government agencies and even private businesses reoriented much of their internal policy making to include efforts to minimize the risk of a lawsuit which could be costly, embarrassing, or otherwise disruptive to their goals. Charles Epp opens *Making Rights Real: Activists, Bureaucrats, and the Creation of the Legalistic State* with a 1987 quote from a police department illustrative of our purpose: “We are being sued because we are not doing our job. The legal system and its social engineering are combating our incompetence in finding, selecting, hiring, and controlling our police officers” (2009, 1). He argues the rise of liability lawyers and the activist networks that support them pushed government agencies (including law enforcement) to adopt policies and systems that reduced the likelihood of lawsuits, termed “legalized accountability.” Most organizational leadership can recognize a lawsuit, regardless of its merit or its likelihood of success, can prove disruptive and embarrassing. However, many of the rules governing legal procedure disadvantage individuals when presenting civil rights violations against law

enforcement officers due to a variety of factors including the costs associated with filing cases, inadequate legal representation, and legal impediments like qualified immunity (C. R. Epp 1998, 2009; C.R. Epp, Haider-Markel, and Maynard-Moony, 2014; Farhang 2009; Galanter 1974).

Despite these obstacles, legal entrepreneurs and individual citizens continue to invest resources in legal mobilization strategies. Even if lawsuits never make it to trial, can the mere filing of legal action have a downstream effect on the nature of policing? Some scholars argue civil rights lawsuits are a “hollow hope” that divert advocacy resources from more likely avenues for reform like lobbying legislators while decentering community-wide problems by reframing them into individual disputes (Barnes and Burke 2015; Farhang 2009; Glendon 1987; Haltom and McCann 2004; Rosenberg 1991). However, if even one civil rights lawsuit is successful, the cost to the

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jurisdiction could be massive. Estimates indicate US municipalities pay out millions of dollars settling lawsuits brought about by police misconduct (Thomson-DeVeaux, Bronner, and Sharma 2021), which may be enough for agencies to respond with discretion, or in less risk-producing practices when engaging with the public. The real risk lawsuits pose to law enforcement agencies, however, is not the financial cost of a lawsuit but the blow to their reputation with the community they serve and with local politicians (C. R. Epp 2009). Departmental budgets are determined by local officials like city managers, mayors, and city councils, police chiefs are appointed by the same groups, and county sheriffs are typically elected, which makes elements of policing subject to democratic public opinion. Therefore, while individual litigants often fail to secure a favorable decision in courtrooms for themselves, the collective weight of lawsuits brought against law enforcement organizations may still result in a bureaucratic response.

If so, a response is most likely to manifest in areas where police officers have greater discretion. Research on discretionary police activities finds their use is highly sensitive, scaling up or down in response to internal directives (C. R. Epp 2009; Epp, Haider-Markel, and Maynard-Moony, 2014; Mummolo 2018), as well as outside pressures like protests (Shjarback et al., 2017). Civil litigation may also provoke a response as local officials and agency leadership seek to tread lighter and avoid costly mistakes. This could take place as a reduction of police budgets or directives to individual officers to avoid unnecessary encounters (i.e., officers make fewer traffic stops overall or fewer contacts with drivers when a clear risk to public safety is not present). We argue lawsuits should be considered along with voting and protest as accountability mechanisms influencing local service delivery because even a single civil rights lawsuit carries risks for a law enforcement agency.

In this paper, we evaluate the relationship between civil lawsuits, policing, and race. First, we construct a novel dataset of civil suits filed in North Carolina's federal district courts against law enforcement agencies from the federal filing system PACER¹ from 2003 to 2011. All cases filed in our dataset indicate a §1983 civil lawsuit was filed against a law enforcement agency and at times, individual officers. We combine our case-centered dataset with existing records of traffic stops from the North Carolina Department of Justice (NCDOJ) and an original dataset of police budgets for municipal and county law enforcement agencies. This combination of novel and existing datasets allows for comparison between levels of police activity and funding at the agency level before and after civil litigation actions are filed against a given law enforcement agency.

Regression analyses reveal that officers from agencies with a history of litigation have a greater sensitivity to new legal action and respond by making fewer traffic stops. These findings are statistically significant and robust across model specifications. Agencies that previously faced up to three suits respond to a new lawsuit by reducing monthly total traffic stops by 16 percent compared to agencies with no history of lawsuits. Breaking total stops into compositional elements reveals a 15 percent month-to-month decline in safety-related stops (speeding, running stop signs, driving under the influence, and unsafe driving) and a 18 percent decline in stops for more discretionary reasons, which we term investigative stops, including vehicle equipment and regulatory violations, seat belts, and other investigative purposes (C.R. Epp, Haider-Markel, and Maynard-Moony, 2014; Baumgartner, Epp, and Shoub, 2018). Finally, we look at police budgets in the aftermath of lawsuits to examine local accountability. We find no evidence that local politicians attempt to scale back police funding in response to lawsuits.

Our findings suggest accumulating legal action taken against police departments may influence street-level police behavior, an important contribution to the literature. However, when we look separately at stops categorized by the motorist's race, we find the relationship between lawsuits and traffic stop reductions are only statistically meaningful for white drivers. The racialized nature of this set of findings reinforces troubling findings documented in existing literature indicating discretionary police activities are scaled back more dramatically for white drivers than for Black drivers (C.R. Epp, Haider-Markel, and Maynard-Moony, 2014; D.A. Epp and Erhardt 2021; Shoub et al., 2021), highlighting the durability of racial differences in traffic stops. Lawsuits appear to influence street-level police behavior but in circumspect and blunt ways. In what follows, we provide a review of existing scholarship evaluating accountability mechanisms for law enforcement agencies, outline the process of data collection, introduce descriptive findings of our lawsuits dataset, outline our methodology, and present results.

Legalized Accountability and Bureaucratic Responsiveness of Law Enforcement

Broadly, we know that when courts intervene in conflicts and issue judicial directives, courts can compel bureaucratic policy change. But even court directives often cannot overcome individual bureaucrats' own policy preferences. Even with legal directive, an agent's individual policy preferences or inherent biases might lead to

noncompliance with the court (Spriggs 1996; Wood and Waterman 1991). Law enforcement agencies are bureaucratic agencies tasked with protecting public safety. They have a clear hierarchical structure and a complex set of institutional rules and norms that govern their internal dynamics as well as their interactions with members of the public. Because a large section of the public engages in transportation to go about their daily lives, traffic regulation presents broadly applicable administrative behavior and the opportunity for street-level bureaucrats to engage with the broader public.

Like other bureaucratic agencies, law enforcement organizations encounter problems that can be difficult to solve, including how to handle incidents of officer misconduct and allegations of civil rights violations. Recent scholarship concludes that decision-makers suffer from “change blindness” or a physiological tendency to only pay attention to severe problems or when they perceive a severe threat (D. A. Epp and Thomas 2023; Mortensen, Loftis, and Seeberg 2022) like legalized accountability. Within complex bureaucratic agencies it often takes a focusing event to harness key decision-makers’ attention to address a problem (Workman, Jones, and Jochim 2009). To a decision-maker in a law enforcement agency, lawsuit(s) filed against your department would qualify as a focusing event and a clear threat to the department as it could draw unfavorable attention from policymakers and the public (C. R. Epp 2009). As a result, it is plausible decision-makers in charge of a scrutinized agency behave in ways that reduce further risk to their agency even before a court can issue a decision.

