

# DRIVEN TO FAILURE: AN EMPIRICAL ANALYSIS OF DRIVER'S LICENSE SUSPENSION IN NORTH CAROLINA

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## ABSTRACT

*A person's interest in a driver's license is "substantial," and as the U.S. Supreme Court has observed, the suspension of a license by the state can result in "inconvenience and economic hardship suffered," including because a license may be "essential in the pursuit of a livelihood." However, forty-four U.S. states currently require indefinite suspension of driver's licenses for non-driving-related reasons, such as failure to appear in court or pay fines for traffic infractions. There are no systematic, peer-reviewed analyses of individual-level or county-level data regarding such suspensions. This study describes North Carolina's population of suspended drivers and assesses how driver's license suspension statutes operate relative to geography, race, and poverty level. First, it analyzes four decades of active-suspension data in North Carolina and finds over 1,225,000 active suspensions for failures to appear or pay traffic fines, amounting to one in seven adult drivers in the state. Second, it compares these data to county-population data; county-level traffic-stop data, collected as required by statute in North Carolina; and county-level data on the volume and composition*

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*of traffic court dockets. This study reveals that driver's license suspensions are not associated with either the volume of traffic stops or the size of the traffic court docket. In contrast, we find that black and Latinx people are overrepresented relative to the population. Linear mixed-level modeling regression analyses demonstrate that the population of white people below the poverty line and black people above the poverty line are most strongly associated with more suspensions. Finally, this Article explores implications of these results for efforts to reconsider the imposition of driver's license suspensions for non-driving-related reasons. These patterns raise constitutional concerns and practical challenges for policy efforts to undo such large-scale suspension of driving privileges.*

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## INTRODUCTION

“I was only going like 3 mph over the speed limit,” said a Durham, North Carolina resident.<sup>1</sup> The fine, though, was for hundreds of dollars.<sup>2</sup> “I just couldn’t afford it. I have four kids.”<sup>3</sup> He lost his driver’s license, an automatic consequence for failure to pay traffic fines in North Carolina, which in turn impacted his housing and employment.<sup>4</sup> But now, based on a collaborative effort in the city, he had the court debt forgiven and his license restored: “It means the world . . . . I’m employed, I’m able to go spend quality time with my kids.”<sup>5</sup> One out of five Durham residents have a suspended or revoked driver’s license, and there are tens of thousands more in the city who suffer the consequences of traffic fines and fees.<sup>6</sup>

A person’s interest in a driver’s license is “substantial,” and as the U.S. Supreme Court has observed, the suspension of a license by the state can result in “inconvenience and economic hardship suffered,”<sup>7</sup> especially because a license may “become essential in the pursuit of a livelihood.”<sup>8</sup> A suspended license can result in negative consequences ranging from job loss, to restricted career opportunities, to limited mobility, to name a few.<sup>9</sup> However, until recently, all fifty states and the District of Columbia had in place laws that permit driver’s licenses to be suspended or withdrawn for non-driving-related reasons,

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1. Sarah Krueger, *Durham Program Offers Second Chance to NC Drivers with Suspended, Revoked License*, WRAL.COM (Mar. 13, 2019), <https://www.wral.com/durham-program-offers-second-chance-to-nc-drivers-with-suspended-revoked-license/18255320> [<https://perma.cc/WGV7-WBR2>].

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

7. *Mackey v. Montrym*, 443 U.S. 1, 10–11, 19 (1979) (finding, in light of the due-process-protected property interest in a driver’s license, that a state hearing process was adequate for contesting a license suspension for refusal to take a blood-alcohol breath-analysis test).

8. *Bell v. Burson*, 402 U.S. 535, 539 (1971) (“Once [driver’s] licenses are issued . . . their continued possession may become essential in the pursuit of a livelihood. . . . [L]icenses are not to be taken away without that procedural due process required by the Fourteenth Amendment.”).

9. See ALICIA BANNON, MITALI NAGRECHA & REBEKAH DILLER, BRENNAN CTR. FOR JUST., CRIMINAL JUSTICE DEBT: A BARRIER TO REENTRY 2, 24–29 (2010), <https://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf> [<https://perma.cc/S9PW-4CUI>] (noting that states, including North Carolina, “suspend driving privileges for missed debt payments, a practice that can make it impossible for people to work and that can lead to new convictions for driving with a suspended license”); ALEXES HARRIS, A POUND OF FLESH: MONETARY SANCTIONS AS PUNISHMENT FOR THE POOR 50–51 (2016) (discussing the detrimental consequences of nonpayment).

including failure to comply with child-support orders, failure to maintain proper insurance, failure to appear in court or pay fines for vehicular violations, and many others.<sup>10</sup> In recent years, due to legal challenges and legislative change, several jurisdictions have removed such consequences.<sup>11</sup> However, forty-four U.S. states still require suspension of driver's licenses for non-driving-related reasons— indefinitely in thirty-nine states.<sup>12</sup> Policies related to failure to pay traffic fines or appear in court are not designed primarily to promote public safety, but rather to use suspension to induce payment and compliance.<sup>13</sup> In that context, driver's license suspension is a state-employed debt-collection tool. Existing data suggests that at least eleven million Americans, and perhaps far more, have suspended licenses.<sup>14</sup> However, prior research findings are largely limited to four states and descriptive analyses.<sup>15</sup> Here, we expand our understanding of license suspensions by studying a new state, North Carolina, and modeling how race and poverty predict suspensions.

This study is the first to examine comprehensive individual-level and county-level driver's license suspension data. Thanks to the North

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10. JON A. CARNEGIE & ROBERT J. EGER, III, AM. ASS'N OF MOTOR VEHICLE ADM'RS, REASONS FOR DRIVER LICENSE SUSPENSION, RECIDIVISM, AND CRASH INVOLVEMENT AMONG DRIVERS WITH SUSPENDED/REVOKED LICENSES i, v–vi (2009), [https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/811092\\_driver-license.pdf](https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/811092_driver-license.pdf) [<https://perma.cc/F5AK-9L7Y>].

11. See, e.g., MONT. CODE ANN. § 46-18-201(6)(b) (2019) (ending the practice of driver's license suspension for nonpayment of traffic fines); VT. STAT. ANN. tit. 4, § 1109(b) (2019) (same); see also *infra* Part IV.

12. See MARIO SALAS & ANGELA CIOLFI, LEGAL AID JUSTICE CTR., DRIVEN BY DOLLARS: A STATE-BY-STATE ANALYSIS OF DRIVER'S LICENSE SUSPENSION LAWS FOR FAILURE TO PAY COURT DEBT 7–9 (2017), <https://www.justice4all.org/wp-content/uploads/2017/09/Driven-by-Dollars.pdf> [<https://perma.cc/TK5K-J3YN>] (“Of the 44 jurisdictions that suspend driver's licenses for unpaid criminal or traffic court debt, 39 do so indefinitely.”); see also Meghan Keneally, *It's Not America: 11 Million Go Without a License Because of Unpaid Fines*, ABC NEWS (Oct. 25, 2019, 3:11 AM), <https://abcnews.go.com/US/vicious-cycle-11-million-live-drivers-license-unpaid/story?id=66504966> [<https://perma.cc/9TTL-S8QF>] (summarizing a study by the Fines and Fees Justice Center reporting a decrease in the number of states that suspend licenses over unpaid fees and fines); *Joint Statement on Texas Repeal of the Driver Responsibility Program*, FINES & FEES JUST. CTR. (Sept. 9, 2019), <https://finesandfeesjusticecenter.org/2019/09/09/joint-statement-on-texas-repeal-of-the-driver-responsibility-program> [<https://perma.cc/G439-64YS>] (noting that as of Fall 2019, six states— California, Idaho, Mississippi, Montana, Texas, and Virginia—and Washington, D.C., have abolished driver's license suspensions for non-driving-related reasons).

13. Keneally, *supra* note 12 (interviewing Nusrat Choudhury, the deputy director of the ACLU's Racial Justice Program, who makes this argument).

14. *Id.*; see also *infra* Part II.B.

15. See *infra* Part II.B (summarizing prior research regarding driver's license suspensions in Wisconsin, California, New Jersey, and New York).

Carolina Administrative Office of the Courts (“AOC”), we were able to acquire all active driver’s license suspensions for failures to appear in court and failures to pay fines and fees. We provide a descriptive analysis of the demographics and characteristics of the state’s population of all drivers suspended for non-driving-related reasons, including for failure to appear and failure to pay fines and fees. Then we conduct a series of mixed-level modeling regression analysis for the 2010 to 2017 time period, including two additional datasets: North Carolina traffic-stop data and county-level traffic court docket data, also from the AOC. These analyses allow us to quantify the role of race and poverty in predicting the number of suspensions at a county level and rule out other plausible explanations for disparate suspension rates, such as disparate traffic-stop rates or traffic court cases. Our analyses are available on the Open Science Framework (“OSF”).<sup>16</sup>

These findings have constitutional implications. The U.S. Supreme Court has repeatedly held that there is a constitutionally protected liberty and property interest in a driver’s license that cannot be revoked or suspended “without that procedural due process required by the Fourteenth Amendment.”<sup>17</sup> That said, the Court has approved postsuspension hearing processes, at least for short-term suspensions,<sup>18</sup> and lower courts have been divided in recent constitutional challenges to driver’s license suspension schemes.<sup>19</sup> What makes these findings particularly relevant, however, is not just

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16. See William Crozier & Brandon Garrett, *North Carolina Drivers License Suspensions*, OPEN SCI. FRAMEWORK (Dec. 2, 2019, 7:28 AM), <https://osf.io/fwjxa> [<https://perma.cc/LZ4M-DU83>] (providing aggregate data, data-cleaning method, code, and preregistration). This site also contains information on the source of the data, the preregistration of analyses, and the general project.

17. *Bell v. Burson*, 402 U.S. 535, 539 (1971).

18. *Mackey v. Montrym*, 443 U.S. 1, 10–12 (1979) (approving a state’s procedure for ninety-day driver’s license suspensions, which made available only postsuspension hearings to challenge the suspension).

19. Recent constitutional litigation has challenged driver’s license suspension statutes largely on due process grounds. See, e.g., *Stinnie v. Holcomb*, 396 F. Supp. 3d 653, 656–57 (W.D. Va. 2019); *Thomas v. Haslam*, 329 F. Supp. 3d 475, 479–80 (M.D. Tenn. 2018), *vacated as moot sub nom. Thomas v. Lee*, 776 F. App’x 910 (6th Cir. 2019); *Mendoza v. Garrett*, 358 F. Supp. 3d 1145, 1150 (D. Or. 2018); *Rodriguez v. Providence Cmty. Corr., Inc.*, 191 F. Supp. 3d 758, 778–80 (M.D. Tenn. 2016); see also Press Release, ACLU of N. Cal., *Landmark Lawsuit Settled, Paves Way for Fair Treatment of Low-Income California Drivers* (Aug. 8, 2017) [hereinafter ACLU Press Release], <https://www.aclunc.org/news/landmark-lawsuit-settled-paves-way-fair-treatment-low-income-california-drivers> [<https://perma.cc/J4FH-Y26B>]. The North Carolina driver’s license suspension statute is presently the subject of federal litigation. See *Johnson v. Jessup*, 381 F. Supp. 3d 619, 623–24 (M.D.N.C. 2019) (rejecting the plaintiffs’ due process and equal protection claims), *appeal filed*, No. 19-1421 (4th Cir. Apr. 19, 2019).

the scale of the driver's license suspensions, but that they are disparately imposed on minorities and poorer communities. These findings have implications for equal protection and due process challenges in which disparate enforcement of unfair procedures magnifies the constitutional harm.<sup>20</sup> Indeed, some courts that have granted relief in constitutional challenges to driver's license suspensions have focused on an "equal process" theory in which both the equal protection and due process analyses play a role.<sup>21</sup>

This Article proceeds as follows. Part I begins by describing the constitutional and statutory background concerning driver's license suspension. It then describes the North Carolina driver's license suspension statute and the procedures involved in suspending licenses for failure to appear in court and failure to pay traffic fines. Part II reviews the literature concerning fines and fees, misdemeanor criminal justice, and driver's license suspensions in particular. Part III turns to the empirical analysis of data concerning the 1.25 million driver's license suspensions in North Carolina. Part IV concludes by exploring the political and constitutional implications of these findings. It emphasizes that important questions remain for future research that could inform constitutional litigation, local restoration efforts, dismissals of charges, and legislative efforts to restore licenses and end the suspension of driver's licenses for non-driving-related traffic offenses. These findings relate to larger efforts to document and address the overuse of fines, fees, and bail in our criminal and civil court systems.<sup>22</sup> Large-scale and holistic efforts are needed to undo the effects of such systemic deprivations of rights.

