Review Section

Review Symposium: Policing in American Society

Linking Racial Classification, Racial Inequality, and Racial Formation: The Contributions of *Pulled Over*

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Epp, Charles, Steven Maynard-Moody, and Donald Haider-Markel. *Pulled Over: How Police Stops Define Race and Citizenship*. Chicago: University of Chicago Press, 2014.

Pulled Over: How Police Stops Define Race and Citizenship, *by Charles R. Epp, Steven Maynard-Mood, and Donald Haider-Markel, is an important piece of law and society scholarship that isolates investigatory police stops as an institutional practice with profound consequences for racial inequality.* Pulled Over *also speaks to scholarship on race and ethnicity by addressing an ongoing tension between a focus on the socially constructed nature of racial categories and their stratifying significance.* Pulled Over *offers an important model for future studies by incorporating social constructionist insights into how race is measured, empirically documenting institutionally produced racial inequalities, and linking these inequalities to the evolving meaning of race itself.*

INTRODUCTION

Pulled Over: How Police Stops Define Race and Citizenship, by Charles R. Epp, Steven Maynard-Moody, and Donald Haider-Markel, examines the racialized practice of the investigatory police stop. Police stops are a key site of contact between the state and citizens, in part because they communicate consequential messages about who is free to participate in America's mobile society and who is subject to state surveillance and intrusion. *Pulled Over* draws on a telephone survey of 2,329 adult drivers and follow-up, in-depth interviews with a subsample of those stopped by the police to describe the patterns, experiences, and consequences of being

stopped in the Kansas City Metro Area. The authors find vast racial disparities and attribute racial patterns to the investigatory stop, specifically. Unlike traffic-safety stops, in which the police target egregious violations of traffic laws, the investigatory stop uses a pretense to justify investigation of the driver in the hope of making an arrest[1] (Epp, Maynard-Moody, and Haider-Markel 2014, 8). Epp et al. situate the investigatory stop as a racially framed, institutionalized practice—though widely accepted and legitimated, the scripts of the investigatory stop can trigger deeply rooted and potentially implicit stereotypes of black criminality. *Pulled Over* makes an important argument for attention to institutional processes—versus individual biases—in our efforts to understand racial discrimination in law enforcement.

We suggest that the contributions of *Pulled Over* transcend its focus on racial inequality in policing practices. We argue that the project speaks to scholarship on race and ethnicity more broadly. The methods, findings, and theorizing in the book address an ongoing tension between a focus on the socially constructed nature of racial and ethnic categories and the profound consequences of racial inequality. Most studies tend to emphasize either racial formation—the processes by which "racial categories are created, inhabited, transformed, and destroyed" (Omi and Winant 1994, 55)—or racial inequality, describing racial disparities and stratification in outcomes of interest. Epp et al. do both. Through careful treatment of a central set of questions around the mutually constitutive nature of racial disparities and the meaning of race itself, they address both the socially constructed nature of racial categories and their stratifying significance.

In this essay, we outline how Epp et. al. analyze these themes. After a brief discussion of the existing approaches to studies of race and ethnicity, we identify the contributions of *Pulled Over*. First, we describe the book's methodological contribution in its approach to measuring race. Second, we note empirical contributions in the book's thorough documentation of the racial disparities produced by the institutional practice of investigatory stops. Finally, we discuss the important theoretical contribution the authors make when identifying how investigatory stops reify racial hierarchies, differences, and identities. Together, these facets of *Pulled Over* draw attention to the interconnected relationships between racial classification, racial inequality, and racial formation.

TENDENCIES IN RACE SCHOLARSHIP

Scholarship on race and ethnicity diverges in ways that reflect the complexities of the concept of race itself. On the one hand, social scientists largely agree that racial and ethnic categories are socially constructed. Racial "groups" are not natural or gene-based,[2] rather, they are defined by symbolic boundaries that identify particular

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1. Based on drivers' accounts, Epp et. al coded a stop as investigatory if there was no reason given for the stop, or if the reason was speeding less than seven miles per hour over the posted limit, an expired license plate or tag, vehicle equipment violation, failure to signal turn, failure to signal a lane change, license plate light out, check of license/registration, driving too slow, warrant check, suspicion of criminal activity, failure to dim high beams, or other miscellaneous discretionary justifications (173).