A lengthy literature addresses the question of how police officers respond to external pressures. As the quintessential street-level bureaucrats, police officers (and police leadership) are largely insulated from public attitudes. While sheriffs are elected, there is often little meaningful competition in these elections (Farris and Holman 2023). Consequently, policing behaviors—either intentional or emergent—show to be durable, persisting over long periods of time regardless of shifting local norms or the political composition of municipalities. For example, public concern about racial disparities in traffic stops has persisted for decades, but such disparities are nearly ubiquitous in studies of police activities (Baumgartner Epp, and Shoub, 2018; C. R. Epp, Haider-Markel, and Maynard-Moony 2014; E. Pierson et al., 2020). Scholarly evidence continues to demonstrate law enforcement engages with members of the Black and white communities differently and few mechanisms successfully alter racialized behavior. Repeatedly, evidence demonstrates law enforcement is significantly more likely to stop Black people than white people (C.R. Epp, Haider-Markel, and Maynard-Moony, 2014; Baumgartner Epp, and Shoub, 2018; E. Pierson et al., 2020). The same

is true of instances of police force. Koslicki shows even after George Floyd’s murder at the hands of Derek Chauvin, there was no change in the use of force statistics by the Minneapolis Police Department (2022). Likewise, Chanin and Sheats (2018) and others find top-down reforms ordered by the Department of Justice often fail to meaningfully change police behavior and the negative effects on the Black community are inextricable (M. Alexander 2011; Lerman and Weaver 2014; Sances and You 2017).

Protests have a limited influence over changes in police behavior. One example is in Ferguson, Missouri, where researchers observed a decline in police activities following the protests surrounding Michael Brown’s killing (Powell 2023; Shjarback et al., 2017). Elected officials can also pressure police agencies to make reforms. For instance, police officers are less likely to initiate traffic stop searches in communities with majority Black city councils (Christiani et al., 2022). Unsurprisingly, top-down initiatives from within police departments can dramatically change the street-level behavior of officers (D. A. Epp and Erhardt 2021; Mummolo 2018).

As a refrain, “defund the police” first emerged on social media following the 2014 killing of Michael Brown by a Ferguson, Missouri police officer, but gained national prominence in 2020 (Cobbina-Dungy et al. 2022). In the years since, policing as a system remains unchanged. The strength of the “defund the police” frame calling for reform was related to Americans’ divergent and polarized social identities; people who typically believe police are well-intentioned and represent law-abiding citizens saw the call to defund the police as a threat for total abolition, while people who see Black communities as either over- or under-policed viewed it as reforming the system and increasing accountability (Jackson et al., 2023). Others found Democratic mayors were more responsive to the 2020 protests, but ultimately, only 15 cities decreased police budgets by more than 1 percent, and more than half of US cities’ increased or maintained police budgets, highlighting short-term effects of reforms in path-dependent local governments (Hoang and Benjamin 2024; Shannon 2021).

Substantive change to law enforcement policy is difficult due to the path-dependent nature of policymaking. Following the revolving patterns of reform, backlash, and ultimate failures of citizen review boards instituted to irradicate racialized policing following key decisions from the Warren Court era (C. R. Epp 2009; Fogelson 1977), police reform today is sticky. Path dependence generally depends on timing and sequence of policy decisions. Each policy decision can potentially lead to a host of outcomes including “large” consequences from “small” decisions, and second, once policies are implemented, reversing them is difficult, and the longer they

exist, the more difficult changing their path becomes (Pierson 2000). Decentralization of law enforcement as a policy area makes it even less likely that a reform will pass in every local government throughout the country. Although policing has increased in salience periodically since, namely, in the summer of 2020 following the high-profile police killings of George Floyd and Breonna Taylor, substantive impacts to police departments and their budgets have been largely null.²

Preemption in politically divergent states also contributes to preserving the status quo. In Austin, Texas, one of the few cities that passed a defund policy, the city council mandated a host of reforms. City officials eliminated police cadet classes, cut general spending and overtime pay, and diverted millions of police budget funds to mental health, homelessness, and domestic violence prevention services. Independent agencies reallocated monies and time from 911 dispatch, forensics, and internal affairs (Holder, Akinnibi, and Cannon 2020). Soon after, the Texas state government intervened by passing policy that ensured law enforcement budgets could not be reduced.³

For a host of political reasons, it is clear the policing landscape is relatively consistent since 2002 and racialized policing has a long intuitional history. Although the salience of protest movements toward police reforms ebbed and flowed in the years since, policy effects have been inconsistent and largely short-lived with respect to policing. Therefore, we focus on a different method to reform, civil litigation against police departments. Similar to findings on other policing reforms, we find limited responses from law enforcement agencies and in local government budgets to civil lawsuits.

Legalized Accountability and Risk Aversion in Law Enforcement Agencies

Political scientists have long cautioned against overreliance on the image of the fabled mid-twentieth century civil rights revolution as a justification for steadfast reliance on the legal system to affect change, even as the era's victories like *Brown v. Board of Education* are celebrated. The biggest reason for the caution is that litigation is notoriously inefficient and inaccessible for the average person seeking redress for harm. Litigation also poses problems for organizations who are ill-prepared to defend against a lawsuit⁴ (C. R. Epp 2009; Horowitz 1977; Kagan 2001; Melnick 1983; Rosenberg 1991; Scheingold 1974). Legalized accountability has two sources: (1) pressure from outside activists and (2) internal bureaucratic prerogative “who have a powerful interest in avoiding embarrassing disclosures” (C.R. Epp 2009, 4, 14).

We ask whether police officers and agencies can be held accountable through traditional legal mechanisms. Technically, the answer is “yes.” *Monell v. Department of Social Services of the City of New York* 436 U.S., held courts could hold municipalities liable for civil rights violations by a city employee—including police officers. Building on this decision, the US Civil Rights Commission released a report called, *Who is Guarding the Guardians* (1981)? The report outlined options for victims of police misconduct to seek legal remedy under state and federal law. This suggests courts are one appropriate venue for those alleging harm by police to seek redress, but for plaintiffs alleging a federal civil rights violation to be successful today, they must demonstrate a “causal link” establishing the officer’s misconduct was the result of inadequate training or supervision that amounts to “deliberate indifference.” In practice, this causal link has proven a high bar to surmount (*City of Canton, Ohio v. Harris* 1989). Qualified immunity is another legal impediment for plaintiffs, nearly universally claimed by departments and officers to avoid civil liability for behavior on duty. The presence of a qualified immunity defense grants officers wide latitude in approaching people for stops (Weaver, Prowse, and Piston 2019), and makes it more unlikely a case will make it to trial or settlement.

For these reasons, attorneys are hesitant to take police misconduct cases when asked to represent a plaintiff. Lawsuits against police are colloquially deemed “beat em up shut em up” cases because they are hard to win and do not present much opportunity for lawyers to collect legal fees. Most plaintiffs’ attorneys work on contingency fee bases, meaning the attorney is compensated with a percentage of any award or settlement, instead of charging an hourly rate. If the plaintiff’s attorney loses the case and there is no settlement, the attorney does not make any money—a clear deterrent for securing justice via civil litigation. Thus, while a legal pathway for redress technically exists, bringing a lawsuit against a police department is difficult, costly, and requires plaintiffs to establish most evidence when alleging a federal civil rights violation.⁵

Still, while most lawsuits against police fail, some succeed and the resulting damages can be extremely costly for municipalities even if cases are dismissed or settle quickly (K. L. Alexander, Rich, and Thacker 2022; Thomson-DeVeaux, Bronner, and Sharma 2021). Settlements are rare but represent hope for those who seek to address grievances. They also represent a warning to local politicians worried about reputations and municipal budgets. The high costs in time, money, and bad publicity for police departments and local governments responsible for paying settlements act as incentives for systematic change (C.E. Epp 2009; Schwartz 2016).

If every lawsuit filed against a police department has some (albeit small) chance of success, departments regularly fighting off litigation are clearly at a higher risk of incurring large financial, legal, and reputational penalties. This set of legal risks leads us to hypothesize the following:

- (1) When law enforcement agencies are repeatedly exposed to lawsuits they will engage in less high discretion policing;

and

- (2) local politicians will reduce the budgets of police departments with litigious histories to manage potential risk.