## I. THE LAW OF DRIVER'S LICENSE SUSPENSION

This Part begins by providing an overview of federal constitutional decisions regarding the suspension of driver's licenses, focusing on both due process and equal protection claims. Second, this Part provides an overview of the growth of driver's license suspension statutes nationally and how federal regulation incentivized that

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20. For a discussion of the equal protection, due process, and cumulative "equal process" claims in such legal challenges, see generally Brandon L. Garrett, *Wealth, Equal Protection, and Due Process*, 61 WM. & MARY L. REV. 397 (2020).

21. *Id.* at 25–26.

22. See, e.g., COUNCIL OF ECON. ADVISORS, FINES, FEES, AND BAIL: PAYMENTS IN THE CRIMINAL JUSTICE SYSTEM THAT DISPROPORTIONATELY IMPACT THE POOR 2–3 (2015), [https://obamawhitehouse.archives.gov/sites/default/files/page/files/1215\\_cea\\_fine\\_fee\\_bail\\_issue\\_brief.pdf](https://obamawhitehouse.archives.gov/sites/default/files/page/files/1215_cea_fine_fee_bail_issue_brief.pdf) [<https://perma.cc/Q238-RDP4>].

practice. Third, this Part describes the North Carolina statutes related to driver's license suspension and how they operate in the state.

*A. Constitutional Decisions on Driver's License Suspensions*

By the 1970s, the U.S. Supreme Court had addressed the practice of driver's license suspension as part of its development of procedural due process rights in the context of the administrative state. The Court has interpreted the Due Process Clause to require the state to provide notice and an opportunity to be heard before it deprives an individual of a protected liberty or property interest.<sup>23</sup> An individual holds both a liberty and property interest in their driver's license because it affects their livelihood and ability to travel.<sup>24</sup> As the Court has put it, "driving an automobile [is] a virtual necessity for most Americans."<sup>25</sup> Therefore, as the Supreme Court held in *Bell v. Burson*,<sup>26</sup> a driver's license is protected and subject to procedural due process requirements.<sup>27</sup> When the state suspends a person's driver's license, doing so does not always require actual notice or personal service, but rather notice that is "reasonably calculated" to reach affected parties.<sup>28</sup> Thus, procedural due process requires that the state provide an individual notice of a deprivation and an opportunity to be heard in order to guard against erroneous deprivation.<sup>29</sup> Such notice must be made "at a meaningful time and in a meaningful manner."<sup>30</sup> In conducting this inquiry, courts may consider the individual and state interests at issue, as well as the risk of an erroneous deprivation.<sup>31</sup>

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23. *Mathews v. Eldridge*, 424 U.S. 319, 332, 348 (1976).

24. *See Mackey v. Montrym*, 443 U.S. 1, 10 (1979) (recognizing that the suspension of a driver's license "implicates a protectible property interest"); *Bell v. Burson*, 402 U.S. 535, 539 (1971) ("Once [driver's] licenses are issued . . . their continued possession may become essential in the pursuit of a livelihood."). State courts had recognized this earlier as well. *See, e.g., Hecht v. Monaghan*, 121 N.E.2d 421, 423–24 (N.Y. 1954).

25. *Wooley v. Maynard*, 430 U.S. 705, 715 (1977).

26. *Bell v. Burson*, 402 U.S. 535 (1971).

27. *Id.* at 539.

28. *See, e.g., Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950).

29. *See Mathews v. Eldridge*, 424 U.S. 319, 348 (1976).

30. *Id.* at 333 (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)).

31. *Id.* at 348. Due process first requires a determination of whether a protected interest is implicated, then an inquiry into what process is due:

[A] weighing process has long been a part of any determination of the *form* of hearing required in particular situations by procedural due process. But, to determine whether due process requirements apply in the first place, we must look not to the 'weight' but to the *nature* of the interest at stake.

More recently, it has been the lower federal courts that have addressed suspensions for non-driving-related reasons, such as nonpayment of traffic tickets or failure to appear in court.<sup>32</sup> Some of those courts have addressed equal protection and due process claims jointly,<sup>33</sup> following the reasoning of the Supreme Court's ruling in *Bearden v. Georgia*.<sup>34</sup> In that case, the Court held that courts cannot revoke probation for failure to pay a fine or victim restitution without finding that alternatives would not satisfy the state's interest in ensuring payment.<sup>35</sup> In this type of analysis, "[d]ue process and equal protection principles converge."<sup>36</sup> The dual concern with inequality where criminal outcomes affect those who cannot afford to pay and with unfair process that does not adequately consider ability to pay results in a constitutional violation.<sup>37</sup> Thus, the Court has emphasized in this line of cases that a state may not subject an indigent person, "who, by definition, is without funds," to a harsher punishment "solely because [they are] unable to pay [a] fine."<sup>38</sup> Thus, both procedural due process and equal protection concerns may play a role in constitutional analysis of driver's license suspension practices.

#### *B. Federal Legislation and Driver's License Suspensions*

The nationwide practice of suspending driver's licenses for non-driving-related reasons is rooted in the shifts in federal policy toward drug enforcement and child-support collection, which began in the late 1980s.<sup>39</sup> As part of a tough-on-drugs policy, Congress—in the Drug Offender's Driving Privileges Suspension Act—amended the Highway Apportionment Act to allow withholding of federal highway funds

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Bd. of Regents of State Colls. v. Roth, 408 U.S. 564, 570–71 (1972) (footnote omitted); *see also* State v. Shawn P., 859 P.2d 1220, 1230–31 (Wash. 1993) (Madsen, J., dissenting) (addressing whether driver's licenses can be suspended for reasons not having to do with safety and driving).

32. *See, e.g.*, Fowler v. Benson, 924 F.3d 247, 252 (6th Cir. 2019); Johnson v. Jessup, 381 F. Supp. 3d 619, 624–25 (M.D.N.C. 2019), *appeal filed*, No. 19-1421 (4th Cir. Apr. 19, 2019); Stinnie v. Holcomb, 396 F. Supp. 3d 653, 657–58 (W.D. Va. 2019).

33. Garrett, *supra* note 20, at 25–26.

34. *Bearden v. Georgia*, 461 U.S. 660 (1983).

35. *Id.* at 672–73.

36. *Id.* at 665.

37. *Id.* at 667–69, 672–73.

38. *Williams v. Illinois*, 399 U.S. 235, 242 (1970).

39. Barbara Corkrey, *Restoring Drivers' Licenses Removes a Common Legal Barrier to Employment*, 37 J. POVERTY L. & POL'Y 523, 523 (2004).



from any state that failed to suspend the licenses of drug offenders.<sup>40</sup> Additionally, the 1988 Family Support Act created federal child-support guidelines,<sup>41</sup> which incentivized states to suspend licenses for nonpayment of child support or risk losing federal funds. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 officially made it a requirement for states to have procedures in place authorizing such suspensions.<sup>42</sup> This federal legislation encouraged states to create administrative procedures to suspend such licenses to avoid burdening the court systems.<sup>43</sup> A subsequent General Accountability Office study found that the child-support-related legislation may not have been effective in motivating noncustodial parents to pay past-due child-support obligations.<sup>44</sup> Regardless, those federal requirements played an important role in promoting the

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40. The Act was an amendment to a Department of Transportation appropriations act. Department of Transportation and Related Agencies Act of 1991, Pub. L. No. 101-516, § 333, 104 Stat. 2155, 2184–86 (codified as amended at 23 U.S.C. § 159(a)(3)(2018)). The Act withholds federal funds from states unless they meet certain requirements:

[T]he State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception—(i) the revocation, or suspension for at least 6 months, of the driver’s license of any individual who is convicted, after the enactment of such law, of—(I) any violation of the Controlled Substances Act, or (II) any drug offense . . . .

*Id.* For more on the political environment in which the Act was enacted, see generally Aaron J. Marcus, *Are the Roads a Safer Place Because Drug Offenders Aren’t on Them?: An Analysis of Punishing Drug Offenders with License Suspensions*, 13 KAN. J.L. & PUB. POL’Y 557 (2004).

41. Family Support Act of 1988, Pub. L. No. 100-485, 102 Stat. 2343 (codified as amended at 42 U.S.C. § 667 (2018)).

42. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 369, 110 Stat. 2105, 2251 (codified as amended at 42 U.S.C. § 666(a)(16)). The law provides:

[E]ach State must have in effect laws requiring the use of . . . [p]rocedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver’s licenses, professional and occupational licenses, and recreational and sporting licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.

42 U.S.C. § 666(a)(16).

43. RYAN T. SCHWIER & AUTUMN JAMES, IND. UNIV. ROBERT H. MCKINNEY SCH. OF LAW, ROADBLOCK TO ECONOMIC INDEPENDENCE: HOW DRIVER’S LICENSE SUSPENSION POLICIES IN INDIANA IMPEDE SELF-SUFFICIENCY, BURDEN STATE GOVERNMENT & TAX PUBLIC RESOURCES 22 (2016) (“To avoid burdening state court systems, the [Family Support] Act encouraged the use of administrative procedures. As a result, license suspension programs became a popular tool for many states.”).

44. U.S. GOV’T ACCOUNTABILITY OFF., GAO-02-239, CHILD SUPPORT ENFORCEMENT: MOST STATES COLLECT DRIVERS’ SSNS AND USE THEM TO ENFORCE CHILD SUPPORT 23 (2002), <http://www.gao.gov/assets/240/233361.pdf> [<https://perma.cc/9Q4V-7DQ6>].

development of state-level automated systems for suspending driver's licenses.

*C. Driver's License Suspension in North Carolina*

Today in North Carolina, as in other states, a driver's license can be suspended or permanently revoked for a wide range of reasons, including speeding, reckless driving, and driving while impaired ("DWI") or refusing to take a blood or breath test. Licenses may also be suspended as part of a criminal court sentence or via a decision of another state agency, such as for the failure to pay child support.<sup>45</sup> If that other court or agency agrees that the suspension should be discontinued, then one must still pay a fee for the restoration of the driver's license—a sixty-five dollar restoration fee and a fifty-dollar service fee—to the Department of Motor Vehicles ("DMV") and apply for a new driver's license.<sup>46</sup> In cases in which a person was charged with a motor-vehicle offense, there are two reasons why driver's licenses may be indefinitely suspended in North Carolina: failure to appear ("FTA") for a court date and failure to comply ("FTC") with a fine, penalty, or court costs. One can also be suspended for both reasons.

The first reason is a failure to appear in court upon receipt of a notice for a hearing or trial for a motor-vehicle offense.<sup>47</sup> Traffic cases in North Carolina are heard by district courts, which handle misdemeanors, although larger districts create separate and dedicated traffic courts.<sup>48</sup> If a person does not appear on the date scheduled, then the case is marked as "called and failed."<sup>49</sup> After twenty days, the court issues a "Failure to Appear," which results in an additional FTA fee.<sup>50</sup> After twenty additional days pass, the court notifies the DMV of the FTA through the Automated Criminal and Infraction System

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45. *Suspended License in North Carolina*, DMV.ORG, <https://www.dmv.org/nc-north-carolina/suspended-license.php> [<https://perma.cc/H39Q-26F8>]; see also N.C. GEN. STAT. § 20-16.5 (2019) (establishing civil license revocation); *id.* § 20-17.8(g) (suspension for violation of the ignition-interlock restriction).

46. *Suspended License in North Carolina*, *supra* note 45.