2. Despite the frequent "color-blind" or "formal" uses of race based on biology, overwhelming evidence demonstrates that race is not a biological construct and is in fact defined through policy, law, and history (Gotanda 1991; Bonilla-Silva 2006). The notion that humankind can be divided along white, black, Asian, and Native American lines reveals the social rather than the scientific origin of race. Humans share 99.9% of

phenotypical characteristics as "vital signifiers of difference" (Wade 1997, 15). These boundaries vary across time, space, situation, and perception (Allen and Chung 2000); they are formed and transformed through political processes (Omi and Winant 1994; Snipp 2003); and, they evolve as individuals and groups negotiate their identities and related interests (Espiritu 1992; Mora 2014). Attention to social constructionism denaturalizes categories treated as intrinsic and reveals the underlying mechanisms that generate ideas of human difference.[3]

On the other hand, race is commonly observed and treated as a fixed characteristic of human populations (James 2001). It is real insofar as it is a shared social status that powerfully shapes life chances, even as it has no genetic basis (Bonilla-Silva 2006; Zuberi and Bonilla-Silva 2008; Freese 2008; Bolnick et al. 2007; Rajagopalan, Nelson and Fujimura 2016). Race has been a primary axis of differentiation in projects of domination, exclusion, and oppression; and racial inequality and stratification are an enduring feature of social life (Omi and Winant 1994; Blauner 1972; Bobo and Fox 2003). Race, as a signifier, impacts the trajectories of individuals and groups in profound ways. Documenting and explaining racial inequality is, hence, central to the project of understanding inequality more broadly.

Race is both socially constructed and consequential to life chances; yet social science research has not traditionally reflected this dual nature. Some studies focus on the processes of social construction itself, looking to how racial categories are produced, changed, and eliminated (Omi and Winant 1994; Loveman and Muniz 2007; Saperstein and Penner 2014). Others seek to document the consequences of race by describing and explaining racial stratification across various realms, for example in the labor market, (Pager, Western and Bonikowski 2009), the housing market (Yinger 1995), education (Farkas 2003) and crime and criminal justice (Sampson and Lauritsen 1997). This bifurcation is not inherently problematic, as these veins of scholarship are complementary. However, we suggest that *Pulled Over*'s careful

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the same genes and there is 8.6 times more genetic variation within socially defined racial groups than between them (Graves 2005,10; Desmond and Emirbayer 2010, 6). Social scientists agree that we cannot "see" race by examining DNA strands; the illusion of biological differences between races stems from the socially constructed assumptions, methods, and interpretations of genomic research (Fujimura et al. 2008; Fullwiley 2008; Morning 2008).

3. This line of inquiry is foundational to the sociological enterprise and attention to social construction has been taken up in subfields across the discipline. For instance, sociolegal scholarship has centered on the socially constructed nature of deviance. Labeling theory developed in the 1960s and 1970s in an effort to explain how state interventions designed to reduce crime could, in fact, produce deviant behavior (Lemert 1951; Erikson 1961; Becker 1963; Cicourel 1968). Conflict theories extended the constructivist perspective of labeling theory by exploring how political interests and power shaped the societal construction of and reaction to deviance (Quinney 1970; Chambliss and Seidman 1971; Turk 1972).

Social constructionism continues to exert powerful influence over wide-ranging lines of inquiry. In studies of gender, social constructionism interrogates static and binary gender categories and investigates how gender is defined, understood, and "done" or "performed" (West and Zimmerman 1987; Butler 1990). In the sociology of science and technology, "explanations for the genesis, acceptance and rejection of knowledge-claims are sought in the domain of the Social World rather than in the Natural World" (Pinch and Bijker 1984, 401). Indeed, even the idea of the natural world is problematized through social constructionist approaches that examine how ideas of nature are culturally determined (Greider and Garkovich 1994; Eder 1996). Social constructionist studies decenter phenomena that, at first glance, may seem to exist prima facie as part of our lived reality. They look to the social processes that generate these constructs—defining boundaries, endowing categories with taken-for-granted meanings, and transmitting "common sense" understandings.

attention to both social constructionism and racial inequality *in the same work* offers an important model for future research. It presents an approach that incorporates social constructionist insights into how racial classification is measured, empirically documents institutionally produced racial inequalities, and theorizes processes of racial formation by linking these inequalities to the evolving meaning of race itself. Below, we describe how these attributes of *Pulled Over* build on and contribute to existing race scholarship in each of these veins.

