



Selected Post-Stop Categories in the Vehicle Stops Report

The data in the Vehicle Stops Report (VSR) documents a broad range of officer actions as they affect members of different racial and ethnic groups. The Empower Missouri analysis is based on VSR data provided by the Attorney General. It covers all the more than 600 law enforcement agencies, selecting just those situations that are relatively simple and involve a high degree of officer discretion.

Stop situations are difficult to analyze because they involve many factors which cannot be sorted out from the data. Could the officer see the driver before the stop? Were drivers in certain neighborhoods subjected to stricter patrols? Were stops made for serious violations endangering public safety, or were officers using minor violations as an opportunity to monitor activity? Are the group proportions of drivers known so that it is possible to tell whether members of groups are being disproportionately stopped? And so on.

Many of these complications disappear in post-stop situations. Officers have been face-to-face with the individuals. The group proportions of drivers who have been stopped can be used as benchmarks to evaluate disproportions. It is possible to focus on situations in which officers have a high degree of discretion.

For this analysis, rates are figured as group incidents divided by group stops.

Disproportions are figured by dividing racial and ethnic group rates by white group rates. So if black drivers are affected at a rate of 20 consent searches for every 100 stops and white drivers are affected at a rate of 10 for every 100 stops, the disproportion would be 20/100 divided by 10/100, which equals 2.00. The statistic says black drivers are affected at a rate twice that of white drivers. [See our [select categories analysis spreadsheet](#).]

If a disproportion is greater than 1.00, the group is disparately affected. 1.00 indicates no disproportion. Below 1.00 indicates white drivers are disparately affected, compared to the group being compared. Disparate treatment of white drivers is a concern too.

Empower Missouri supports a process in which:

1. dependable disproportions are established;
2. the agency explains when factors other than bias cause the disproportion;
3. the agency improves policies, supervision and training when legitimate factors do not account for the disproportions.

A key to improved policing is that officers learn to always act on facts about the individual. This protects them from the tendency we all have of being influenced by the stereotypes society implants in us.

Under proposed reform of the 2000 racial profiling law, agencies are instructed to review disproportions if they are greater than 125% of the statewide disproportion for any category of officer action. For instance, if the statewide disproportion were 1.50, the threshold would be 1.875.

Consent Searches: To justify a search, officers are required to have probable cause for searches, or, under special circumstances, at least reasonable suspicions based on articulable facts. They may still ask for a driver's consent when they do not have probable cause or reasonable suspicion. Consent Searches can be a valuable law enforcement tool, but Empower Missouri is concerned that their overuse damages the public's trust in officers because an element of coercion is always involved. Consent searches are unacceptable if officers use them based on the perceived race of the driver, whether consciously or unconsciously.

Some prosecutors encourage officers to get consent even when they have probable cause because probable cause can be challenged in court and consent cannot be challenged.

Officers sometimes use consent searches when they do not want to reveal the source of a tip.

An officer might see from a computer check that a driver has been arrested for a gun violation. This is not probable cause for a search, but it would justify increased care on the part of the officer and might justify a request for consent.

Officers record when they conduct a search but not when they ask for consent and it is refused. Groups may be refusing consent at different rates. It would be best to be able to compute disproportions on the rates at which officers ask group members for consent. Lorie Fridell recommends that rates of consent for all groups be above 95% in order to produce dependable statistics.¹ If an agency has officers record when consent is requested and refused, it may be able to demonstrate the disproportion is not as high as VSR data suggests. When agencies cannot explain a disproportion by factors other than bias, they should assume bias is a factor.

Reasonable Suspicion-Weapon Search. On the form officers use, these are labeled "Terry stops." If an officer does not have probable cause but can cite an "articulable fact," a restricted search just for a weapon is allowed since the danger to officers and the public could be great. There is a possibility of officers being influenced by stereotypes of group behavior. A hit rate for these searches could justify officer actions or could indicate that officers need to learn to be guided by driver behavior, not driver skin color.

¹ Fridell, *By the Numbers*, page 289

Drug-dog Alert: Officers are allowed to call for a Drug-Dog Alert if they suspect drugs but do not have probable cause. The situation is similar to a Consent Search. Officers presumably report when they call for a dog, the dog alerts and they make a search based on the alert. This procedure leaves out incidents in which an officer calls for a dog but it does not alert. This statistic should be collected for the VSR. Agencies should use internal data to compute disproportions for when officers call for a dog but it doesn't alert. If a group disproportion exists, the agency should investigate to confirm that the officers was acting on facts, not on suspicions prompted by stereotypes.

Searches lasting 31+ minutes: Officers need to explain high Ratios of Disparity for Hispanic drivers when they occur. What behavior results in their long searches? Are formal investigations involved? Is immigration status a factor? Agencies need to be able to document alternative legitimate factors. Perhaps it could be that language barriers create the need for a longer interaction. Or, if alternative factors cannot be identified, agencies need to take steps to improve policies, supervision and training to help officers avoid treating members of groups differently.

Resisting Arrest: Resisting arrest can occur in many situations. We want officers to be able to de-escalate most situations, but that isn't always possible. One chief reviewed incidents and found that most of them involved drivers fleeing robberies, so officers had no chance to de-escalate. Some drivers may just be disruptive, and body cameras could document this. Or officers could be provoking anger, or not have the skills to defuse confrontations. When a disproportion exists, agencies should investigate the circumstances to determine whether it could have been avoided by improved policies, supervision or training.