47. N.C. GEN. STAT. § 20-24.1(a)(1) (listing "failed to appear, after being notified to do so, when the case was called for a trial or hearing" as the first reason for a mandatory license revocation).

48. *Traffic Violations*, N.C. JUD. BRANCH, <https://www.nccourts.gov/help-topics/traffic-and-vehicles/traffic-violations> [<https://perma.cc/CTR3-H96W>].

49. *Id.*

50. *Id.*

(“ACIS”) and a driver’s license is suspended.<sup>51</sup> The DMV then sends a notice of revocation.<sup>52</sup>

The second reason for an indefinite suspension in North Carolina is for failure to pay a fine, penalty, or court costs ordered in a motor-vehicle offense,<sup>53</sup> which this Article refers to as failures to comply or “FTC” cases. The fines include the underlying fines imposed for the traffic offense itself.<sup>54</sup> Additional costs may include a fee for an FTA, which is \$200.<sup>55</sup> As a result, FTAs may lead to FTCs.

An indefinite driver’s license suspension remains in place in North Carolina until the person “disposes of the charge,” if there was an FTA, or shows that they were not the person charged with the offense.<sup>56</sup> For an FTC, the person may cure the revocation by paying the amount or by demonstrating that the failure “was not willful” and that the person “is making a good faith effort to pay” or that the amount “should be remitted.”<sup>57</sup> It is worth noting that no showing of willful failure to pay is required before a court revokes a driver’s license for failure to comply.<sup>58</sup> If one of those conditions for restoration is met before the effective date of the revocation order, the license is restored; however, if that date has expired, then the person must pay the restoration fee and satisfy DMV requirements to receive a new license, as noted.<sup>59</sup> In addition, judges may supply limited driving privileges so a person can drive to work or receive emergency medical care while a revocation remains in place.<sup>60</sup>

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51. *Id.*; see N.C. GEN. STAT. § 20-24.2(a)(1) (requiring courts to report FTAs to the DMV); see also WAYNE SMOAK, N.C. JUDICIAL DEP’T, OVERVIEW OF ACIS 6, 16–17 (2004), <https://connect.ncdot.gov/groups/NCTRCC/Documents/Administrative%20Office%20of%20Courts.pdf> [<https://perma.cc/J2UM-4H6G>].

52. *Traffic Violations*, *supra* note 48.

53. N.C. GEN. STAT. § 20-24.1(a)(2) (listing “failed to pay a fine, penalty, or court costs ordered by the court” as the second reason for a mandatory license revocation).

54. N.C. ADMIN. OFFICE OF THE COURTS, TRAFFIC OFFENSES FOR WHICH COURT APPEARANCE MAY BE WAIVED 1–2 (2017), <https://www.nccourts.gov/assets/documents/publications/traffic.1.7.pdf> [<https://perma.cc/7C9E-ZPJT>].

55. N.C. GEN. STAT. § 7A-304(a)(6).

56. *Id.* § 20-24.1(b)(1)–(2).

57. *Id.* § 20-24.1(b)(3)–(4).

58. *Id.* § 20-24.1(a)(2) (mandating revocation for any FTC).

59. *Id.* § 20-24.1(c).

60. The driving privilege is limited to certain enumerated circumstances:

A limited driving privilege is a judgment issued in the discretion of a court for good cause shown authorizing a person with a revoked driver’s license to drive for essential purposes related to any of the following:

- (1) The person’s employment.

Without such exceptions, however, it is an offense to drive while a license is revoked (“DWLR”), knowing that the license is revoked, and the charge results in an additional fine and up to twenty days in jail.<sup>61</sup> North Carolina has a similar misdemeanor offense if the revocation was for an impaired-driving offense.<sup>62</sup> In 2013, the legislature also enacted additional DWLR offenses, creating a separate Class 1 misdemeanor offense for driving with a license revoked for impaired driving.<sup>63</sup>

North Carolina’s license suspension statute, adopted in 1985,<sup>64</sup> resembles those in many of the states in which unpaid court debt or nonappearance results in indefinite driver’s license suspension.<sup>65</sup> Importantly, the driver’s license must be suspended before the person has an opportunity to present information concerning ability to pay.<sup>66</sup> In North Carolina, as in most jurisdictions,<sup>67</sup> court systems now electronically transmit records of nonpayment or nonappearance to the DMV.<sup>68</sup> This system permits rapid and large-scale implementation of driver’s license suspensions.

## II. THE EMPIRICAL LITERATURE ON DRIVER’S LICENSE SUSPENSION

This Part reviews the literature related to this Article’s research questions regarding how driver’s license suspensions are imposed in practice. First, it describes related research regarding the misdemeanor system in the United States and its impact, including on marginalized

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(2) The maintenance of the person’s household.

(3) The person’s education.

(4) The person’s court-ordered treatment or assessment.

(5) Community service ordered as a condition of the person’s probation.

(6) Emergency medical care.

(7) Religious worship.

*Id.* § 20-179.3(a).

61. *Id.* § 20-28(a).

62. *Id.* § 20-28(a1).

63. Current Operations and Capital Improvements Appropriations Act of 2013, § 18B.14.(f), 2013 N.C. Sess. Laws 995, 1305–06 (codified as amended at N.C. GEN. STAT. § 20-28(a1)(2019)).

64. An Act To Classify Minor Traffic Offenses As Infractions and To Provide a Procedure for the Disposition of Such Infractions by the Courts, ch. 764, § 19, 1985 N.C. Sess. Laws 1111, 1115 (codified as amended at N.C. GEN. STAT. § 20-24.1 (2019)).

65. See SALAS & CIOLFI, *supra* note 12, at 8.

66. N.C. GEN. STAT. § 20-24.1(a)–(b).

67. SALAS & CIOLFI, *supra* note 12, at 7.

68. See *supra* note 51 and accompanying text.

groups. It provides an overview of the broader literature on fines and fees and describes the literature regarding traffic stops and racial profiling by police. Second, this Part describes the limited empirical research available concerning driver's license suspensions, which are this Article's focus.

*A. Misdemeanors, Fines and Fees, and Traffic Stops*

Driver's license suspensions resulting from traffic cases are a subset of the criminal misdemeanor system's collateral-consequences problem in the United States. Despite its expansive size, only recently have empirical attempts been made to quantify and understand the true breadth of misdemeanor cases in the United States. One such recent study estimates that there are 13.2 million misdemeanor cases filed each year and that such cases disproportionately affect poor people and people of color.<sup>69</sup> On the front end, misdemeanor enforcement and prosecution can vary widely between jurisdictions, in part due to how police decide to exercise their discretion.<sup>70</sup> On the back end, despite expectations that misdemeanors are less consequential than felonies, Professor Jenny Roberts concludes the system is in crisis because of insufficient resources, too many cases, and a lack of guidelines on how to prosecute and defend misdemeanor cases.<sup>71</sup> This system results in high rates of guilty pleas—many of which may very well be false because of little to no development of evidence—and widespread consequences.<sup>72</sup> However, studies of misdemeanor outcomes often exclude data from traffic cases—or at least non-DWI traffic cases—due to the size of traffic court dockets, inconsistency in reporting on traffic outcomes, and difficulty in obtaining data concerning traffic cases.<sup>73</sup>

Researchers have documented the expansion of criminal fines, fees, and other costs imposed in states, including in North Carolina, in general and not just in traffic cases. These legal financial obligations

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69. Megan Stevenson & Sandra Mayson, *The Scale of Misdemeanor Justice*, 98 B.U. L. REV. 731, 731 (2018).

70. See Illya Lichtenberg, *Police Discretion and Traffic Enforcement: A Government of Men?*, 50 CLEV. ST. L. REV. 425, 430 (2003) (noting that “only certain offenders [are] subjected to the quasi-criminal penalties of traffic enforcement at the discretion of the police”).

71. Jenny Roberts, *Why Misdemeanors Matter: Defining Effective Advocacy in the Lower Criminal Courts*, 45 U.C. DAVIS L. REV. 277, 277–78 (2011).

72. Alexandra Natapoff, *Misdemeanors*, 85 S. CAL. L. REV. 1313, 1313 (2012).

73. See Stevenson & Mayson, *supra* note 69, at 773–75 (noting the exclusion of traffic violations and other traffic cases in annual reports of misdemeanor cases in various state courts).

(“LFOs”) encompass all of the different types of financial charges imposed in criminal cases. Researchers estimate over \$50 billion in total LFOs have been imposed in the United States.<sup>74</sup> In North Carolina, fees increased an average of 400 percent from 1997 to 2017.<sup>75</sup> Researchers have documented increases in recent years in such LFOs assessed, such that they often exceed penalties for underlying offenses.<sup>76</sup> These LFOs can multiply over time, resulting in mounting court-related debt.<sup>77</sup> Court debt can make it difficult for individuals to secure employment, housing, public assistance, and reinstatement of driver’s licenses.<sup>78</sup> In North Carolina traffic cases, the underlying traffic fine may amount to less than \$100, but subsequent fines for failure to appear in court and court costs may be many times more. There is a related concern that incentives exist for municipalities to use these LFOs as a revenue-generating mechanism that, as highlighted in the federal investigation into practices in Ferguson, Missouri,<sup>79</sup> gets imposed disproportionately on the poor.

Research on traffic enforcement has documented significant racial disparities in stops made by patrol officers as well as in poststop conduct, including in analysis across large numbers of jurisdictions.<sup>80</sup> Studies of North Carolina data—which is available due to statewide

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74. Neil L. Sobol, *Fighting Fines & Fees: Borrowing from Consumer Law To Combat Criminal Justice Debt Abuses*, 88 U. COLO. L. REV. 841, 849 (2017).

75. HEATHER HUNT & GENE R. NICHOL, JR., N.C. POVERTY RESEARCH FUND, COURT FINES AND FEES: CRIMINALIZING POVERTY IN NORTH CAROLINA 4 (2017).

76. Sobol, *supra* note 74, at 863.

77. See ALEXES HARRIS ET AL., MONETARY SANCTIONS IN THE CRIMINAL JUSTICE SYSTEM 4 (2017), <http://www.monetarysanctions.org/wp-content/uploads/2017/04/Monetary-Sanctions-Legal-Review-Final.pdf> [<https://perma.cc/33UH-BX9Q>] (describing mechanisms for how “[u]npaid legal financial obligations can trigger additional sanctions,” thus increasing the total debt owed (emphasis omitted)).

78. Rebecca Vallas & Roopal Patel, *Sentenced to a Life of Criminal Debt: A Barrier to Reentry and Climbing out of Poverty*, 46 CLEARINGHOUSE REV. J. POVERTY L. & POL’Y 131, 135 (2012).

79. See generally CIVIL RIGHTS DIV., U.S. DEP’T OF JUSTICE, INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT (2015) [hereinafter DOJ INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT], [https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf) [<https://perma.cc/P359-GALH>] (investigating and reporting on the practices of the Ferguson municipal government and municipal police departments, including the use of fees and fines in municipal courts as an important source of revenue on an annual basis).

80. See generally EMMA PIERSON ET AL., A LARGE-SCALE ANALYSIS OF RACIAL DISPARITIES IN POLICE STOPS ACROSS THE UNITED STATES (2019), <https://5harad.com/papers/100M-stops.pdf> [<https://perma.cc/PT2E-P938>] (analyzing one hundred million patrol stops and showing evidence of racial bias both in local police and highway patrol stops).

legislation requiring collection of traffic-stop data, including demographic data<sup>81</sup>—have found evidence of such racial disparities, particularly regarding stop decisions by local police.<sup>82</sup> A more recent study of North Carolina traffic-stop data found that police stopped black drivers for discretionary and minor infractions more often, but then let them go with no police action more often than white drivers.<sup>83</sup> Similarly, police conducted consent and probable-cause searches more often on black drivers, but they found contraband less often than during searches of white drivers.<sup>84</sup> Such patterns suggest that while there may be persistent racial disparities in stops, there may not be for subsequent police action, such as traffic tickets.