Racial Classification: Measuring a Multifaceted, Intersectional, and Geospatial Construct

The bifurcated emphases in race scholarship correspond to differences in how the concept of race is treated and measured. Those focusing on racial formation look at the social processes that define and transform racial categories themselves. This work examines racial boundary-making and asks when race, ethnicity, and/or nation become salient, to whom, and how so. It moves beyond using race as an explanatory variable for other outcomes and turns "race" into something to be analytically explained.[4] Studies in this vein explore how processes of institutional classification and individual identification construct the meaning of race. For instance, some look at how the evolving interests of the state construct racial and ethnic options on the census (Nobles 2000; Snipp 2003; Loveman and Muniz 2007). Others examine how social movements and individuals engage in projects of shifting or crossing racial boundaries (Nagel 1995; Roth 2005; Mora 2014). Some interrogate the relationship between the categories used by institutional actors (including scholars) and the "groups" these categories are meant to represent (Loveman 1999; Brubaker 2004). Together, this research on the social construction of racial categories positions the categories themselves as the outcome of interest and examines the processes through which they are formed and transformed.

By contrast, efforts to document racial inequality often rely on comparisons of some other outcome (e.g. incarceration rate, employment, educational attainment) across racial categories. This reverses the direction of causal inquiry, exploring the social consequences of existing racial categories (American Sociological Association 2003). Often, these categories derive from data sources like the census or survey instruments that capture an individual's racial/ethnic self-identification, chosen from a limited set of options. Though comparisons of outcomes across racial categories usefully reveal disparities; the use of single measures of race reinforces the illusion that racial categories are static, ahistorical, and mutually exclusive (Martin and Yeung 2003). How, then, can scholars engage in the impactful work of explaining racial inequalities, without reifying racial categories?

Pulled Over offers a promising answer to this question—one that aligns with other efforts to take social constructionism seriously in studies of inequality. These efforts

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4. For example, in *Blinded by Sight: Seeing Race Through the Eyes of the Blind*, Osagie K. Obasogie examines the social constructed nature of race by empirically investigating how people with severe visual impairment understand race. Obasogie questions the understanding that racial differences become salient merely because they are self-evident and visually obvious (4), and thus challenges the notion that vision is necessary to having a full understanding of race (37). Instead he develops a constitutive theory of race that examines the ways in which social interactions construct the visual significance of race (37).

emphasize that race is multifaceted, perceptual, and context-dependent; and advocate for measures of race that reflect this (Greiner and Rubin 2011; Sen and Wasow 2016; Roth 2016; Saperstein et al. 2016). Studies of inequality that take this call seriously often incorporate multiple measures of race or measures that capture how race is salient in the specific interaction of interest (e.g. Pager et al. 2009; Monk 2015; Penner and Saperstein 2015). *Pulled Over* is one such study. The book largely fits within the vein of research on racial inequalities in criminal justice practices as its primary purpose is to investigate differences in police treatment by race. The authors thus analyze race as an independent variable that affects investigatory stop practices. Yet, the study's approach incorporates social constructionist insights into how the race variable is measured. The authors move beyond the typical nods to the socially constructed nature of the race variable, including several measures that reflect the multifaceted nature of race as it is experienced in everyday life. In addition, they analyze interaction effects that account for the intersectional and spatially embedded qualities of racialized identities and experiences.

Epp et al. draw on measures that capture both the asserted and ascribed components of "race." While one measure—commonly used—asks respondents to self-identify, another asks, "if you met someone who did not know you, what race do you think they would think you are?" (171). This is the primary measure incorporated into their analysis, as it "best represents the perspective of the driver's race as viewed by a police officer on the street" (ibid.).[5] They also include a measure of "street style," asking respondents to identify the extent to which they look like a lawyer or doctor, construction worker, suburban parent, hip-hop star or deejay, etc. The authors hypothesize that these self-presentational attributes could be associated with the likelihood of being stopped and treatment during the stop. Using multiple measures of racial classification expands the definition of race beyond the common measure of self-identification. As a result, the authors address how race may become salient in the specific context of police stops by asking respondents questions that capture how an officer may have perceived them based on their physical features and self-presentation.[6]

Epp et al. also situate race as an element of intersectional identities. In addition to self-reported "street style," the authors incorporate material indicators by including measures of vehicle model and condition. They argue that, on the street, the most visible symbol of class is a driver's vehicle. Certain vehicle makes also carry racialized meanings. The authors find that drivers of domestic luxury cars like Cadillacs—which are considered a cultural marker of African Americans in the United States—are more likely to be subject to an investigatory stop than drivers of other car models. Their analysis of this point includes interactions among race, gender, and age. For example, they find that young African-American[7] men driving an older domestic luxury car have a

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5. There were only slight differences in respondents' racial self-identification and responses to the question capturing likely racial ascription by others (171).

6. Despite the hypothesized associations between street style and stop practices, street style did not have a significant effect in the analyses, either as an individual measure or as an interaction with other characteristics like race, age, and gender. As the authors summarize, "simply put, although we tried in various ways, we could not find that the police treated someone who looked like a black doctor differently from someone who looked like a black hip-hop star" (172). This result is consistent with the book's findings that racial classification is *the* determinative factor in the likelihood of experiencing an investigatory stop.