While lawsuits against police departments create only a limited pathway for individuals seeking justice, they might still have broader community-level effects.

Data and Methods

In this section we outline the process for collecting the North Carolina Civil Rights Lawsuits Database, demographic information, county-level information, how we use the Traffic Stops dataset from [Baumgartner Epp, and Shoub \(2018\)](#), and how we collected agency-level budgets. We then turn to our modeling strategy. Many processes dealing with discipline of law enforcement officers occur beyond the public eye, and accessing information from these insulated processes is next to impossible. Civil litigation is slightly less obscured because documentation in filed lawsuits is publicly accessible. If a lawsuit is filed in a federal court, records of the briefings including the complaint and the law enforcement agency's response are accessible online through PACER for a per-page fee.⁶ Using PACER, we compiled a database of lawsuits filed against law enforcement agencies in North Carolina from 2003 to 2011. The volume of data we collected required reading complaints in their entirety.

We focus on North Carolina for two reasons. First, the state maintains the most comprehensive record of police traffic stops in the country, which reduces the instances of missingness almost certain in other states ([Baumgartner, Epp, and Shoub 2018](#)). Second, due to the significant cost of accessing PACER even with a partial fee waiver. To create the lawsuits database, we first scraped docket numbers and case names of all civil rights cases filed in North Carolina federal district courts in our time frame of interest (2003–2011) from [justia.com](#). Next, we cross-referenced these cases with litigant-filed complaints in PACER by docket number. After reading the larger pool of around 500 cases, we dropped cases involving

prisoners, employment grievances, zoning, and hospitals, as these cases were not against a local law enforcement agency and were left with 192 cases.

Next, we cataloged a description of the interaction with law enforcement, the nature of each party's legal representation, judges assigned to the case, jury demands, whether the case was mediated or settled, whether the case was appealed, and the disposition of the case from each remaining case file. We also created a variable for the duration of each case in number of days from date filed to the date terminated. Termination included dismissals, settlements, and (rare in our dataset) cases that reached a full judicial decision.

Of the 192 cases, only eight percent went to trial. More than half of the cases filed were dismissed (54 percent), but about thirty percent of all cases were either settled or mediated. We note that some settlements would not be included in the dataset if they did not require a judge's approval and our number is likely to be an underestimation.⁷ Finally, only two of the nearly 200 cases avoided summary judgment or dismissal. Although urban police departments are larger than their rural counterparts, and larger departments could lead to higher numbers of stops and officer misconduct, just 40 percent of cases filed involved urban departments.

One limitation of the PACER-derived dataset is the files do not include demographic information *about the plaintiff*, including race, gender, or socioeconomic status. The only information we have about the plaintiff is their name and what information they revealed about themselves in the complaint document. Therefore, we cannot include in our study any demographic analysis on plaintiffs without resorting to flawed identity measures relying on name. While we acknowledge race of plaintiff would be particularly beneficial for scholarship, we recognize that it is likely for the best that judicial institutions do not collect or publish data publicly about filers' demographics.

Each case file contained the initial complaint filed by plaintiffs which includes a statement of facts written by the plaintiff themselves or by their legal counsel describing the events giving rise to the filer's allegations against the law enforcement agency. While some of the descriptions were frivolous or prosaic alleging varying levels of misconduct including improper warrant execution, unlawful search and seizure, property destruction, civil rights violations, and excessive force, an alarming amount of the descriptions involved highly disturbing conduct and did allege interactions involved racial bias and/or physical violence. One plaintiff alleged during an arrest officers used excessive force and told the plaintiff they did not like "Spanish-speaking people." Another plaintiff alleged officers referred to him and his passengers as "colored boys" during an unsuccessful search of a

rental car for illegal narcotics. Another plaintiff alleged an officer shot them in the hip during a home search without a proper warrant. Another alleged an officer hit him in the head with a flashlight and choked him during a traffic stop for speeding. Another plaintiff who was paraplegic alleged that officers forcibly pulled him through a window during a traffic stop because he could not readily comply with the officer's order to exit the vehicle without access to his wheelchair. Another case was filed on behalf of a different wheelchair user who was killed by police during a response to a domestic dispute.

Table 1 reviews the types of legal injuries reported by plaintiffs in the 192 cases we collected, along with their legal representation in each case. Injuries reported by plaintiffs vary and often overlap; there were 272 injuries reported by the 192 unique observations because many people reported experiencing injury in multiple categories. Nearly half of all plaintiffs reported experiencing emotional or physical injury. Twenty-seven reported economic or property damage, and twenty-five alleged rights violations. Half of all plaintiffs retained private counsel, but 41 percent filed *pro se* or chose to represent themselves without professional legal counsel. Twenty plaintiffs filed *in forma pauperis*, meaning they met a court's low-income requirements and were exempted from legal fees associated with filing lawsuits.

To account for the considerable variation within North Carolina's 100 counties, we collected information on demographics and GDP at the county level which we use as independent variables and control variables in our models. As our lawsuits data covers 2003–2011, we use a population count variable from the 2010 census. County populations range from 4000 to more than 1 million residents. Racial demographics also vary across the state's

counties. The mean white population is 73.4 percent, the mean Black population is 20.2 percent overall, but there is a considerable variation by county where we use proportion of county population identifying as Black from the 2010 census (see Table 2).

We collected each county's GDP from 2002 to 2016 and averaged them to account for growth over time. County GDP reveals differences between rural and urban counties, which are traditional measures for local governance and departmental funding. For instance, we might expect a large (and well-funded) police force in an urban county with a high GDP because local municipalities and the county government can afford to empower its police officers. Further, GDP may indicate the ability of local governments to absorb the costs of civil litigation. To account for the variation in the size of a county a law enforcement agency must cover, we include a variable for county area in square miles. Finally, to account for spatial learning between departments, we include binary variables for in-county lawsuits and whether a neighboring county was sued that month as well.

Figure 1 shows the distribution of lawsuits across North Carolina counties over the 7-year period. The highest density of civil rights lawsuits by county predictably occurs where population is most dense (Wake and Mecklenburg counties include the largest municipalities in the state). There were several counties whose law enforcement agencies were not sued for a civil rights violation in our study period. Some counties with modest populations, such as Guilford and Buncombe, have more lawsuits than areas with similar populations.

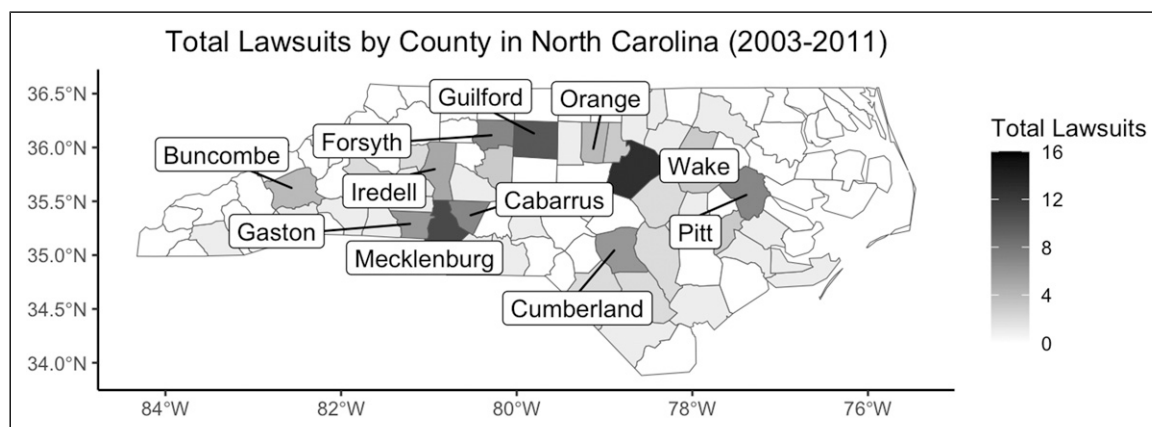
After collecting lawsuit and county-level data, we merged data on traffic stops conducted by North Carolina police officers. These data come from the NCDOJ and

Table 1. Plaintiffs in 192 Cases Against Law Enforcement in North Carolina, 2003–2011.