### *B. Driver's License Suspension Research*

The impact of driver's license suspension deserves careful examination; it is a nearly national phenomenon, with forty-four states, as noted, suspending licenses for non-driving-related reasons. The impact of such suspensions is broad and includes economic and legal aspects. Such suspensions do not appear to provide an increase in public safety, as drivers suspended for non-driving-related reasons are much less likely to be involved in a crash than drivers suspended for driving-related reasons.<sup>85</sup> Those with suspended licenses face a variety of impediments, such as limited employment prospects—both because they cannot transport themselves to work and because many employers in industries such as truck driving and food service require a driver's license—as well as difficulty obtaining medical care and reduced ability to participate meaningfully in society, particularly in places in which

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81. See N.C. GEN. STAT. § 143B-903 (2019).

82. Patricia Warren et al., *Driving While Black: Bias Processes and Racial Disparity in Police Stops*, 44 CRIMINOLOGY 709, 729–31 (2006) (including behaviors such as frequency of highway travel, speeding, not wearing a seatbelt, changing lanes frequently, and frequently running yellow lights).

83. Sharon LaFraniere & Andrew W. Lehren, *The Disproportionate Risks of Driving While Black*, N.Y. TIMES (Oct. 24, 2015), <https://www.nytimes.com/2015/10/25/us/racial-disparity-traffic-stops-driving-black.html> [<https://perma.cc/5TT5-HS3W>].

84. *Id.*

85. CARNEGIE & EGER, *supra* note 10, at vi; see also MICHAEL A. GEBERS & DAVID J. DEYOUNG, CAL. DEP'T OF MOTOR VEHICLES, AN EXAMINATION OF THE CHARACTERISTICS AND TRAFFIC RISK OF DRIVERS SUSPENDED/REVOKED FOR DIFFERENT REASONS 24 (2002), [http://dmv.ca.gov/portal/dmv/forms/about/profile/rd/r\\_d\\_report/section\\_4/s4-200.pdf](http://dmv.ca.gov/portal/dmv/forms/about/profile/rd/r_d_report/section_4/s4-200.pdf) [<https://perma.cc/W5JU-5YGU>] (concluding that California drivers suspended for nondriving offenses “had the lowest crash risk of any of the suspended/revoked groups,” barely higher than those with valid driver's licenses).

public transport is limited.<sup>86</sup> One study found that 42 percent of respondents to a survey lost employment following a driver's license suspension.<sup>87</sup> Since driving is such an important means of transportation, there is evidence that most who have suspended licenses continue to drive. According to one study, 75 percent of those who have licenses suspended continue to drive.<sup>88</sup> Those drivers are then more likely to be convicted of driving on a suspended or revoked license, which can lead to still more serious fines and criminal charges, including felony charges in some states.<sup>89</sup> In three years in Texas, there were four hundred thousand prosecutions for driving with a suspended license.<sup>90</sup>

It is not known how many people nationwide are affected by driver's license suspensions. According to one estimate, based on data from the forty-two states and the District of Columbia that shared data, more than seven million people may have driver's licenses suspended.<sup>91</sup> A handful of studies of driver's license suspensions in recent years have uncovered the scale of such actions, but little empirical research—and none of it peer reviewed—has been done on this subject to better understand how these suspensions are imposed and their effects.

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86. See JON A. CARNEGIE, ALAN M. VOORHEES TRANSP. CTR., RUTGERS, STATE UNIV. OF N.J., DRIVER'S LICENSE SUSPENSIONS, IMPACTS AND FAIRNESS STUDY 17–20, 55–59, 63–64 (2007) [hereinafter CARNEGIE, IMPACTS AND FAIRNESS STUDY], <https://www.nj.gov/transportation/business/research/reports/FHWA-NJ-2007-020-V1.pdf> [https://perma.cc/E283-VNGP] (surveying literature indicating the economic and social effects of license suspensions, surveying New Jersey residents about adverse effects of suspension, and listing a variety of restricted-use license programs in other states that attempt to mitigate lack of employment, education, medical, and other problems exacerbated by having a suspended license).

87. *Id.* at 56.

88. Joseph Shapiro, *How Driver's License Suspensions Unfairly Target the Poor*, NPR (Jan. 5, 2015, 3:30 AM), <https://www.npr.org/2015/01/05/372691918/how-drivers-license-suspensions-unfairly-target-the-poor> [https://perma.cc/8WLH-WCPJ].

89. *Driving While Revoked, Suspended or Otherwise Unlicensed: Penalties by State*, NAT'L CONF. ST. LEGISLATURES (Oct. 27, 2016), <http://www.ncsl.org/research/transportation/driving-while-revoked-suspended-or-otherwise-unli.aspx> [https://perma.cc/KW8U-NJ24] (surveying legislation in all fifty states, including several that impose felonies, such as Florida, Georgia, and Illinois).

90. Andrea M. Marsh, *Rethinking Driver's License Suspensions for Nonpayment of Fines and Fees*, in 2017 TRENDS IN STATE COURTS: FINES, FEES, AND BAIL PRACTICES: CHALLENGES AND OPPORTUNITIES 20, 23 (Deborah W. Smith, Charles F. Campbell & Blake P. Kavanagh eds., 2017).

91. Justin Wm. Moyer, *More Than 7 Million People May Have Lost Driver's Licenses Because of Traffic Debt*, WASH. POST (May 19, 2018, 4:18 PM), [https://www.washingtonpost.com/local/public-safety/more-than-7-million-people-may-have-lost-drivers-licenses-because-of-traffic-debt/2018/05/19/97678c08-5785-11e8-b656-a5f8c2a9295d\\_story.html](https://www.washingtonpost.com/local/public-safety/more-than-7-million-people-may-have-lost-drivers-licenses-because-of-traffic-debt/2018/05/19/97678c08-5785-11e8-b656-a5f8c2a9295d_story.html) [https://perma.cc/HM28-4NL7].



Nationwide estimates have been affected by changing practices in some states. For example, California had been a major center of driver's license suspensions, where four million adults—17 percent of the adult population—had a license suspension;<sup>92</sup> however, in 2017, California enacted a statute ending the practice of suspending driver's licenses.<sup>93</sup> Similarly, in Virginia, nearly one million drivers had suspensions<sup>94</sup> prior to a recent legislative change.<sup>95</sup> In Texas, it is 1.8 million people.<sup>96</sup> Beyond reports that provide information regarding aggregate numbers of suspended drivers in states in which data has been available, only a few state-level research efforts have described the number and demographics of those suspended.

First, a 1998 report from Milwaukee, Wisconsin, and the surrounding area found a large number of suspensions—nearly seventy thousand adults—due to failure to pay traffic fines.<sup>97</sup> These suspensions were disproportionately people in poverty, primarily centered in low-income, urban areas of Milwaukee.<sup>98</sup> The report also found that driver's license suspensions were economically limiting, as many of the jobs and open jobs were in areas of the city that required easy transportation to access.<sup>99</sup> More recently, Professors John Pawasarat and Louis M. Quinn found similar patterns in Milwaukee, such that “[i]n most situations, ‘driving while poor’ in Wisconsin . . . has more serious consequences than leaving the scene of an accident, passing a

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92. ALEX BENDER ET AL., NOT JUST A FERGUSON PROBLEM: HOW TRAFFIC COURTS DRIVE INEQUALITY IN CALIFORNIA 9 (2015), <https://www.lccr.com/wp-content/uploads/Not-Just-a-Ferguson-Problem-How-Traffic-Courts-Drive-Inequality-in-California-4.8.15.pdf> [<https://perma.cc/A84L-5MX9>].

93. Associated Press, *California No Longer Will Suspend Driver's Licenses for Traffic Fines*, L.A. TIMES (June 29, 2017, 9:50 AM), <https://www.latimes.com/local/lanow/la-me-ln-driver-license-fees-20170629-story.html> [<https://perma.cc/72GX-T7UG>].

94. SALAS & CIOLFI, *supra* note 12, at 1.

95. Caleb Stewart, *Virginia Lawmakers Vote To Eliminate Driver's License Suspensions over Fees*, WHSV (Apr. 4, 2019, 1:24 PM), <https://www.wHSV.com/content/news/Governor-wants-to-end-license-suspensions-for-unpaid-fees-503353961.html> [<https://perma.cc/QS55-EUF6>] (reporting on a state budget amendment that reinstated the suspended licenses of more than six hundred thousand Virginians).

96. SALAS & CIOLFI, *supra* note 12, at 1.

97. JOHN PAWASARAT & FRANK STETZER, EMP'T & TRAINING INST., REMOVING TRANSPORTATION BARRIERS TO EMPLOYMENT: ASSESSING DRIVER'S LICENSE AND VEHICLE OWNERSHIP PATTERNS OF LOW-INCOME POPULATIONS iii (1998), <https://www4.uwm.edu/eti/reprints/DOTbarriers.pdf> [<https://perma.cc/856G-YUYJ>].

98. *Id.* at iii–v, 7–10, 27.

99. *Id.* at v–vi.

school bus with flashing red lights, or driving more than 25 miles per hour above the legal limit.”<sup>100</sup>

Second, a California report examined the number of suspensions and evidence of disparate impact in particular communities.<sup>101</sup> The report concludes that the financial costs of the original ticket explode when a license is suspended, affecting individuals’ ability to get to work and maintain a job.<sup>102</sup> In turn, the original fine becomes more difficult to pay off in addition to the other financial hardships associated with longer commutes or unemployment.<sup>103</sup> Further, the authors concluded that formerly incarcerated individuals and their families and communities of color are particularly vulnerable to this cycle.<sup>104</sup> Additionally, such suspensions carry societal costs, including costs to public safety, because resources are diverted from real public safety concerns and provide a hurdle to postincarceration reentry; the court system, because of the administrative cost of the trials; state social services, because higher unemployment puts more strain on the agencies; and the DMV, because it has to track and restore suspensions.<sup>105</sup>

Third, a New Jersey study examined data on suspensions, surveyed those who had driver’s licenses suspended, and found that although only about three hundred thousand New Jersey drivers were suspended at any time—only 5 percent of the population without much variation year to year—42 percent of those suspended drivers reported job loss, particularly those in urban and lower-income areas.<sup>106</sup>

Fourth, an online report with analysis of New York state data regarding driver’s license suspensions in 2016, published by the

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100. JOHN PAWASARAT & LOIS M. QUINN, EMP’T & TRAINING INST., ISSUES RELATED TO WISCONSIN “FAILURE TO PAY FORFEITURES” DRIVER’S LICENSE SUSPENSIONS 2 (2014), [http://dc.uwm.edu/cgi/viewcontent.cgi?article=1003&context=eti\\_pubs](http://dc.uwm.edu/cgi/viewcontent.cgi?article=1003&context=eti_pubs) [<https://perma.cc/CGF5-E8F4>].

101. BENDER ET AL., *supra* note 92, at 19. The California DMV did not track case-level information such as the race of people subject to suspensions. *Id.*

102. *Id.* at 6–7.

103. *Id.* (describing how families choose between paying fines and meeting basic needs).

104. *Id.* at 19.

105. *Id.* at 20–21 (describing fines and suspensions as a “hidden tax” on public safety, the economy, and state government).

106. CARNEGIE, IMPACTS AND FAIRNESS STUDY, *supra* note 86, at 1, 56. For this study’s survey design and findings, see generally JON A. CARNEGIE, ALAN M. VOORHEES TRANSPHTTTS://PERMA.CC/66Q3-5CCS. CTR., RUTGERS, STATE UNIV. OF N.J., DRIVER’S LICENSE SUSPENSIONS, IMPACTS AND FAIRNESS STUDY: VOLUME 2: TECHNICAL APPENDICES (2007), <http://vtc.rutgers.edu/wp-content/uploads/2014/04/MVC-DL-Susp-Final-Report-Vol2.pdf> [<https://perma.cc/66Q3-5CCS>].

nonprofit partnership Driven by Justice Coalition, describes and visually depicts approximately 680,000 suspensions for traffic debt in that year, including both FTC and FTA cases.<sup>107</sup> The statistical analyses that they report mirror what we find in North Carolina, in which both race and poverty are associated with suspension rates.<sup>108</sup>

To summarize, the existing data on driver's license suspensions are from three states and one urban area. Those unpublished analyses suggest that license suspensions are fairly common, affecting hundreds of thousands of people per state, and that people of color and vulnerable communities are disproportionately affected. They are primarily descriptive in nature and do not allow for quantifying the effects of license suspensions. Here, we explore whether these findings hold in North Carolina by describing the state population of individuals with suspended licenses and using linear mixed-model regressions to quantitatively explore the relationship between poverty, race, and suspensions.