7. In this essay we use "black" and "African American" interchangeably as this is how race was denoted in the book. However, we recognize that the term "African American" is not an accurate representation of

44 percent likelihood of experiencing an investigatory stop over the course of a year; white men driving such vehicles have under a 20 percent likelihood (70). By including these interaction effects, Epp et al. account for the reality that race is experienced in intersectional ways—other demographic characteristics and the material and cultural signifiers of class or status intersect with race to form part of the imagery associated with threat and criminality.

Additionally, Epp et al. emphasize the importance of paying attention to race in relationship to specific spatial contexts. Place has played a central role as an "enabling technology" of racial domination in the United States (Delaney 2002, 7). The racial order is bolstered by "the *placement* of *all* people in specific, but highly visible, circumstances" (Kobayashi and Peake 2000, 395).[8] Cityscapes continue to reflect historic patterns of spatialized racial discrimination and exclusion, manifesting in persistent residential segregation. *Pulled Over* accounts for the powerful material and symbolic associations between race and place by analyzing variation in stop practices by location. Epp et al. compare the proportion of stops by race across three kinds of metropolitan areas: the urban core, the inner suburbs, and outlying areas.[9] They find that, while speeding traffic stops do not vary by race and location, investigatory stops are skewed toward African Americans in the inner suburbs (71). This reflects the ways in which the police—like many others—are affected by and implicated in maintaining the emplaced character of racial difference. While African Americans experience a higher proportion of investigatory stops than whites in all geographic areas, this difference grows more substantial in outlying areas and is most pronounced in the historically white inner suburbs (70).

Though they treat race as an independent variable that predicts the likelihood of experiencing an investigatory stop, Epp et al. include measures that capture several of the nuances of race as it operates in everyday life. They are particularly attentive to how race is likely to be salient in the specific context of the police stop. This multifaceted approach to measuring race and analyzing its effects accounts for the socially constructed qualities of race, while documenting racism and racial inequalities.

Racial Inequality: Documenting Racial Disparities and Their Institutional Origins

The criminal justice system is a key site of inquiry for those concerned with racial inequality. It is one of several subsystems that contributes to compounding racial disparities across various realms (Pager and Shepherd 2008; Reskin 2012). Indeed,

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the current U.S. population that identifies as black—for instance, African immigrants or black individuals from the Caribbean or Latin America may not see themselves as "African American"—and that using black and African American interchangeably overlooks the unique and complex history of black people in the United States.

8. The law has been a crucial tool in the spatial regulation of undesirable, threating, or otherwise "out of place" populations. For instance, historically, vagrancy laws gave the police wide discretionary power to "keep racial minorities, political troublemakers, and nonconforming rebels at bay" (Goluboff 2017, 3). More recently, zero-tolerance and broken windows policing strategies, which focus on low-level violations that threaten the orderliness of public spaces, have enabled the police to banish unwanted people and populations (Beckett and Herbert 2009).

9. The authors used survey responses to identify the location of the most recent stop and the legal jurisdiction in which the stop occurred.

involvement in the criminal justice system adversely affects labor market prospects (Western 2002; Pager 2003), political participation (Uggen and Manza 2002), health (Massoglia 2008), and community stability (Rose and Clear 1998), to name but a few consequences. Policing initiates entry into the criminal justice system and is therefore an important juncture where racial disparities emerge. Research on policing outcomes reveals persistent inequalities, particularly between African Americans and whites. Racial disparities are endemic to forms of involuntary police contact, such as traffic stops, subject stops, searches, and arrests (Langton and Durose 2013; Fagan et al. 2016). Research also documents salient racial disparities in patterns of police use of force (Eith and Durose 2011; Fryer 2016; Morrow et al. 2017; Scott et al. 2017). Taken together, these patterns indicate that policing is manifestly racially stratified.

Efforts to identify discrimination as a source of stratification often focus on racial profiling and prejudice, situating the problem at the level of the individual officer. However, the empirical challenges of capturing officers' decision-making processes complicate the conclusive identification of racial bias (Engel, Calnon and Bernard 2002; Atiba Goff and Barsamian Kahn 2012). In addition, though police officers could hold more racially prejudicial attitudes than the general population (Eberhardt et al. 2004), the links between racial attitudes and actual behaviors are precarious. Profiling studies suggest that officers use race as a criterion in forming suspicion, but that that legal or behavioral characteristics largely account for the decision to take action (Alpert, Macdonald and Dunham 2005; Correll et al. 2007). Though racial profiling is a pernicious phenomenon, it is not the only potential source of racial discrimination.