	Observations	Mean	SD	Min	Max
Plaintiff Injury					
Death	16	.08	.277	0	1
Emotional/psychological	81	.42	.495	0	1
Physical	85	.44	.498	0	1
Economic/property	51	.27	.442	0	1
Deprivation of rights	25	.13	.337	0	1
Pain and suffering (solo)	10	.05	.223	0	1
Harassment/false arrest	1	.005	.072	0	1
Sexual assault	1	.005	.072	0	1
Unknown/none	2	.01	.102	0	1
Plaintiff Representation					
In forma pauperis (IFP)	20	.10	.306	0	1
Pro se (represented self)	91	.48	.501	0	1
Private counsel	96	.50	.501	0	1
Court-appointed lawyer	1	.005	.072	0	1

Table 2. North Carolina County Demographics.

	Mean	SD	Min	Max
NC county GDP 2002–2016 (avg)	4399,013.5	10364,477.3	95367	80221 815
NC county ranked by GDP	33.9	26.8	1	100
NC county population 2010	95743.2	142607.7	4415	923242
NC county population %white	73.4	17.5	30.9	96.9
NC county population %Black	20.2	16.2	0.5	61.2
NC county 2012 police budget	\$17.1 m	26.2 m	\$141,602	\$108m
NC county 2013 police budget	\$17.8 m	21.5 m	\$142,121	\$112m

**Figure 1.** Total lawsuits by county in North Carolina, 2003–2011.

record the purpose and consequences of virtually every traffic stop made by officers in the state over the last 20 years. Following Baumgartner, Epp, and Shoub (2018) and Epp, Haider-Markel, and Maynard-Moony (2014), we group stops into two broad categories: investigative or safety. Investigative stops are more likely to be a springboard for police investigations of motorists, rather than being about traffic safety. They are thought to be higher discretion stops and include stops for driving without a seatbelt or for reasons having to do with regulatory or equipment violations. Safety stops are more likely to pose an immediate risk to public safety and include stops for speeding, running a red light, other safe movement violations, or drunk driving.

We collapsed the resulting dataset to the agency-month level, resulting in 38,350 observations across 15 years and 313 agencies.⁸ The law enforcement agencies included in our dataset are mostly local and county law enforcement departments, and we exclude state-level departments as they do not directly correspond to a finite geographic region within the state.⁹ The highest number of stops for a local agency in a single month is Charlotte-Mecklenburg, representing the largest city in the state, at 14,554 stops in

October 2010. In contrast, the state highway patrol conducted 19,086 total stops in October 2006, its lowest number of monthly stops. The number of monthly stops per agency range drastically with the lowest at 248 per agency month.

To evaluate whether civil rights lawsuits impact law enforcement tactics in the form of traffic stops, we estimate a series of negative binomial regression models predicting the number of traffic stops agency *i* will conduct in month *t*. In Appendix 2, we provide alternate model specifications using quasi-Poisson regression. All models use two key independent variables which indicate whether a lawsuit was filed (Lawsuit_Filed) in a federal district court against the law enforcement agency during a particular month and a count of previous lawsuits filed against a law enforcement agency (Lawsuits_Count) in a 15-month period. We chose a 15-month period because the modal duration of a lawsuit in our time-period was 393 days. We added 2 months to this period to include adequate time for a filer to gather information and find representation. The maximum number of lawsuits a single agency defends against in a 15-month window is three. In our models, both variables are lagged by 1 month to

account for the time it takes for litigation filings to process and for notice to be served on the agency-defendant (30 days typically). To capture the cumulative effect of multiple lawsuits filed in a county, the variable of interest is the interaction between these two (Lawsuit_Filed_L1 x Lawsuits_Count L1).

Filing a lawsuit against a law enforcement agency is relatively rare and is not random. To account for over-dispersion in the dependent variable where some counties are engaging in much lower stop activity than others, we employ a negative binomial regression with agency-level random effects. We chose to include a lagged dependent variable to account for autocorrelation between time periods. Because the mean of our dependent variable changes over time, we added time splines to address patterns of stationarity. We report standard clustered errors by year. Finally, subsequent results are exponentiated as incident rate ratios (IRRs), which report results as a percent change such that values over 1.00 indicated an increased likelihood and below 1.00 a decreased likelihood (Piza 2012).

Results

Figure 2 displays the marginal effect of each additional lawsuit on total monthly traffic stops conditional on previous lawsuits (i.e., we plot the interaction between Lawsuit_Filed_L and Lawsuits_Count) for three separate models that take all drivers together (blue line in Figure 2), then white drivers (orange line), and Black

drivers (green line). In each case, the trend is negative, indicating that a new lawsuit predicts fewer total monthly traffic stops as an agency experiences more lawsuits. By the time an agency has experienced three lawsuits, another lawsuit results in a 30 percent reduction in total monthly stops. But these effects are smaller for Black drivers, who experience a 20 percent reduction in total monthly stops. As Table 3 makes clear, the effect of lawsuits on stops of Black drivers does not reach statistical significance, but the trend does indicate a slight reduction in stops.

We also consider the possibility of spatial learning. Do agencies respond to lawsuits filed against their geographically proximate counterparts? The variable for “neighboring county suit” counts all of the lawsuits against each agency’s neighbors (i.e., the agencies in adjacent counties). But the coefficient for this variable is not statistically significant. In all, the evidence supports our first hypothesis: as lawsuits pile up, agencies take a step back from traffic stops. However, there is no evidence that lawsuits work as a system-level accountability mechanism for racialized policing.

As is expected, we find counties with higher GDPs and populations stop more people for both races. However, agencies in counties with a higher proportion of Black residents stop more people than counties with lower proportions of Black residents.

Next, we subset the dependent variable to look only at safety stops with less officer discretion. Results from

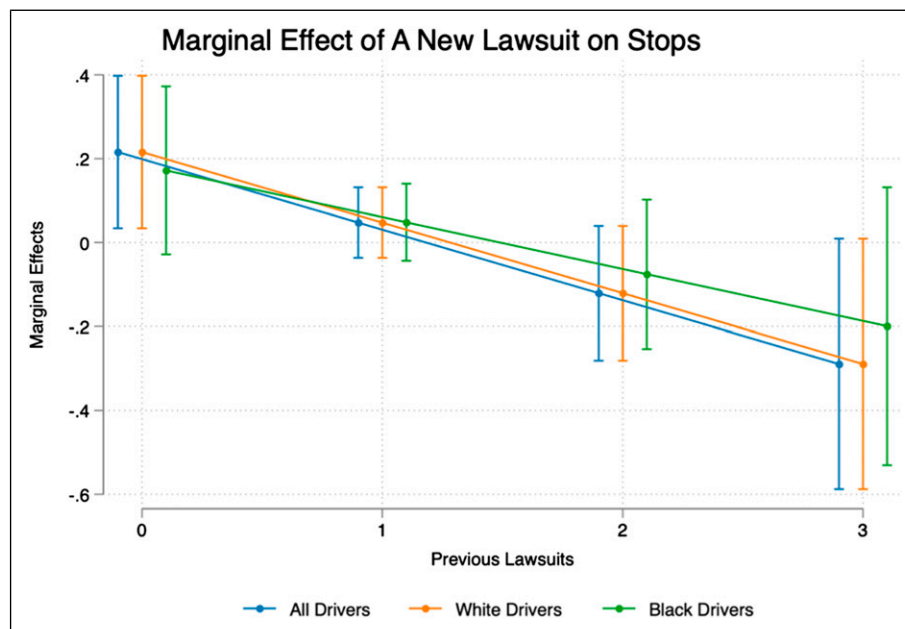


Figure 2. Marginal effect of a new lawsuit on all stops.