### III. EMPIRICAL ANALYSIS OF NORTH CAROLINA DRIVER'S LICENSE SUSPENSION DATA

This Part turns to an empirical analysis of data provided by the North Carolina Administrative Office of the Courts, reflecting all cases in which there was an active driver's license suspension in North Carolina for an FTC or FTA as of September 2018. In Section A, we describe the data sources and the design of our analyses. In Section B, we present descriptive data, including the demographics of those affected by these suspensions. In Section C, we describe these data over time. In Section D, we describe the geographic distribution of suspensions in North Carolina by county.

Finally, in Section E, we present the results of a regression analysis aimed primarily at quantifying the relationship between race, poverty, and suspension rates in each county. Specifically, we rely on several models that used the number of people with an FTA suspension, an FTC suspension, or suspensions due to both an FTA and FTC per county per year between 2010 and 2017 as an outcome variable. We included as variables the number of white and black individuals above and below the poverty level in each county in each year. We also

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107. Joanna Weiss & Claudia Wilner, *Opportunity Suspended: How New York's Traffic Debt Suspension Laws Disproportionately Harm Low-Income Communities and Communities of Color*, DRIVEN BY JUST. COAL., <https://www.drivenbyjustice.org> [<https://perma.cc/Y79K-X8XF>].

108. *See id.*

brought in data concerning the number of traffic stops and the number of traffic cases in each county in each year to assess whether traffic stops and the size of the traffic docket account for variation in the downstream driver's license suspensions.

### A. *Data and Design*

The data file analyzed here, provided by the North Carolina AOC, reflects all cases, as of September 2018, in which court records reflect that a driver's license suspension was reported to the North Carolina DMV and the suspension is currently in place. These data come from ACIS.<sup>109</sup> The time period extends back to the 1980s<sup>110</sup>—which we report in the subsequent descriptive sections—but we only include data from 2010–2017 in regression models. In 2011, the AOC adopted a new data system,<sup>111</sup> and coverage during the period from 2011 to the present may be better. In addition, the further back the cases extend, the more likely it is that the person affected may be deceased or may have moved out of state.

The suspension cases analyzed reflect individuals with FTCs and FTAs, and sometimes both, as the reason for the suspension. These cases represent individuals who have active suspensions for at least one FTA and/or FTC charge but exclude suspensions that result from a criminal sentence, such as a DWI. Importantly, these data do not reflect cases in which a license was restored because the person paid the fine or appeared in court and paid FTA-related fines. For each individual, we attribute the suspension to the county in which the license was suspended, not necessarily the county of residence. Some individuals had multiple FTAs and/or FTCs, sometimes for the same event, and sometimes for multiple events across several years. To account for these individuals, we used the earliest active suspension and excluded subsequent suspensions from analysis; to accomplish this, we excluded repeat individual names. As a result, we excluded different individuals with the same name—a conservative strategy that

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109. See generally TECH. SERVS. DIV., ADMIN. OFFICE OF THE COURTS, AUTOMATED CRIMINAL/INFRACTIONS SYSTEM (ACIS) CRIMINAL INQUIRY MODULE USER MANUAL (2010) [hereinafter ACIS USER MANUAL], <https://www.nccourts.gov/assets/documents/publications/Criminal-Inquiry-Manual.pdf> [<https://perma.cc/55HA-VVSN>] (describing how to use the ACIS criminal module).

110. ACIS USER MANUAL, *supra* note 109, at PF1-ICA Inquiry 10.

111. EBI Screening Expert, *North Carolina Changes Retrieval Access to Criminal Records*, EBI (Mar. 11, 2011), <https://www.ebiinc.com/bid/55328/north-carolina-changes-retrieval-access-to-criminal-records> [<https://perma.cc/Y8N7-G6HP>].

was preferable to problems introduced by other strategies, such as pairing names with birthdates but birthdates were often inconsistent across individuals. The county-level data and code for data cleaning and analyses are available on the OSF.<sup>112</sup>

In addition to a descriptive analysis, we also performed a series of mixed-model linear regressions (“MLM”) to understand the relationship between race, poverty, and driver’s license suspensions. These allowed us to control for random variation between years and counties and with better precision estimate the relationship between the predictor variables we care about and outcome variables on North Carolina driver’s license suspensions from 2010–2017. We used this time period, rather than the entire dataset, because 2010 was the earliest year for which we had values for all variables. By analyzing at the county-year level, we have eight hundred total observations—eight years of data for each of North Carolina’s one hundred counties. We also include data on the number of traffic stops and traffic court cases in each county to test the hypothesis that more traffic stops result in more traffic cases, which result in more suspensions, independent of race and poverty factors. We performed identical sets of regression analyses for three outcome variables: the number of unique people with currently active suspensions, per county, due to (1) an FTC; (2) an FTA; and (3) both FTC and FTA, for each year from 2010–2017.

We used random-effects linear-regression analyses to assess the relationship between suspensions and the aforementioned predictors. We decided on this approach because of the nature of our data: specifically, one hundred counties, with data from eight years, in which traffic stops and traffic cases are missing from some years and some counties. Mixed-model linear-regression analyses allow us to model variation in data that is not independent from other predictors—specifically, county and year. Additionally, we can control for between-county variation in suspension rates that may be the result of varying factors unique to each county. With this approach, we can estimate the amount of variation in suspensions that may be due to “random factors,” such as factors that differ from county to county and year to year. For example, variation in gas prices between years, ruralness, and different road conditions between counties may affect driving behavior, which may in turn affect traffic stops, cases, and suspensions. Additionally, variation between years and counties on suspension policies, enforcement, and restoration would affect county-level

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112. See Crozier & Garrett, *supra* note 16.

variation in suspensions as well. MLMs control for such variation, giving us a clearer picture of how the predictors in each model relate to the number of active suspensions. Of course, MLM does not completely control for all potential endogenous variables—or important variables we may not measure—but it does allow us to capture a more accurate picture than we would see with fixed-effect modeling alone.

### *B. Demographics and Driver's License Suspension*

Consistent with findings from other states, driver's license suspensions are frequent in North Carolina. We find that there are 1,225,000 individuals with active driver's license suspensions in North Carolina—827,000 for FTAs, 263,000 for FTCs, and 135,000 for both. This constitutes about one in seven, or 15 percent, of all adult drivers—who total about 8.25 million people—in North Carolina. These driver's license suspensions are heavily disproportionate in their imposition on black and Latinx drivers. As Table 1 reveals, of those with driver's license suspensions, 33 percent of those with FTA suspensions are black and 24 percent are Latinx, while 36 percent are white. For FTC suspensions, 47 percent of drivers with such suspensions are black, 11 percent are Latinx, and 37 percent are white. By comparison, the North Carolina driving population is 21 percent black, 8 percent Latinx, and 65 percent white.

**Table 1: Racial Demographics of Suspended Drivers**

	White		Black		Latinx		Native American		Asian		Other		Total	
	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%
<b>FTA</b>	295,690	35.8	269,627	32.6	200,546	24.3	9,059	1.1	2,228	0.2	49,379	6.0	826,539	67.5
<b>FTC</b>	98,787	37.5	122,991	46.7	30,130	11.4	4,733	1.8	627	0.2	6,167	2.3	263,435	21.5
<b>Both</b>	50,011	37.1	68,036	50.5	9,669	7.2	4,702	3.5	196	0.1	2,152	1.6	134,766	11.0
<b>Total</b>	444,488	36.3	460,654	37.6	240,345	19.6	18,494	1.5	3,051	0.0	57,698	4.7	1,224,730	100.0

Additionally, Table 2 illustrates further information about suspended drivers. Specifically, males make up the majority of

suspended drivers, and the median age at which the offense occurred is about 28.67 years old. Further, many suspended drivers also have a DWLR charge. It is a Class 3 misdemeanor to drive with a suspended license,<sup>113</sup> as well as a Class 1 misdemeanor if the license was suspended for driving while impaired.<sup>114</sup> The presence of a DWLR charge reflects a person who had their license suspended, continued to drive, and was subsequently charged with another violation.

North Carolina officers file a large volume of DWLR charges each year. Over the five years from 2013–2017, there were about 160,000 charges a year.<sup>115</sup> We observe the same racial disparities in DWLR convictions as one observes in driver’s license suspensions—not displayed in the table. For DWLR charges filed from 2013–2017, 39 percent or 297,537 of the defendants were white, 54 percent or 412,282 were black, and 7 percent or 55,182 were Latinx.

**Table 2: Gender, Age, and DWLR Charges of Suspended Drivers**

	Male (%)	Female (%)	Unknown (%)	Median age at offense (SD)	Median suspension length (SD)	DWLR (%)
<b>FTA</b>	626,421 (75.8)	199,564 (24.1)	544 (0.0)	28.33 (10.99)	11.4 (8.76)	130,773 (15.8)
<b>FTC</b>	189,891 (72.1)	73,402 (27.9)	142 (0.0)	29.79 (10.81)	5.82 (7.89)	72,802 (27.6)
<b>Both</b>	100,987 (74.9)	33,745 (25.0)	34 (0.0)	28.71 (9.78)	9.52 (8.20)	98,800 (73.3)
<b>Total</b>	917,299 (74.9)	306,711 (25.0)	720 (0.0)	28.67 (10.83)	10.1 (8.64)	302,375 (24.7)

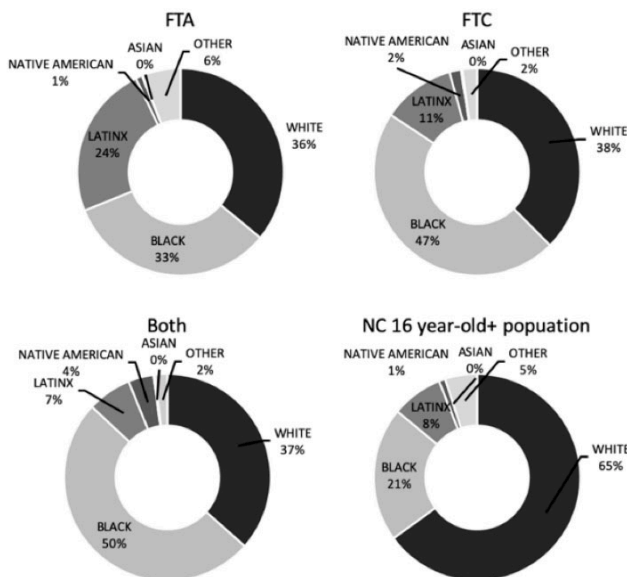
113. N.C. GEN. STAT. § 20-28(a) (2019).

114. *Id.* § 20-28(a1).

115. Special thanks to Frank Baumgartner for his help in creating helpful spreadsheets displaying AOC data on DWLR charges for the five-year period from 2013–2017. In 2017, AOC reports 148,000 such charges. In 2016, there were 161,000 DWLR charges; in 2015, there were 164,000 charges; in 2014 there were 160,000 charges; and in 2013 there were 162,000 charges.

Figure 1 displays the demographics of those who have, as of 2018, suspended driver's licenses in North Carolina, as compared with the adult driving population of North Carolina. We note that this is not a direct comparison because some of those with current suspended licenses may be out of state drivers, people who are deceased, or people who no longer live in North Carolina. These suspensions were imposed over many years, as discussed below, and so would not necessarily reflect present-day state demographics. To summarize, people of color are disproportionately represented in relation to their percentage of North Carolina's driving population. Additionally, FTA suspensions are particularly high for the Latinx population, suggesting that demographic may be failing to appear for reasons other than failing to pay fines and fees.