Pulled Over shifts attention from individual officers to institutional practices. Epp et al. thoroughly document qualitative and quantitative differences in police stop experiences by race, and they account for the ongoing production of these disparities by embedding stop practices within specific historical and institutional contexts, thus drawing attention to meso-level determinants of racial inequality. While attention often focuses on individual officers—centering their racial attitudes and implicit biases as the mechanisms driving racial profiling—*Pulled Over* embeds officers' actions within the set of racialized institutional practices surrounding the investigatory stop. Though the practice of encouraging officers to seek out "suspicious" drivers to investigate potential criminal misconduct is widely legitimated, it can trigger implicit racial stereotypes that result in the disproportionate targeting of African Americans. The authors identify this kind of institutional practice as one source of the gap between whites and African Americans in trust of the police. Like racial disparities, perceptions of fairness have deeper origins than the actions of individual officers. As Epp et al. explain, "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*" (6, emphasis in original). In its focus on the institutional level, *Pulled Over* offers a much-needed analysis of racial disparities in policing outcomes and their implications.

Epp et al. begin by situating current investigatory stop practices within legal and historical frameworks, describing the development of "Broken Windows" theory,[10]

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10. "Broken Windows" theory posits that minor indicators of social disorder—like graffiti and loitering—foster the impression of socially disorganized space that, in turn, encourages more serious offenses. Broken Windows theory suggests that the police should strategically target low-level violations to prevent

significant Supreme Court decisions like *Whren v. United States* (1996),[11] the evolution of programs like the Drug Enforcement Administration's Operation Pipeline,[12] and commonplace police training materials like *Tactics for Criminal Patrol* (Remsberg 1995).[13] These guidelines and strategies laid the foundation for widespread reliance by law enforcement agencies on investigatory stops. Investigatory stops continue to be a sanctioned and legitimated policing tactic, thought to be effective and drawing professional rewards from both local departments and policing associations. They are thus an institutionalized practice: a "common way 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" (11).

Yet, through common practice, investigatory stops have a distinctly racial character. Epp et al. cite concepts of framing and implicit bias to account for how stop practices produce racial outcomes. They explain that the police—like others—frame their experiences in a social and historical context that includes "the enduring stereotype that blacks are more likely to be violent, aggressive, and engaged in crime" (42). These stereotypes can operate on both conscious and nonconscious levels. Though officers may not express overt prejudice, they may be subject to the unconscious activation of implicit racial stereotypes. The authors argue that, in requiring officers to identify those who look "suspicious," investigatory stops inevitably trigger stereotypes that frame black drivers as potential criminals. Investigatory stops are, hence, a *racially framed* institutionalized practice—one that "grows from and reproduces negative racial stereotypes" (12).

After establishing this framework, Epp et al. systematically document racial disparities in police stops, revealing the discriminatory nature of investigatory stops, in particular. The authors use survey and interview data to describe racial disparities in how police stops are conducted and experienced. They find that 25 percent of black drivers are stopped in a year, compared to 12 percent of white drivers, even though black drivers do not typically violate traffic laws more than white drivers and, on average, black drivers speed less than white drivers (57). White drivers report being stopped for traffic-safety violations while black drivers are often pulled over for ambiguous or unstated reasons consistent with the tactics associated with investigatory stops. Indeed, black drivers are 2.7 times more likely to be stopped in an investigatory stop than white drivers. The authors find that race interacts with gender, age, and class

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further crime. For the original articulation of Broken Windows theory, see Kelling and Moore (1982). For a review of its applications and consequences in policing, see Harcourt (2001).

11. *Whren*, a Supreme Court case, held that as long as police officers have reasonable cause to believe that a traffic violation occurred—even if the infraction is minor—they may constitutionally stop any vehicle.

12. In Operation Pipeline, the Drug Enforcement Administration trained local law enforcement agencies to identify suspects based on drug courier profiles that included race as a characteristic; training materials suggested that African American and Hispanic drivers were more likely to be carrying drugs.