Table 3. Total Stops.

	All	White	Black
	(1)	(2)	(3)
Stops LI ⁺	1.0002** (3.60e-06)	1.0001** (8.97e-06)	1.0004** (7.63e-06)
Lawsuit Count LI ⁺	.9875 (0.017114)	.9720 (0.015632)	1.0065 (0.019078)
Lawsuit Filed LI ⁺	1.2409* (0.11518)	1.3408** (0.112491)	1.1877 (0.12143)
Lawsuit Filed LI ⁺ × Lawsuit Count	.8451* (0.06445)	.7911** (0.054036)	.8835 (0.074656)
2010 population	1.0** (1.27e-07)	1.0** (1.28e-07)	1.0** (1.43e-07)
2010 Black proportion	1.102 (0.061517)	1.0856 (0.066262)	.9937 (0.070134)
Neighboring county suit	1.0246 (0.013759)	1.0257 (0.013653)	1.0243 (0.014877)
In-county suit	1.0309 (0.02545)	1.0211 (0.024941)	1.0502 (0.027738)
County area (sq. mi.)	1.0 (0.000033)	1.0 (0.000034)	1.0** (0.000043)
Avg. county GDP 2002–2016	1.0** (1.64e-09)	1.0** (1.66e-09)	1.0** (1.81e-09)
Constant	2.701** (0.070614)	2.8163** (0.075108)	2.889** (0.101111)
Observations	34498	34498	34498
Groups	291	291	291
Observations per group			
min	1	1	1
Avg	118.5	118.5	118.5
Max	179	179	179

Note: * $p < 0.05$; ** $p < 0.01$. LI = Lagged 1 month.

these models are similar: as an agency experiences more lawsuits the subsequent lawsuit leads to larger reductions in stops (see Figure 3 and Table 4). However, for both white and Black drivers, the size of the effect is slightly smaller than taking all stops together, which is consistent with the idea that lower discretion stops are less likely to change in response to lawsuits. Once again, the effect for Black drivers is not statistically meaningful, suggesting that insofar as lawsuits can influence officer behavior they do so only through interactions with white drivers.

Safety Stops: Speeding and No-Stop Stops

A category of safety stops, police officers perform stops for speeding and running stop signs in a low discretionary manner. In other words, these stops are considered routine and necessary functions of policing, with little risk of lawsuits against officers. Figure 4 shows the marginal effects of lawsuits on speeding stops and no-stop stops follow a similar trend to total stops. Of note in this class of stops is the effect being driven by changed officer behavior

to white drivers only. Both categories of safety stops experience significant declines in stops following lawsuits filed in the same county but only for the county as a whole and white motorists. For white motorists, speeding stops fall 16 percent and no-stop stops drop 27 percent following lawsuits being filed the month prior.¹⁰

Although lawsuits do not impact officer behavior in pulling over Black motorists, we find the larger the county, the greater the Black population, and lawsuits filed against a neighboring county's law enforcement department all *increase* stops of Black people. Safety stops are among the most quotidian and most supported types of police work. This slight increase in stops of Black motorists likely reflects the path dependence of policing Black communities and not a backlash effect. Next, we turn to stops for the second class of safety stops, driving under the influence and unsafe driving.

Safety Stops: DUIs and Unsafe Driving

Police stops for motorists who are suspected of driving while intoxicated or driving unsafely are the second half of safety stops. In these models (shown in

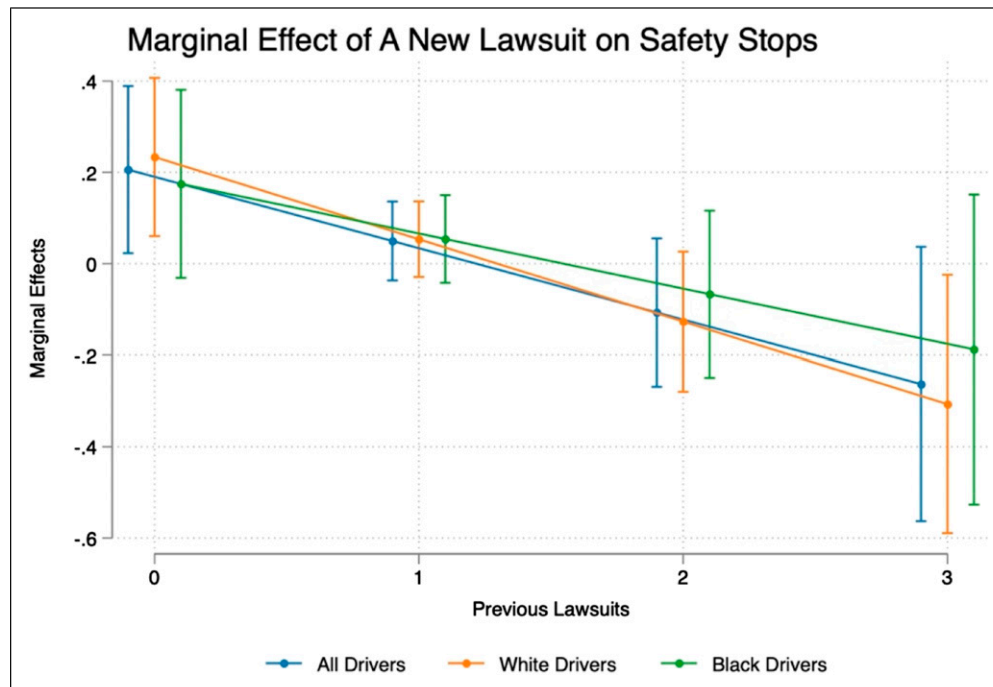


Figure 3. Marginal effect of a new lawsuit on safety stops.

Table 4. Effects of Civil Lawsuits on Safety Stops.

	All	White	Black
	(1)	(2)	(3)
Safety stops LI ⁺	1.0005** (6.51e-06)	1.0011** (0.000014)	1.0009** (0.000015)
Lawsuit Count LI ⁺	1.0101 (0.017893)	1.010 (0.017317)	1.0151 (0.019836)
Lawsuit Filed LI ⁺	1.2287** (0.114799)	1.2632** (0.111629)	1.191 (0.125112)
Lawsuit Filed LI ⁺ × Lawsuit Count	.8553** (0.065362)	.8351** (0.060047)	.8862 (0.076579)
2010 Population	1.0** (1.27e-07)	1.0** (1.31e-07)	1.0** (1.51e-07)
2010 Black proportion	.9673 (0.05665)	.9736 (0.06343)	1.069 (0.083633)
Neighboring county suit	1.026 (0.014257)	1.0334* (0.014413)	1.0247 (0.015785)
In-county suit	1.0164 (0.025544)	1.0 (0.025312)	1.0516 (0.028389)
County area (sq. mi.)	1.0** (0.000034)	1.0 (0.000036)	.9998** (0.000049)
Avg. county GDP 2002–2016	1.0** (1.60e-09)	1.0** (1.66e-09)	1.0** (1.86e-09)
Constant	2.6432** (0.07207)	2.6707** (0.075443)	2.6769** (0.104761)
Observations	34498	34498	34498
Groups	291	291	291

Note: * $p < 0.05$; ** $p < 0.01$. *LI = Lagged 1 month.