**Figure 1: Suspensions by Race Compared to North Carolina Driving Population**



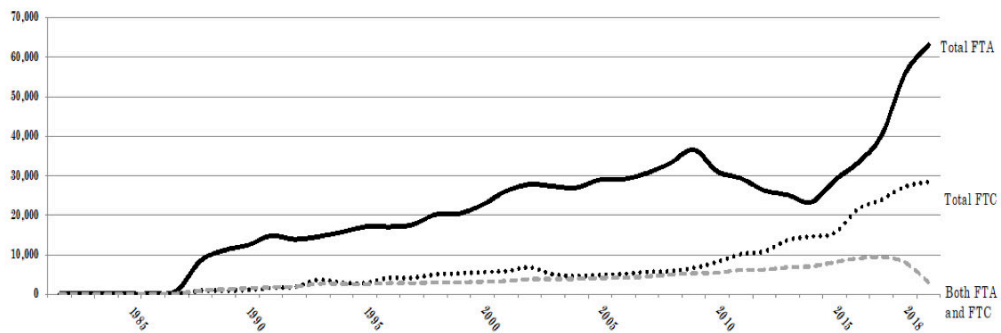
### C. Active Driver's License Suspensions By Year

We also counted the number of active suspensions from each year. As shown in Figure 2, many drivers have long-standing suspensions stretching back to the 1980s. Further, tens of thousands of people have suspensions that have been active for decades. Unfortunately, we do



not have information—such as cured FTCs and FTAs—that would allow us to observe whether there is a trend toward greater or reduced imposition of driver’s license suspensions on a yearly basis. Further, because we have information only on active suspensions, we are unable to assess whether year-to-year variation is due to policy changes resulting in more or fewer suspensions or, rather, more opportunities for people to pay fines. We can report here only the numbers of still-active suspensions. To be sure, over time, one can observe steadily increasing numbers of driver’s license suspensions. One would expect to see fewer old suspensions because, over time, people can make efforts to pay fees and costs or cure an FTA in order to restore their driving privileges. However, it is worth noting how many suspensions remain after several years, suggesting that a driver’s license suspension is not easily cured and can be a long-term burden.

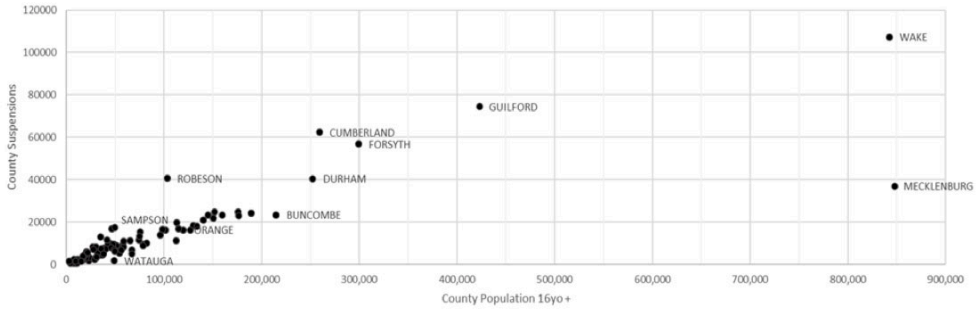
**Figure 2: Currently Active Suspended Drivers per Year**



#### D. Geography and Driver’s License Suspension

We next describe the geographic distribution of suspensions in North Carolina by county. In a detailed Appendix B we report data, including demographic information, for all one hundred North Carolina counties. Unsurprisingly, we find that there is a strong positive correlation between the driver-aged population (sixteen years or older) of a county and the number of active suspensions ( $r = 0.847$ , 95% CI [.780, .894],  $p < 0.001$ ). This trend is best reflected in the scatterplot below, in which we have labeled some of the larger counties in North Carolina and outliers. Essentially, the more drivers there are in a county, the more suspensions that county has, with a few notable exceptions.

**Figure 3. Suspended Drivers by County Population**



For example, Wake County has the second-highest driver-aged population and the most active suspensions. Mecklenburg County, however, has the highest driver-aged population but only the sixth-highest number of suspensions. Tables 3 and 4 show the five highest and five lowest counties for number of suspensions and the five most and five least populous counties of driver-aged citizens and number of suspensions, respectively. Appendix A includes these values for all one hundred North Carolina counties, as well as the number of each type of case and a racial breakdown for suspensions.

**Table 3: Counties with Most and Fewest Actively Suspended Drivers**

County	Number of Suspensions
Wake	107,313
Guilford	74,441
Cumberland	62,406
Forsyth	56,861
Robeson	40,598
Alleglhany	1,478
Clay	730
Pamlico	709
Hyde	685
Graham	681

**Table 4: Suspended Drivers in Counties with the Highest and Lowest Driving Population**

<b>County</b>	<b>Counties with highest / lowest 16yo+ population</b>	<b>Suspensions</b>	<b>Suspensions relative to population</b>
<b>Mecklenburg</b>	847,754	36,919	4.4%
<b>Wake</b>	842,324	107,313	10.7%
<b>Guilford</b>	422,903	74,441	17.6%
<b>Forsyth</b>	299,282	56,861	19.0%
<b>Cumberland</b>	259,106	62,406	24.1%
<b>Camden</b>	8,420	2,330	27.7%
<b>Jones</b>	8,032	2,225	27.7%
<b>Graham</b>	7,026	681	9.7%
<b>Hyde</b>	4,573	685	15.0%
<b>Tyrrell</b>	3,367	1496	44.4%

There is also much variation in the number of suspensions compared to the driver-aged population. Table 5 lists the five highest and five lowest counties for number of suspensions relative to their driver-aged population. It is worth noting these values do not specify the percentage of a given county that has suspended licenses because our data do not specify whether a suspended individual currently resides in that county. Thus, 44.4 percent of Tyrrell County residents do not necessarily have a suspended license. Instead, we offer these percentages as an estimate of how active each county is in suspending licenses for FTAs and/or FTCs. Even still, Tyrrell County's 44.4 percent represents a very high number of suspensions for what one might expect given its population size and, in turn, resources.

**Table 5: Counties with the Highest and Lowest Percentage of Suspensions Relative to Population**

County	Suspensions relative to population
Tyrrell	39.4%
	36.8%
	36.4%
	34.9%
	7.7%
	7.6%
	6.5%
	4.4%
	3.6%

*E. Regression Results*

We were primarily interested in the role of poverty and race in predicting suspensions. We analyzed an MLM (“Model 1”) that regressed the total number of people with a suspension in a county per year onto the number of white individuals above the poverty line per year, the number of white individuals below the poverty line per year, the number of black individuals above the poverty line per year, and the number of black individuals below the poverty line per year. We also included as predictors the number of traffic stops in a county per year and the number of traffic cases in a county per year to assess whether traffic stops and traffic cases might account for variation in suspensions by being “upstream” in the legal process. Full regression table outputs are available in Appendix A.

First, we tested whether a county’s rate of traffic stops and traffic cases plus racial disparity could explain the number of suspensions in that county per year. Specifically, we used step-wise modeling to assess a possible causal relationship between traffic stops, traffic cases, and suspensions by comparing models that only include traffic stops as a predictor (“Model A”), a model that uses only traffic stops and cases (“Model B”), and the more complete Model 1. Each Model—A, then B, then 1—had more predictor variables than the last, and at each

“step” we compared the model fit and relationship between each predictor to the previous model. For further analyses, we also created Model 2, which was a simplified version of Model 1, containing the race/poverty predictors but lacking the traffic-stops and traffic-cases predictors. Note that for each model we used, the population of a given county is included as a predictor in order to control for population size, and “year” and “county” are included as random effects. Table 6 summarizes the factors in each model.

**Table 6: Linear Mixed-Effects Model Descriptions**

Model Name	Predictors	Outcome Variable(s)
Model A	Traffic Stops, Population	FTA Suspensions, FTC Suspensions, Both Suspensions
Model B	Traffic Stops, Traffic Cases, Population	FTA Suspensions, FTC Suspensions, Both Suspensions
Model 1	Traffic Stops, Traffic Cases, Whites Above Poverty, Whites Below Poverty, Blacks Above Poverty, Blacks Below Poverty, Population	FTA Suspensions, FTC Suspensions, Both Suspensions
Model 2	Whites Above Poverty, Whites Below Poverty, Blacks Above Poverty, Blacks Below Poverty, Population	FTA Suspensions, FTC Suspensions, Both Suspensions

We predicted that if traffic stops and cases were responsible for driving the numbers of suspensions per county, then we would observe a significant positive coefficient for the number of traffic stops per county per year (tested in Model A). Then, in a model containing traffic stops and traffic cases (Model B), the coefficients for both predictors would be positive, and traffic cases would diminish the predictive power of traffic stops compared to Model A because not all traffic stops would result in cases, but every suspension would be the result of a case. Then, in a model with traffic stops, traffic cases, and

poverty and race predictors (Model 1), traffic stops and cases would be significant and race and poverty predictors would not.

In short, we did not observe support for this hypothesis. In the interest of brevity, we do not include the entire models or an in-depth discussion here; interested readers can find the output on OSF. Although traffic stops were a positive predictor of suspensions in a county in Model A, Model B yielded a *negative* coefficient for traffic cases. That is, as the number of traffic cases in a county go up, the number of predicted suspensions go down. This is a counterintuitive finding and contrary to our predictions.<sup>116</sup> Further, in Model 1, traffic stops were not significant predictors of the number of suspensions while traffic cases were, a finding in line with previous work in North Carolina showing that while traffic stops are racially disparate, traffic citations are not.<sup>117</sup> Thus, we do not have support that traffic stops or court cases are solely driving the number of suspensions in each county. Comparing Model A to Model B and to Model 1 did not yield the predicted trend in coefficients for traffic-stops and traffic-cases predictors.

Next, we were interested in quantifying the relationship between race, poverty, and suspensions in each county. Both Model 1 and Model 2 included the race- and poverty-population predictors, but because Model 2 has a slightly higher marginal  $R^2$ ,<sup>118</sup> and coefficients flip positive when traffic stops and cases are removed consistent with a suppression effect,<sup>119</sup> we focus our interpretation on Model 2. For each

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116. This result weakly suggests counties that have more traffic cases may have better methods of avoiding or treating FTA and FTC suspensions—perhaps because of more court resources, greater court efficiency, or better access to defendant support services. This is, however, speculative and in need of empirical support.

117. Frank R. Baumgartner, Derek A. Epp, Kelsey Shoub & Bayard Love, *Targeting Young Men of Color for Search and Arrest During Traffic Stops: Evidence from North Carolina, 2002–2013*, 5 *POL., GROUPS & IDENTITIES* 107, 113 (2016).

118. The  $R^2$  statistic calculates the amount of variation explained by the variables in the model, with higher values corresponding to less unexplained variance, such as variables not included in the model. Thus, higher  $R^2$  values indicate a better model fit. In MLM, marginal  $R^2$  refers to variance explained by the fixed effects only; conditional  $R^2$  refers to variance explained by both the fixed and random effects.

119. See David P. MacKinnon, Jennifer L. Krull & Chondra M. Lockwood, *Equivalence of the Mediation, Confounding and Suppression Effect*, 1 *PREVENTION SCI.* 173, 175 (2000) (“Within a mediation model, a suppression effect would be present when the direct and mediated effects of an independent variable on a dependent variable have opposite signs . . . .”); Joseph Tzelgov & Avishai Henik, *Suppression Situations in Psychological Research: Definitions, Implications, and Applications*, 109 *PSYCHOL. BULL.* 524, 525 (1991) (“[A] suppressor variable [is] one that increases the validity of another variable by its inclusion in a regression equation.”).

of the suspension types, we display results of a model that includes black individuals above the poverty line, black individuals below the poverty line, white individuals above the poverty line, and white individuals below the poverty line,<sup>120</sup> and county population as a control variable. For this, we excluded both the traffic-stops predictor (because it is not a significant predictor) and the traffic-case predictor, and only included race–poverty combinations. Table 7 below illustrates the results for Model 2, described in Appendix A, which focuses on the race and poverty variables.