13. Epp et al. describe this widely used training manual that outlines the methodology of the investigatory stop. *Tactics for Criminal Patrol*, by Charles Remsberg, includes a step-by-step process that begins with developing suspicion about a driver and initiating a stop, and culminates in a search of the vehicle that could lead to arrest. The manual provides extremely detailed instructions, including implicit and explicitly racial criteria for identifying suspicious drivers (Epp et al. cite a passage in which Remsberg discredits courier profiles, but shortly thereafter suggests that "traditional profile characteristics *do* correlate closely with a sizable portion of drug couriers" (40)). The widespread reliance on this text reflects the institutional credence given to the investigatory stop as a legitimate practice.

indicators; black men under the age of twenty-five have a 28 percent likelihood of being subject to an investigatory stop over the course of a year, compared to white women, who experience a 7 percent likelihood (67). The police are 70 percent more likely to stop drivers in the lowest quartile of vehicle value, though drivers of those domestic luxury cars that Epp et al. identify as a "cultural marker of minority race" are more likely to be stopped than those with another vehicle make (69). Notably, it is only in investigatory stops that race and its interactions with other status characteristics have this influence. In traffic-safety stops, the most important determinant of the likelihood of being stopped is driving behavior; race has no substantive or statistically significant impact in this study. Racial disproportionality in police stops is driven solely by investigatory stops.

   Epp et al. then document differences in driver experiences during police stops, focusing on the demeanor of the officer and on intrusions and sanctions reported by drivers. For traffic-safety stops, they find small differences in intrusions and demeanor based on the race of the driver, but those differences are not statistically significant. However, for investigatory stops, they find large statistically significant differences. A much higher proportion of black drivers report experiencing intrusions and sanctions, including threats of arrest, vehicle searches, driver searches, and handcuffing. For instance, black drivers are five times more likely than white drivers to have their car searched (105). Black drivers also report more surly, hostile, and insulting behavior from the officer (82).[14] Epp et al. challenge the hypothesis that the more aggressive behavior from officers occurs in response to the driver's demeanor. They find that black drivers are not significantly more disrespectful than white drivers during investigatory stops.[15] They subsequently developed a statistical model that considered a range of influences on intrusions and the officer's demeanor. The model incorporates the drivers' status characteristics like race, gender, age, and education, in addition to other hypothesized influences like vehicle value and appearance, driving behavior, the number of vehicle passengers present, the number of police officers present, and drivers' level of distrust of authority. Epp et al. find that race is a statistically significant predictor of intrusions and

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14. One might wonder whether drivers accurately remember and self-report on the behavioral dynamics of a stop. Epp et al. raise this point, asking, "do these findings reflect peoples' underlying biases toward the police more than the officers' actual behavior?" (84). The authors explain that their survey design sought to ensure the validity of drivers' self-reports by attending to "precise events or behaviors as opposed to more subjective, ungrounded evaluations of the officer" (84). Presumably, people can remember if they were handcuffed, searched, or arrested. The authors go on, "likewise, with regard to the officer's demeanor, we asked the driver to report specific behaviors rather than broader, ungrounded evaluative opinions, such as whether the officer was polite or respectful" (84). There is subjectivity in the perception of whether an officer is "businesslike" or "surly," and the emotional impact and intrusiveness of an investigatory stop may color recollections of demeanor. But, despite the challenges of self-reported data, it remains notable that the racial differences in intrusions and perceptions of demeanor are small for traffic-safety stops and more pronounced in investigatory stops; the practice of the investigatory stop drives these differences, rather than broader patterned racial differences in perceptions of the police.

15. The authors measure driver disrespect through three questions: "to what extent did you speak to the officer with an angry voice, to what extent did you speak loudly to the officer, and to what extent did you speak sarcastically to the officer?" (86). They combine these measures into an additive index. The authors note that, while this is self-reported data, a substantial proportion of stopped drivers reported speaking somewhat disrespectfully to the officer (211). Epp et al. find that African Americans in the sample report more disrespectful speech than whites, however, this effect goes away after controlling for the type of stop. The key determinate of self-reported driver disrespect is whether the driver experienced an investigatory stop versus a traffic-safety stop.

officer demeanor in investigatory stops (103). They conclude: "African Americans are subjected to deeper investigatory intrusions not because they are poorer, less educated, more disrespectful, or more distrustful of the police than are whites. It is a racial disparity, pure and simple" (113). The scrutiny black drivers face stems from the scripts associated with the investigatory stop as a practice; officers are trained to conduct such stops through intrusive tactics and vague behaviors easily interpreted as disrespectful.