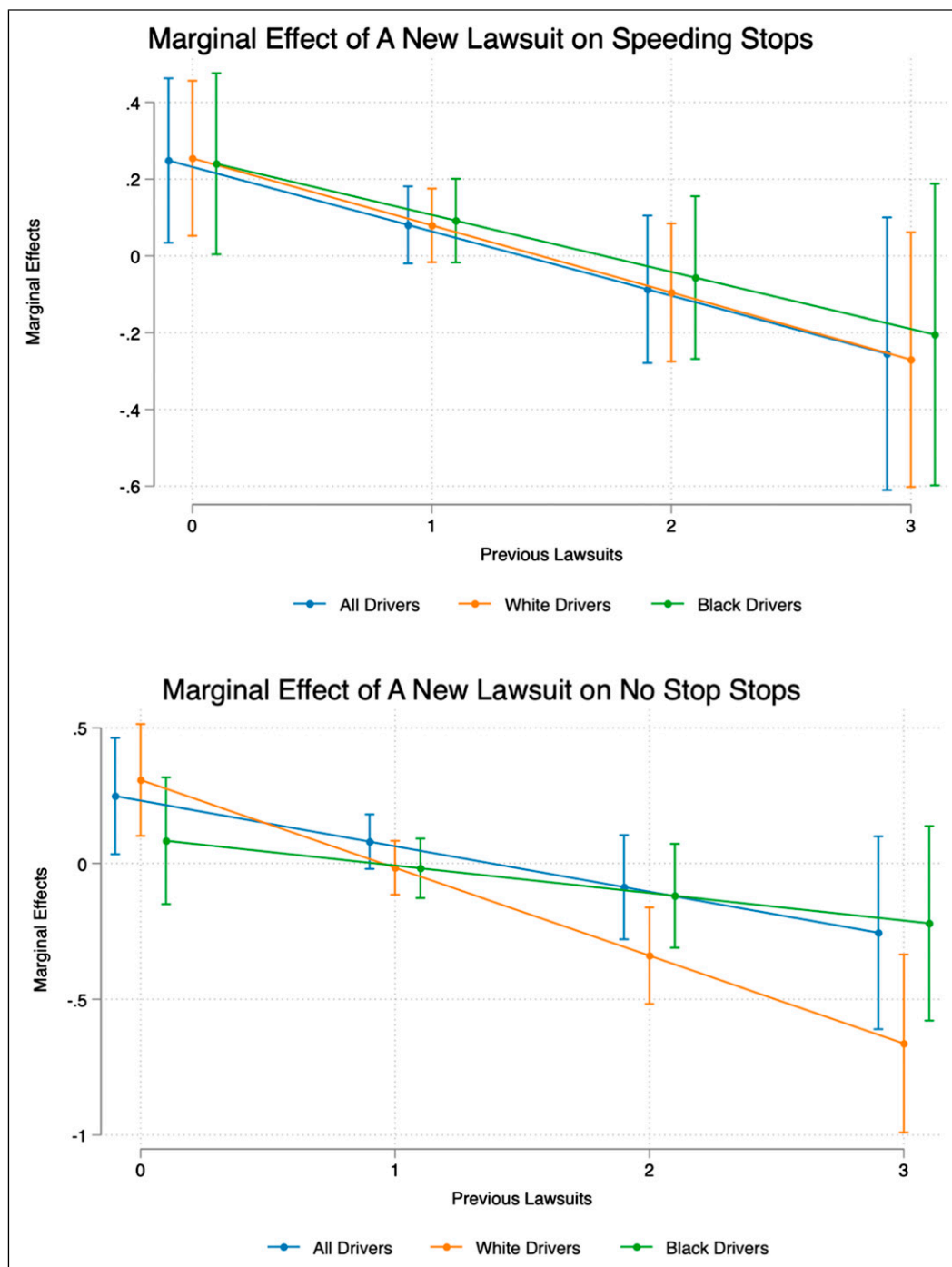


Figure 4. Speeding and no-stop stops.

Figure 5), we find stops of white motorists for unsafe driving drop by 20 percent following legal action in the county. There is no change for Black drivers in rates of unsafe driving stops. However, there are no effects for DUI stops. As we state above, these stops are considered low discretion for officers. DUIs and unsafe driving are unlikely to be challenged in lawsuit

or by the public since both infractions are dangerous to the public at large. There is no substantive impact to police stops for DUIs, due to the deservingness of these types of stops.

We find counties with higher proportions of Black residents experience more stops, across the board.¹¹ This supports the literature on overpolicing in communities of

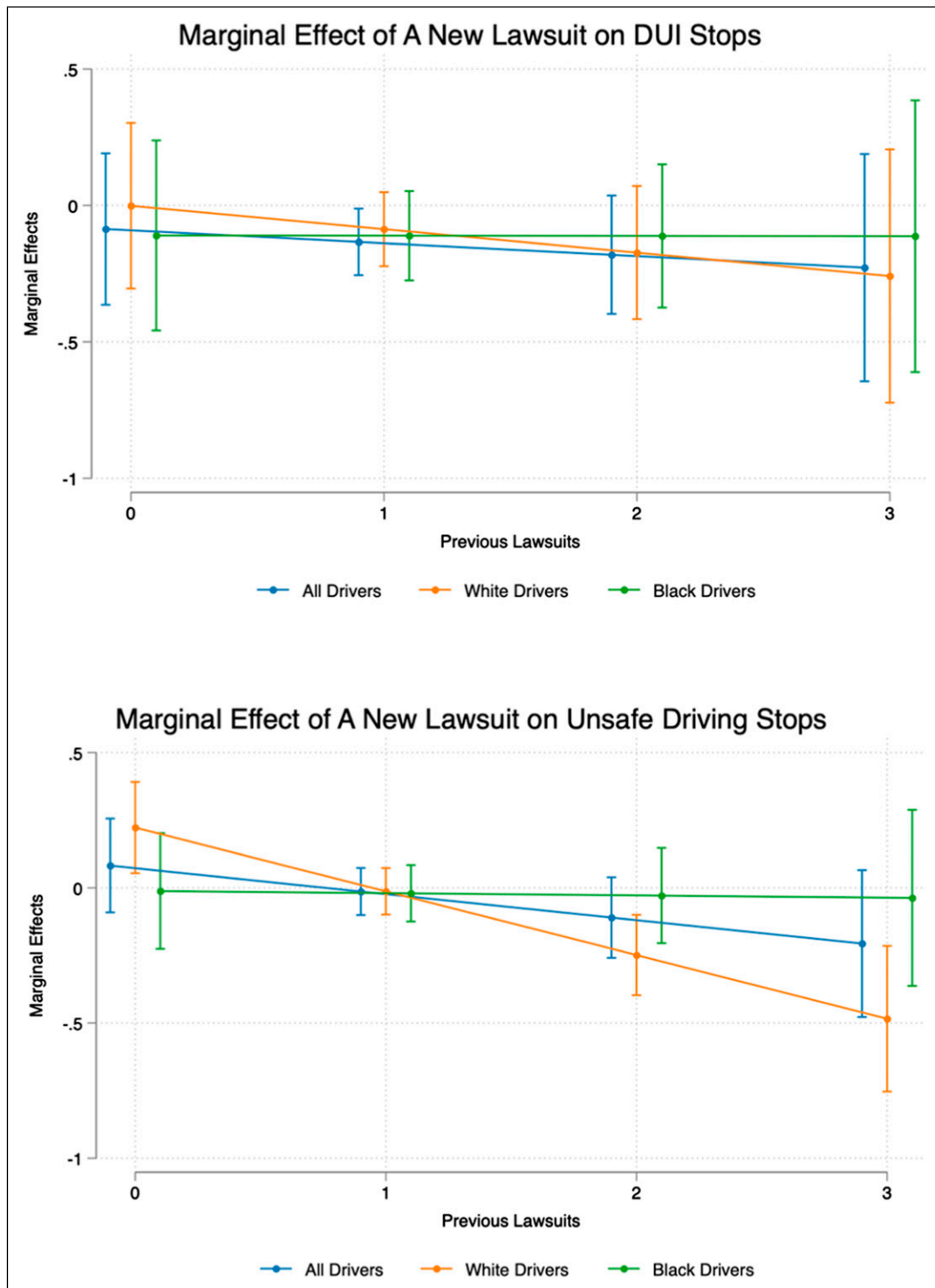


Figure 5. DUIs and unsafe driving.

color, which have more police officers and more stops of civilians in areas with more Black and Latinx youths (Lerman and Weaver 2014; Weaver and Lerman 2010). For unsafe driving stops, lawsuits in the same county

matter as well; stops for unsafe driving increase after neighboring departments are sued. Since the heat is on locally, police behavior shifts from other types of stops to unsafe driving, in substance or in notation.