**Table 7: Linear Mixed-Effects Regression Results for Model 2**

	<b>FTA</b>	<b>FTC</b>	<b>Both</b>
<b>White Below</b>	0.336 (0.0354)	0.150 <sup>a</sup> (0.0366)	0.106 <sup>a</sup> (0.0133)
<b>Black Below</b>	0.049 (0.0105)	0.039* (0.0127)	0.018 (0.0041)
<b>White Above</b>	0.207 (0.0215)	0.089 (0.0199)	0.056 <sup>a</sup> (0.0080)
<b>Black Above</b>	0.585 (0.0318)	0.187 <sup>a</sup> (0.0296)	0.080 <sup>a</sup> (0.0116)
<b>Population</b>	-0.131 (0.0136)	-0.055 (0.0127)	-0.028 (0.0052)
<b>Marginal R<sup>2</sup> / Conditional R<sup>2</sup></b>	0.641 / 0.998	0.694 / 0.963	0.654 / 0.992

*Note: Values are unstandardized regression coefficients with parenthetical standard errors. Coefficients that share a superscript within a column are not significantly different from each other at  $p = .05$ . \* $p = .002$ . All other values are significant at  $p < .001$  level.*

120. We did not include Latinx in our regression modeling because of incongruity between census and AOC data. The census denotes Latinx as an ethnicity; AOC data records Latinx as a race, without the same White-Latinx and Nonwhite-Latinx categories the census uses. Further, blacks and whites represent over 90 percent of the North Carolina population.

If poverty had nothing to do with suspensions and a person's nonpayment of a traffic fine is instead due to a willful decision not to pay fees, race and poverty should have no bearing on the number of FTC suspensions in a county. This, however, is not what we see. Those above the poverty line increase the number of suspensions by a small amount relative to other predictors—0.09 suspensions per white person above the poverty line. White individuals below the poverty line provide a slightly larger increase to suspensions—adding one white person under the poverty line increases suspensions by 0.15. Thus, for the white population, we see evidence that the number of white individuals in poverty more strongly predicts FTC suspensions than white individuals above the poverty line.

The results for black residents, however, paint a more complicated picture. For FTC cases, we see a reversal of the trend for white residents. Adding a black individual above the poverty line increases the number of FTC suspensions in a county by 0.18; adding a black individual below the poverty line increases suspensions by 0.03. Despite being above the poverty line, the unimpoverished black population may still be disproportionately affected by the financial hardship of paying a fine, particularly compared to the white population above the poverty line. Black individuals below the poverty line, conversely, may have such a small effect because that population is less likely to have a driver's license, less likely to appear in traffic court cases because they may not own a car, or may have access to better legal services for indigent defendants.

One explanation for this relationship is that race is correlated with a range of other social and economic disadvantages. For example, researchers have observed interactions between race and poverty for other outcomes, such as bankruptcy filings, in which poverty affects whether a white person files under Chapter 13 or Chapter 7, but black individuals both in and out of poverty tend to file under Chapter 13.<sup>121</sup>

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121. Paul Kiel & Hannah Fresques, *Data Analysis: Bankruptcy and Race in America*, PROPUBLICA (Sept. 27, 2017), <https://projects.propublica.org/graphics/bankruptcy-data-analysis#fn1> [<https://perma.cc/HYU2-2SKH>]. Whereas Chapter 7 wipes out debt but allows debtors to acquire filers' assets, Chapter 13 allows filers to retain assets—such as a car or house—provided they make scheduled payments for several years. Paul Kiel & Hannah Fresques, *How the Bankruptcy System Is Failing Black Americans*, PROPUBLICA (Sept. 27, 2017) [hereinafter Kiel & Fresques, *How the Bankruptcy System Is Failing*], <https://features.propublica.org/bankruptcy-inequality/bankruptcy-failing-black-americans-debt-chapter-13> [<https://perma.cc/FM4Y-D2RM>]. For filers with few assets, Chapter 7 can provide much-needed permanent relief quickly. *Id.* Conversely, filers with few assets using Chapter 13 can often end up in the same situation after failing to keep up with payments. *Id.* Because people of



In a band of southern states, including North Carolina, consumers filing for bankruptcy predominantly use Chapter 13, which does not allow people to wipe out their debt and retain their limited resources; Chapter 13 filing rates are particularly high in majority-black zip codes.<sup>122</sup> It is possible that a number of economic factors disparately associated with race could be influencing this trend as well, such as black individuals below the poverty line not being able to afford cars and thus driving less or not having drivers' licenses in the first place. It is also possible that the majority of black individuals not in poverty are not provided the same economic buffer as white individuals above the poverty line. That is, the black population above the poverty line likely does not have the same wealth as the white population above the poverty line, and may thus be hit harder by the financial hardship of needing to pay a fine.

Indeed, work on the racial income gap has found that poverty looks different for black and white families, and the gap is not merely a result of present income. For example, whereas a white family just above the poverty line may have around \$18,000 in wealth, a similarly situated black family has closer to zero dollars in wealth, or even negative wealth.<sup>123</sup> The analysis of 2016 driver's license suspensions in New York by the Fines and Fees Justice Center found the same pattern, in which poverty was connected with suspensions for white but not black populations.<sup>124</sup> Further research should examine what may be driving these effects.

Analysis of FTA suspensions show the same trend as FTC suspensions. White individuals below the poverty line (0.34) and black individuals above the poverty line (0.58) are most strongly associated with more FTA suspensions. Black individuals below the poverty line, although a significant predictor, are only weakly related to higher FTA suspensions (0.05). These results suggest that the same race- and poverty-related factors drive the population of people who have driver's license suspensions for FTAs in traffic court as for failure to pay traffic fines and fees—namely, that people may not be appearing

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color often have fewer assets, Chapter 13 may not be the best option for them, but many end up filing Chapter 13 on their attorney's advice. *Id.*

122. Kiel & Fresques, *How the Bankruptcy System Is Failing*, *supra* note 121.

123. WILLIAM DARITY JR. ET AL., SAMUEL DUBOIS COOK CTR. ON SOC. EQUITY & INSIGHT CTR. FOR CMTY. ECON. DEV., WHAT WE GET WRONG ABOUT CLOSING THE RACIAL WEALTH GAP 2 (2018), <https://insightcced.org/wp-content/uploads/2018/07/Where-We-Went-Wrong-COMplete-REPORT-July-2018.pdf> [<https://perma.cc/9PNJ-FRJ4>].

124. Weiss & Wilner, *supra* note 107.

in court because of the financial cost. However, the predictive value of each race–poverty combination is greater than its FTC counterpart, suggesting that this may be where much of the suspension “action” is. This could be due to more individuals being unaware their licenses are being suspended for an FTA than an FTC. It may also be that individuals who know they cannot afford court costs decide not to appear in court, thereby incurring an FTA instead of an FTC.

#### IV. CONSTITUTIONAL, POLICY, AND PRACTICAL IMPLICATIONS OF THESE FINDINGS

As described in Part III, driver’s license suspensions are extremely widespread in North Carolina, affecting one in seven adult drivers and particularly associated at the county level with both whites below the poverty line and blacks above the poverty line. This next Part turns to the implications of these findings for policy, practice, and constitutional litigation. Although there are real constitutional and policy concerns with the practice in North Carolina, there are no easy answers to the policy problem posed by such suspensions, particularly given the vast scale of the practice.

##### A. *Implications for Policy and Practice*

Drivers have a protected liberty and property interest in their licenses, which if issued by the state, cannot be revoked or suspended “without that procedural due process required by the Fourteenth Amendment.”<sup>125</sup> The patterns described raise constitutional questions concerning both the degree of procedural due process provided before taking the step of suspending a driver’s license as well as inequality in outcomes, given the demographic data presented. Recent litigation challenging driver’s license suspensions for fines-and-fees-related reasons includes cases in California,<sup>126</sup> Michigan,<sup>127</sup> Mississippi,<sup>128</sup>

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125. *Bell v. Burson*, 402 U.S. 535, 539 (1971).

126. Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief, *Hernandez v. Cal. Dep’t of Motor Vehicles*, No. RG16836460 (Cal. Super. Ct. Oct. 25, 2016), <http://ebclc.org/wp-content/uploads/2016/11/Hernandez-et-al-v.-CA-DMV-Complaint.pdf> [<https://perma.cc/N5EN-AFTS>]; ACLU Press Release, *supra* note 19.

127. *Fowler v. Benson*, 924 F.3d 247 (6th Cir. 2019) (reversing and remanding a district court’s grant of a preliminary injunction enjoining Michigan from enforcing its driver’s license suspension scheme).

128. Press Release, S. Poverty Law Ctr., SPLC Reaches Agreement with Mississippi To Reinstate over 100,000 Driver’s Licenses Suspended for Non-Payment of Fines (Dec. 19, 2017), <https://www.splcenter.org/news/2017/12/19/splc-reaches-agreement-mississippi> [<https://perma.cc/>

Montana,<sup>129</sup> Tennessee,<sup>130</sup> Virginia,<sup>131</sup> and Washington.<sup>132</sup> The Tennessee case recently resulted in a finding that, absent an opportunity to demonstrate indigence, the state practice violated the Equal Protection and Due Process Clauses.<sup>133</sup> The ruling has been vacated as moot due to enactment of new legislation in Tennessee, providing a procedure to inquire into ability to pay.<sup>134</sup> The district judge had called the practice “powerfully counterproductive.”<sup>135</sup> The judge explained:

If a person has no resources to pay a debt, he cannot be threatened or cajoled into paying it; he may, however, become able to pay it in the future. But taking his driver’s license away sabotages that prospect. For one thing, the lack of a driver’s license substantially limits one’s ability to obtain and maintain employment. Even aside from the effect on employment, however, the inability to drive introduces new obstacles, risks, and costs to a wide array of life activities, as the former driver is forced into a daily ordeal of logistical triage to compensate for his inadequate transportation. In short, losing one’s driver’s license simultaneously makes the burdens of life more expensive and renders the prospect of amassing the resources needed to overcome those burdens more remote.<sup>136</sup>

The judge noted that where many drivers with a suspended license continue to drive, they may face further prosecution and further fines

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YR6E-XGEP].

129. Class Action Complaint, DiFrancesco v. Bullock, No. CV-17-66-BU-SEH (D. Mont. Aug. 31, 2017), <https://tinyurl.com/ttwzjvo> [<https://perma.cc/GCG6-KSWF>]; Angela Brandt, *Lawsuit Alleges Montana Discriminates Against Drivers Too Poor To Pay Fines*, INDEP. REC. (Sept. 6, 2017), [https://helenair.com/news/crime-and-courts/lawsuit-alleges-montana-discriminates-against-drivers-too-poor-to-pay/article\\_a5c72474-b911-562c-84c5-78b7ce4ec9e8.html](https://helenair.com/news/crime-and-courts/lawsuit-alleges-montana-discriminates-against-drivers-too-poor-to-pay/article_a5c72474-b911-562c-84c5-78b7ce4ec9e8.html) [<https://perma.cc/V6EN-WQ44>].

130. *Thomas v. Haslam*, 329 F. Supp. 3d 475 (M.D. Tenn. 2018) (following class certification, finding that driver’s license revocation violated due process and equal protection rights), *vacated as moot sub nom. Thomas v. Lee*, 776 F. App’x 910 (6th Cir. 2019).

131. *Stinnie v. Holcomb*, 396 F. Supp. 3d 653 (W.D. Va. 2019) (staying proceedings in light of a budget-amendment enactment eliminating driver’s license suspensions). The Department of Justice filed a statement of interest in this litigation. Statement of Interest of the United States, *Stinnie*, 396 F. Supp. 3d 653 (No. 3:16-CV-00044), <https://www.justice.gov/opa/press-release/file/909301/download> [<https://perma.cc/6L6P-3Y8F>].

132. Complaint for Declaratory and Injunctive Relief, *Fuentes v. Benton County*, No. 15-2-02976-1 (Wash. Super. Ct. Oct. 6, 2015), [https://www.aclu.org/sites/default/files/field\\_document/fuentes\\_v.\\_benton\\_county\\_-\\_complaint.pdf](https://www.aclu.org/sites/default/files/field_document/fuentes_v._benton_county_-_complaint.pdf) [<https://perma.cc/WXG4-23K7>].