Epp et al. then draw out the implications of these disparities through an analysis of police stop experiences. They find a wide racial gap in how police stops are evaluated. African Americans, on average, evaluate their most recent police stop as less legitimate than whites across three dimensions: the extent the officer provided a legitimate reason to make the stop, the extent the officer behaved properly during the stop, and the extent the outcome was more severe than deserved. For instance, on a negative-to-positive scale ranging from one to five, African American men rate the legitimacy of the decision to stop an average of approximately 2.6, while white men gave an average rating of approximately 4 (128). Epp et al. situate racial differences in evaluations of stops in the differences in types of stops themselves. In a statistical model comparing black and white drivers' evaluations of the legitimacy of police stops, they find that black drivers view investigatory stops as significantly less legitimate than traffic-safety stops,[16] while there is no such effect for white drivers.[17] This model controls for experiences during the stop, the drivers' reported violation of traffic laws, and background predispositions like the driver's political ideology, distrust in the government, and education (130). The authors argue that the practice of investigatory stops undermines perceptions of legitimacy, even if the stops are carried out in a procedurally fair manner. Drivers evaluate the fairness of the *reason* for the stop, rather than its outcome. In investigatory stops, the relationship between the stop and an actual traffic violation is unclear. Investigatory stops are therefore perceived as less legitimate and this perception comes to be collectively shared by African Americans based on both personal and vicarious experiences of such stops.

Through their analysis, Epp et al. isolate investigatory stops as a racially framed and racially biased institutional practice. In doing so, they illustrate the important connections between racial classification, institutional practices, and racial inequality. Racial classification is the determinative factor in the likelihood of experiencing an investigatory stop. Once stopped, the scripts and structures of the practice itself drive racial disproportionality in the experiences and evaluations of stops. Significantly, Epp et al. find that the widely employed and endorsed practice of the investigatory stop—in precipitating racial differences in experiences of law enforcement—ultimately undermines police legitimacy.

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16. This difference was statistically significant at the p < .05 level. For black drivers, investigatory stops were associated with, on average, a .4-point reduction in evaluations of legitimacy on the author's five-point scale; for white drivers, investigatory stops were associated with a .003-point increase and this effect was not statistically significant (130).

17. The authors explain, through their narrative data, that white drivers and black drivers evaluate legitimacy through different frames, based on their background knowledge of the different types of stops they are likely to experience. White drivers provided narratives that typically described traffic safety stops. They evaluate the stops, in part, based on whether they were given a ticket or a warning. White drivers may rate investigatory stops as more legitimate because they make evaluations based on the sanction, rather than the motivation for the stop (123–25).

Racial Formation: Theorizing the Reification of Racial Hierarchies, Differences, and Identities

Though we have discussed race scholarship as bifurcated—with emphases on the social construction of race, on the one hand, and racial inequality, on the other—these two social processes are intimately linked. Racial categories and racial inequalities are mutually constitutive; they are co-produced through various institutions, one of which is the law. Critical Race Theory (CRT) and empirical Critical Race Theory (eCRT)[18] pay particular attention to the ways the law constructs race and is therefore part of the process of racial formation (Crenshaw 1995, xxv; Obasogie 2013, 2014; Gómez 2012; Paul-Emile 2015). Analyzing the "role of law in the construction of race becomes, then, an examination of the possible ways in which law creates differences in physical appearance, of the extent to which law ascribes racialized meanings to physical features and ancestry, and of the ways in which law translates ideas about race into the material societal conditions that confirm and entrench those ideas" (Haney López 2006, 10). In addition to documenting racial inequality in law enforcement, *Pulled Over* attends to how law enforcement, police policy, and practices re-inscribe racial meanings and experiences in ways that solidify the racial order.

Epp et al. tie their empirical findings to a theorization of racial formation by cogently arguing that police stop experiences shape the contemporary social meaning of race. This happens through several mechanisms. First, the visibility of stop practices reflects and reproduces a racialized hierarchy of citizenship and standing. For passersby, the images of black drivers—stopped, detained, handcuffed, or searched on the side of the road—are easy to interpret in ways consistent with broader social meanings. These images reinforce the idea that African Americans are criminal, on the one hand, or subject of discriminatory targeting by law enforcement, on the other. Both interpretations correspond to an understanding of the relational places that groups in society occupy. These images and experiences reinforce the precarious status of black Americans, while "affirming whites' sense of their equality in a community ruled by law" (138). Investigatory stops communicate messages that "some citizens are not free to move about as equal members of society" (136).