Investigative Stops

Investigative stops represent a more intense governmental contact than general traffic stops, in that officers are generally expected to have “reasonable suspicion” the person stopped is involved in a crime. Here, coding an observation as an investigative stop relies heavily on the officer’s account of the interaction. Stop and frisk or “Terry stops” typically involve police officers stopping pedestrians or drivers to briefly detain them to check for illegal substances or other minor infractions and are opportunities for officers to engage in implicit bias and overpolice Black communities. Baumgartner, Epp, and Shoub (2018) note many investigative stops are pretextual. We conceptualize investigative stops as riskier for the agency (more likely to produce legal liability for a civil rights violation) and more resource or labor-intensive for officers than routine traffic stops and safety stops for infractions such as speeding or driving while intoxicated.

We again only find effects on reducing officer contacts interacting with the general population and white people, as shown in Figure 6. Officers perform 16 percent fewer investigative stops in the total population, significant at the 0.05 level. Investigative stops decrease by 22 percent against white civilians, significant at the 0.01 level. These effects are not found in investigative stops against Black civilians. The effect is again additive; Figure 6 indicates the stronger impact of two and three lawsuits on the frequency of investigative stops officers make against white people. Finally, Table 5 indicates the presence of in-county lawsuits increases stops of Black motorists, again

pointing to path dependence of behavior of police officers towards Black people. In Appendix 1 F, we additionally consider the relationship between lawsuits and agency use of force in traffic stops. Since instances of engaging force are low in our data, we cannot make robust conclusions from the models but the patterns similarly show a pattern of racialized policing.

Do Lawsuits Impact a Jurisdiction’s Police Budget?

Finally, we present an account of the relationship between civil litigation and agency budgets. Plausibly, policy-makers might take matters into their own hands, cutting the budgets of law enforcement agencies consistently targeted with civil rights litigation either to force a scale-down in policing activities or to pay for legal penalties. We collected agency budgets for the years 2012 and 2013, two years following the last year for which we have lawsuits data. Budgets are written in one year and implemented in the next. If litigation influences policy-makers’ decisions regarding police budgets, these effects should be apparent in subsequent years. Lawsuits from 2011 should therefore matter for 2012 or 2013 budgets.

We contacted municipalities and county governments directly to obtain budget data and were successful in accumulating 73 budgets at the agency level. We acknowledge that an ideal inquiry into the relationship between police lawsuits and agency budgets would include a measure of the percent change in budget for each

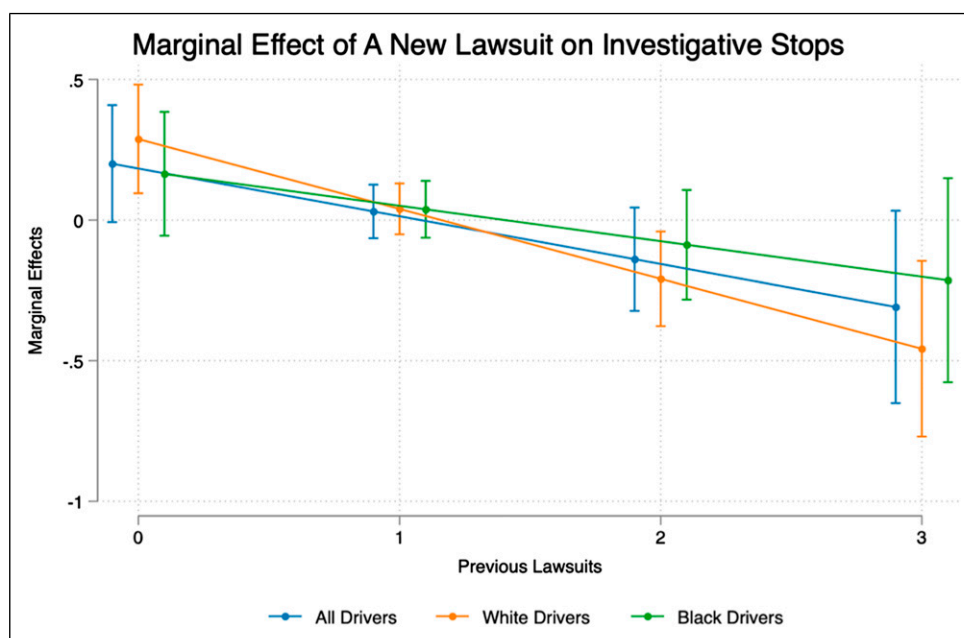


Figure 6. Marginal effect of a new lawsuit on investigative stops.

Table 5. Effect of Civil Lawsuits on Investigative Stops.

	All	White	Black
	(1)	(2)	(3)
Invest stops LI ⁺	1.0003** (5.99e-06)	1.0012** (0.000017)	1.0005** (0.00001)
Lawsuit Count LI ⁺	1.0037 (0.01956)	.9698 (0.017845)	1.0268 (0.021372)
Lawsuit Filed LI ⁺	1.2223 (0.073807)	1.3346** (0.13158)	1.1788 (0.132317)
Lawsuit Filed LI ⁺ × Lawsuit Count	.8438 (0.073807)	.7798** (0.06244)	.8815 (0.08165)
2010 Population	1.0** (1.32e-07)	1.0** (1.37e-07)	1.0** (1.53e-07)
2010 Black proportion	1.0535 (0.064094)	1.3411** (0.09366)	.83* (0.066675)
Neighboring county suit	1.0183 (0.015055)	1.0081 (0.015005)	1.0211 (0.016386)
In-county suit	1.0370 (0.028263)	1.034 (0.028046)	1.0536 (0.0307)
County area (sq. mi)	1.0** (0.000035)	.9988** (0.000038)	1.0** (0.000048)
Avg. county GDP 2002–2016	1.0** (1.72e-09)	1.0** (1.80e-09)	1.0** (1.95e-09)
Constant	2.6406** (0.068863)	2.4891** (0.072657)	3.0456** (0.120574)
Observations	34498	34498	34498
Groups	291	291	291

Note: * $p < 0.05$; ** $p < 0.01$. *LI = Lagged 1 month.

year of our time series, but data availability precluded a complete set.

First, we offer a descriptive account of the relationship between police lawsuits and agency budgets. A drastic shift in the agency's budget indicates an exogenous effect, but because line-items addressing police lawsuits are not readily available we cannot claim that a change is exclusively related to a police lawsuit. Although lawsuits filed against an agency and its officers can impact the individual actions of the officers insinuating a managerial or top-down change in policy like we demonstrate in the main analysis in the article, the lawsuits do not appear to have a matching institutional impact on agency budget in years following. In fact, agency budgets rarely decrease at all. In Table 6, we report the percent change in agency budgets between 2012 and 2013.