Second, stop practices contribute to the differences in experience and perceptions that characterize the contemporary racial divide. A substantially higher proportion of African Americans report distrust in the police compared to whites, corresponding to their experiences of investigatory stops. Black drivers are more likely to agree with the statement, "the police are out to get people like me" (approximately 25 percent of black men between 30–39 years old, compared to under 5 percent of white men) and approximately one in five black men in their 40s report that they would be uncomfortable calling the police if they needed help compared to approximately one in twenty white men of the same age (141). Epp et al. find large, statistically significant differences between black and white respondents across various dimensions of distrust. These findings suggest that racialized citizens experience qualitatively different relationships to the

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18. eCRT (also referred to as Critical Race Theory and empirical methods) uses the strengths of social science methods and Critical Race Theory to "assess, document and theoretically extrapolate" the ways that law and society construct race and the ways that race constructs law and society (Obasogie 2013, 185).

police, and, hence, to the state. Some members of society expect service and protection, while others anticipate surveillance and social control. Over 60 percent of African American drivers do not trust the police to do the right thing, compared to under 25 percent of white drivers. These racially disparate stop practices and experiences with the police contribute to defining and maintaining racial segregation boundaries. Black drivers report avoiding certain areas for fear of how they might be treated by the police; 40 percent of black respondents, compared to 12 percent of white respondents reported such behaviors (146). Investigatory stops communicate messages about who belongs and who is "out of place." Through this practice, the police shape and maintain the spatial and experiential character of racial difference.

Finally, investigatory police stops shape racial identity. They foster the "groupness" of individuals perceived to be Black by developing a sense of shared history and fate. While African Americans already report more racial identification[19] than whites, the experiences of an investigatory stop make race even more salient to the identity. Epp et al. describe this dynamic by including measures of racial identity in their survey. While 38 percent of African Americans, compared to 11 percent of whites, reported the highest level of racial identification, the experience of an investigatory stop impacts these identifications. On average, the experience of an investigatory stop corresponds to a 1.4 point increase, on a scale of seven, in racial identification for African Americans, compared to a 1.1 point decrease in racial identification for whites. Both effects are statistically significant. The authors conclude: "enduring an investigatory stop *significantly increases* racial identification among African Americans but *significantly decreases* racial identification among whites," controlling for other correlates of racial identity including education, income, political ideology, gender, age, etc. (149). Bearing the inconvenience and intrusion of a stop reminds black drivers of how vulnerable they are to this form of racial subordination. The authors speculate that the experience of an investigatory stop disrupts white drivers' taken-for-granted assumptions of racial privilege, decreasing their identification with a racial group.[20] By drawing out the implications of racial disparities in stop practices on racial hierarchies, differences, and identities, *Pulled Over* shows that race is not merely an input that determines the likelihood of experiencing a stop, it is an outcome of the stop as well; police stops are part of the process of populating and transforming racial categories.

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19. This was measured using a Tobit estimation of the influence of several independent variables on the drivers' self-reported degree of identification with others of their race. The dependent variable was constructed using a seven-point Likert scale. This additive index was created using the drivers' responses to the following questions: "We are all members of different ethnic or racial groups. Being a member of my ethnic or racial group is very important to me and when someone from outside criticizes my ethnic group, it feels like a personal insult" (183).

20. The authors hypothesize that investigatory stops decrease racial identification amongst whites because, "such experiences do, for a moment, remove their privilege and expose them to an experience common to African Americans" (150). They elaborate through the story of Donald, a white man, who described being followed by the police and eventually pulled over for a minor infraction while driving with his African American girlfriend in the car. Donald's experience confirmed his belief that the police racially profile and increased his sympathy for black drivers subject to similar stops.

CONCLUSION

Pulled Over offers several insights for sociolegal scholars concerned with the social construction and social consequences of race. From a methodological standpoint, it encourages careful consideration of how the concept of race is measured and incorporated into analyses. *Pulled Over* makes thoughtful efforts to operationalize race in a way that is context-based and specific to the object of inquiry. The authors position race at the intersections of the pervasive meanings and stereotypes characterizing the U.S. racial order, the institutional mandates of investigatory stop practices, and the situational conditions that shape interactions between police officers and drivers. Their efforts call attention to an important set of underlying questions that should be taken into account in research design—how might race interact with other status characteristics? How does place matter? How is race likely to be impactful in this *specific* context? Letting questions like this shape measures and analysis incorporates social constructivist insights by recognizing that race is experienced in ways that are historically, spatially, and situationally contingent.

Perhaps most importantly, *Pulled Over* draws attention to the ways in which racial classifications, racial inequalities, and racial formation are linked. In doing so, Epp et al. have produced a study that is about *both* racial inequality and the social construction of race. The authors describe a pathway in which initial, situationally specific, racial classifications produce racial inequalities in experiences that have broader impacts on meanings associated with race. As they explain:

> 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 a 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 (24, emphasis added).

One of the many strengths of *Pulled Over* is in its theoretical and empirical exploration of the nuanced relationships between racial classifications, racial inequalities, and racial meanings. The authors offer a valuable roadmap for other scholars concerned with the how legal processes shape and are shaped by the social power of race.

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