In Table 6, we report a subset of agencies and budget data. The three jurisdictions with the highest number of lawsuits filed in 2010 were all part of large metro areas. These were the Raleigh Police Department (3), Charlotte-Mecklenburg Police Department (2), and Greensboro Police Department (2). During the entire period of inquiry lawsuits were filed against Raleigh Police Department

twelve times, against Charlotte-Mecklenburg Police Department ten times, and Greensboro Police Department six times. Between 2012 and 2013, the Raleigh police budget increased marginally, the Charlotte-Mecklenburg police budget increased by 14.65 percent, and the Greensboro's police budget grew by 2.24 percent.

Examples of agencies that did not defend against a lawsuit in 2010 and have low lawsuit records generally are Pine Knoll Shores Police Department, King Police Department, and Jones County Sheriff's Department with only one lawsuit filed against each of the jurisdictions. Pine Knoll Shores is a small coastal town in North Carolina with a population of only 1,339 residents in 2010. King is a small community northeast of Greensboro with only 6,871 residents in 2010. Jones County only had 10,139 residents in 2010. Between 2012 and 2013, Pine Knoll Shores' police budget decreased by 26 percent, King's police budget decreased by 14.1 percent and Jones County's sheriff's budget increased by 17.1 percent.

Using OLS regression, we find a null relationship between lawsuits and the subsequent year's police budget, as shown in Table 7. However, lawsuits filed in the same county and in its neighbors do result in an increased police

Table 6. Lawsuits and Police Budget Change.

Agency	Number of Lawsuits Filed in 2010	Total Number of Lawsuits in 2004–2011	Difference in 2012 and 2013 Budget(%)
Charlotte-Mecklenburg Police	2	10	+14.65
Greensboro Police	2	6	+2.24
Raleigh Police	3	12	+0.36
Winston-Salem Police	1	5	+1.84
High Point Police	1	4	–2.10
Atlantic Beach Police	0	1	–11
Asheville Police	1	4	+4.46
Chapel Hill Police	1	3	+1.27
Pine Knoll Shores Police	0	1	–26
Johnston County Sherriff	0	2	+20.52
Jones County Sherriff	0	1	+17.1
Kannapolis Police	0	2	+24
King Police	0	1	–14.51

Table 7. Effect of Lawsuits on Agency Budgets.

2013 Agency Budget Logged	
Lawsuit Filed LI ⁺	–.1455 (0.261037)
Lawsuit Count LI ⁺	.08 (0.048633)
Lawsuit Filed LI ⁺ × Lawsuit Count	–.0746 (0.223003)
2010 Population	1.63e-06** (1.98e-07)
2010 Proportion Black	.4582** (0.100069)
Neighboring county suits	.1548** (0.051019)
In-county suits	.3159** (0.110871)
County area (sq. mi.)	–.0016** (0.000057)
Avg. county GDP 2002–2016	–4.40e-09 (2.44e-09)
Constant	16.4274*** (0.064668)
Observations	9020
R ²	150.90
Adjusted R ²	0.1378
Root MSE	1.1784

Note: * $p < 0.05$; ** $p < 0.01$. LI = Lagged 1 month.

budget the following year, which leads to more questions on spatial influence of attention to local police departments. Although we do not observe a reaction between elected officials in local government punishing local departments in response to public attention and scrutiny of

police behavior, we observe a spatial neighboring relationship between local governments bolstering local law enforcement budgets, perhaps to signal public support for police.

We find small declines in the subsequent agency budget following numerous lawsuits being filed in years prior, but as Table 7 demonstrates, these results are statistically insignificant. However, more populous areas have larger increases to agency budgets.

Conclusion

In this study, we investigated the relationship between civil litigation and policing activity at a systems level and take a step toward a more rigorous understanding of the effect of civil litigation as an accountability mechanism for law enforcement misconduct. We operationalized the relationship between civil litigation and police accountability with an original dataset of lawsuits filed against law enforcement agencies in NC. We find that an increasing history of legal trouble does depress overall traffic stops of white people but does not when we look at policing patterns of Black drivers. Our findings strongly suggest that the accumulation of lawsuits might have an increasing effect on the actions of police as street-level bureaucrats regularly interacting with the public.

Additionally, our findings indicate that while civil lawsuits may increase the pressure on law enforcement officers to alter their behavior, this change primarily impacts police interactions with white people. Our findings suggest the signal sent from accumulating lawsuits against officers or a department is not strong enough to affect policing of Black people. This means the potential tactic of police reform by way of civil

litigation is unlikely to advance the cause of racial justice in a generalizable way.

The strategy of individuals and interest groups to seek redress from the courts for injustice by the police is well known, but the results presented in this paper challenge the conventional wisdom that the federal judiciary is a useful venue to bring about social change alone. This “hollow hope” in the courts is an impediment for individuals who have personal complaints against individual officers, law enforcement agencies, and the system of criminal justice alike, because the court system may be part of civil rights and social justice movements, but are generally not the motivating force behind them, or even key figures in them (Rosenberg 1991). Some scholars suggest that the privatization of social problems and the adversarial legal system focused on individualizing calls for accountability separates a problem from a community which makes the solution even more difficult to see realized (Haltom and McCann 2004; Tushnet 1984). These results speak directly to this issue because the strategy has serious limitations: the efficacy of civil litigation against agencies may be the wrong focus, distracting and diverting resources from the invisible constraint on any case against the police, qualified immunity. Future research should expand scope, to consider whether the strategy of civil litigation *can* be effective at all at the national level. The generalizability of our study of civil litigation against law enforcement agencies in North Carolina could be reinforced by exploring the relationship between other operationalizations of community policing, including more states or a national focus, to identify a potentially more effective strategy to stimulate police reform.

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Data Availability Statement

Data and replication materials are available upon request.

Supplemental Material

Supplemental material for this article is available online.

Notes

1. Public Access to Court Electronic Records. <https://pacer.uscourts.gov/>
2. Our dataset on civil suits against police departments cover suits filed from 2003 to 2011 to capture the dataset on North Carolina police stops through 2016. While we only consider a snapshot of time, we argue for the data's continued utility to measure an effect of cumulative lawsuits against a department and action of its street-level bureaucrat police officers, even in subsequent years.
3. Texas governor Greg Abbott signed the “Back the Blue Law” SB 23 on June 1, 2021. https://gov.texas.gov/news/post/governor-abbott-signs-back-the-blue-legislation#:~:text=SENATE_BILL_23 (Huffman%2FOliverson,tax%20revenue%20will%20be%20frozen).
4. One of the main benefits of our current civil rights litigation enforcement arrangement which relies heavily on private enforcement is that the cost of accountability is outsourced to the polity rather than on governmental bodies (Barnes and Burke 2015; Epp 2009; Farhang 2009).
5. Lawsuits typically require upfront financial resource investment from plaintiffs. For plaintiffs not granted in forma pauperis (IFP) status, who receive a filing fee waiver, the initial filing fee for a civil case in federal district court is \$402 with other fees attached during the course of litigation in addition to the expense of hiring an attorney. Filing an appeal costs \$505 as of this writing.
6. The document filed by the aggrieved party which outlines relevant facts about the alleged misconduct or civil rights violations is called the “complaint.” The document filed by the law enforcement agency which outlines their version of facts and asserts defenses which can wholly or partially shield legal responsibility is called the “response.” Length of briefings varies.
7. Information on mediation or settlement terms is often not accessible to the public in a systematic manner due to nondisclosure agreements.
8. See [Appendix 1 Table A](#) for descriptive statistics.
9. The North Carolina State Highway Patrol is also included our broad dataset, which performed the highest total number of stops at the agency-month level.
10. See [Appendix 1 Table B](#).
11. See [Appendix 1 Table C](#).

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