133. *Haslam*, 329 F. Supp. 3d at 494.

134. *Lee*, 776 F. App’x at 911.

135. *Haslam*, 329 F. Supp. 3d at 483.

136. *Id.* at 483–84.

for doing so.<sup>137</sup> Thus, “[court] debt leads to a license revocation; the revocation leads to another conviction, this time for driving on a revoked license; the new conviction creates more debt; and the cycle begins again, with the driver, who was already indigent, only deeper in . . . a debt spiral.”<sup>138</sup> The causes and effects of this spiral are financial: people who cannot afford to pay an initial fine end up with more fines they cannot afford to pay. That said, the response to the ruling was telling: Tennessee amended its statute to provide additional process to determine indigency prerevocation, and in response, the Sixth Circuit Court of Appeals vacated the lower court judgment as moot.<sup>139</sup> Whether that statutory change results in improved outcomes remains to be seen.

What is the preferred judicial remedy for an unconstitutional driver’s license suspension scheme? One policy approach, as adopted in Tennessee<sup>140</sup> and intended to address that constitutional problem, is to require judges to conduct an inquiry into ability to pay before imposing a fine or a consequence for failing to pay the fine.<sup>141</sup> Thus, a person who refuses to pay a fine that is set at an affordable level would still receive a driver’s license suspension, while a person who cannot pay would not and might receive some alternative sanction. However, judges must conduct that inquiry carefully, and ability to pay must be defined in a realistic manner. Some states have adopted procedures, as well as judicial bench cards and checklists, to guide such ability-to-pay hearings.<sup>142</sup> Brief hearings in traffic courts that have large dockets may not give judges good opportunities to fairly assess a person’s ability to

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137. *Id.* at 484.

138. *Id.*

139. *Lee*, 776 F. App’x at 911 (citing the enactment of 2019 Tenn. Pub. Acts ch. 438, which adopted an indigency exception to the state’s license suspension scheme).

140. *See id.*

141. BETH A. COLGAN, HAMILTON PROJECT, ADDRESSING MODERN DEBTORS’ PRISONS WITH GRADUATED ECONOMIC SANCTIONS THAT DEPEND ON ABILITY TO PAY 13 (2019).

142. *See, e.g.*, NAT’L COUNCIL OF JUVENILE FAMILY COURT JUDGES, STATE JUSTICE INST. & NAT’L JUVENILE DEF. CTR., ENSURING YOUNG PEOPLE ARE NOT CRIMINALIZED FOR POVERTY: BAIL, FEES, FINES, COSTS, AND RESTITUTION IN JUVENILE COURT (2018), [https://njdc.info/wp-content/uploads/2018/04/Bail-Fines-and-Fees-Bench-Card\\_Final.pdf](https://njdc.info/wp-content/uploads/2018/04/Bail-Fines-and-Fees-Bench-Card_Final.pdf) [<https://perma.cc/S9NL-5JTH>] (“This bench card . . . provides guidance for judges on how to exercise their discretion to alleviate harm and support youth on pathways to success.”); NAT’L TASK FORCE ON FINES, FEES & BAIL PRACTICES, LAWFUL COLLECTION OF LEGAL FINANCIAL OBLIGATIONS: A BENCH CARD FOR JUDGES (2017), <https://finesandfeesjusticecenter.org/articles/lawful-collection-of-legal-financial-obligations-a-bench-card-for-judges> [<https://perma.cc/RW5N-MP4C>] (setting guidelines for courts in sanctioning indigent defendants for nonpayment of court fines and fees).

pay a fine.<sup>143</sup> Payment schedules designed to accommodate people with limited ability to pay can use sliding scales grounded in actual income, with mechanisms for adjustment based on individual factors.<sup>144</sup> Each of these approaches raise challenges in implementation. For example, litigants may not have ready access to detailed documentation concerning their income or resources; judges may need to rely on convenient proxies, such as public-assistance documentation.<sup>145</sup>

One central limitation of such constitutional challenges is not only that they may take time and expense to litigate and that court orders must be enforced over time, but also that the focus of such litigation is necessarily narrow. Where federal constitutional doctrine focuses on the situation in which a person is criminally punished based on indigency, constitutional challenges have focused on people who cannot afford to pay—and fail to pay—fines and fees, resulting in loss of driving privileges. A class action was recently filed in North Carolina challenging FTC-related driver’s license suspensions on due process and equal protection grounds, among others.<sup>146</sup> Such cases do not address FTA suspensions. However, our research suggests that it is much more important in states like North Carolina, in which FTA cases are far more numerous, to focus on those FTA cases. As a result, policy approaches that do not rely purely on litigation may be highly desirable.

### *B. Better Understanding Failures to Appear*

Although the bulk of driver’s license suspensions in North Carolina are denoted as FTAs, less attention has been paid to such cases as a matter of policy, and less is known about the causes of FTAs. One possibility is that people want to avoid interactions with the court system and law enforcement. Indeed, we do see a much larger overrepresentation of Latinx individuals with FTAs than FTCs (Table 1)—a population that may avoid contact due to deportation concerns. However, logic suggests that while some may not show up to court for

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143. See, e.g., Theresa Zhen, *(Color)Blind Reform: How Ability-To-Pay Determinations Are Inadequate To Transform a Racialized System of Penal Debt*, 43 N.Y.U. REV. L. & SOC. CHANGE 175, 201–03 (2019) (“The nature of the human condition is so nuanced that no finite set of questions can accurately determine a person’s past, present, and future circumstances.”).

144. Beth A. Colgan, *Graduating Economic Sanctions According to Ability To Pay*, 103 IOWA L. REV. 53, 74–96 (2017).

145. See *id.* at 61–65 (discussing how “to effectively capture and employ valid financial data”).

146. *Johnson v. Jessup*, 381 F. Supp. 3d 619, 623 (M.D.N.C.) (rejecting the plaintiffs’ due process and equal protection claims), *appeal filed*, No. 19-1421 (4th Cir. Apr. 19, 2019).

problematic reasons, such as willful avoidance of court obligations, there are also potential financial and indigency-related causes for failing to appear. For example, a person may know they cannot afford to pay a fine and thus not go to court. Someone who cannot afford to take a day off work lest they lose their job or who cannot afford childcare also may not appear. Our regression results support this point: the effects of race and poverty are extremely similar between the population of those with an FTC and those with an FTA (Table 7).

Additionally, given the huge number of FTAs in North Carolina, it may be that many suspensions are not due to intentional lawlessness but rather due to ignorance of the suspension in the first place. In North Carolina, residents are notified of their court dates and subsequent FTA by physical mail to the address in AOC's database,<sup>147</sup> unless they register for a text-based system that was established in late 2018.<sup>148</sup> It is hard to know how many of the mail addresses are accurate, but there is evidence that quite a few addresses are inaccurate and will not receive mail addressed to the person in question.<sup>149</sup> In our discussions with public defenders and policy advocates while conducting this research, many expressed doubt that addresses are correct.<sup>150</sup> If that is a contributor to the problem, then a policy solution would be to improve notification systems by relying on texts or more up-to-date address information. If instead people fail to appear because of practical challenges tied to lack of transportation, then court-supported transportation solutions may be needed.

Courts treat FTAs and FTCs differently based on constitutional doctrine that has focused on punishments disproportionately imposed on those who cannot pay—and in some cases that focus may be warranted. However, there also exists a strong possibility that a similar cause—financial hardship—underlies both charges. More information

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147. Karima Modjadidi, Brandon L. Garrett & William Crozier, *Undeliverable: Suspended Driver's Licenses and the Problem of Notice*, UCLA CRIM. JUST. L. REV. (forthcoming 2020) (manuscript at 4–5), <https://tinyurl.com/tgbfmur> [<https://perma.cc/Y2WB-TU6D>].

148. North Carolina has initiated a text-based court notification system. Press Release, N.C. Judicial Branch, Court Date Notifications and Reminders for Criminal Cases Now Available Via Text and Email (Oct. 19, 2018), <https://www.nccourts.gov/news/tag/press-release/court-date-notifications-and-reminders-for-criminal-cases-now-available-via-text-and-email> [<https://perma.cc/VT5Q-FW4D>].

149. Modjadidi, Garrett & Crozier, *supra* note 147, at 4 (describing a survey in Wake County, North Carolina, of persons with active driver's license suspensions and finding that over one-third had mail returned).

150. Email from Emily E. Mistr, Wake Cty. Pub. Def. Office, to the authors (Sept. 28, 2019) (on file with authors).

on the causes of FTAs and the extent of overlap between the causes of FTAs and FTCs is necessary to better design policy responding to this problem. If for some groups of people, FTCs and FTAs are a distinction without a difference, policy interventions should be addressed to both groups and both legal mechanisms that result in driver's license suspensions.

### C. *Financial Incentives and Policy*

It is possible that the wide breadth of suspensions in North Carolina are not based directly on racial and economic factors, but instead enforcement due to budgetary considerations. Interestingly, such policies may not be as effective as one might suspect at raising revenue; after all, many indigent people cannot pay, and some jurisdictions spend more trying to collect than they ultimately recover.<sup>151</sup> Previous work has explored how policing, particularly targeted at vulnerable, poor communities, can help turn a profit for local government and police agencies.<sup>152</sup> Perhaps the most famous example is Ferguson, Missouri, in which citizens who cannot pay fines for crimes—the same fines that underlie the suspensions we describe here—were imprisoned and their debt sold by the city to private collection companies.<sup>153</sup> So common was this practice that court fines and fees were Ferguson's second-largest source of income in 2013.<sup>154</sup>

Unlike in Missouri, court fines and fees do not directly result in additional funding for local police agencies or governments in North Carolina, but they are, in part, nevertheless directed to local government. Instead, North Carolina has long adopted a constitutionally unified court system, in which court salaries and operational costs are paid via state funds.<sup>155</sup> Dating back to the 1875 state constitution, court fines are directed to a state fund that supports

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151. MATTHEW MENENDEZ, MICHAEL F. CROWLEY, LAUREN-BROOKE EISEN & NOAH ATCHISON, BRENNAN CTR. FOR JUSTICE, *THE STEEP COSTS OF CRIMINAL JUSTICE FEES AND FINES* 5 (2019), <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines> [<https://perma.cc/V55K-DELX>].

152. Michael D. Makowsky & Thomas Stratmann, *Political Economy at Any Speed: What Determines Traffic Citations?*, 99 AM. ECON. REV. 509, 509 (2009).

153. DOJ INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT, *supra* note 79, at 2–6.

154. *Policing and Profit*, 128 HARV. L. REV. 1723, 1724 (2015).

155. N.C. CONST. art. IV, § 20 (“The General Assembly shall provide for the establishment of a schedule of court fees and costs which shall be uniform throughout the State within each division of the General Court of Justice. The operating expenses of the judicial department . . . shall be paid from State funds.”).

public schools.<sup>156</sup> However, the funds are retained by the county in which the fines are imposed, and localities may offset the funds they receive for schools.<sup>157</sup> Court costs are a bit more complicated, and while they do sometimes go to a state fund that supports court agencies, they are also distributed to other state groups and funds not directly involved in court administration.<sup>158</sup> Further, a recent analysis of fines and forfeitures in California city governments found that budgetary considerations and public-safety factors did not predict reliance on fines and forfeitures.<sup>159</sup> Rather, racial composition of both the population and the police force did.<sup>160</sup> However, a study of North Carolina traffic tickets found that, from 1990 to 2003, more traffic infractions were issued in the year following a decline in revenue—and that the growth did not stall once revenue increased.<sup>161</sup> This suggests that despite the fine structure in North Carolina, there may be a “profitable policing” motive underlying ticketing and, by extension, these suspensions.

Even if the goal is to secure payment of traffic fines statewide, it is unclear how effective suspensions are as a deterrent against nonpayment of traffic fines. In North Carolina, at least 25 percent of people with a suspended license have a DWLR charge (Table 2)—but this is based just on DWLR data from 2013–2017, so the total is likely

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156. David M. Lawrence, *Fines, Penalties, and Forfeitures: An Historical and Comparative Analysis*, 65 N.C. L. REV. 49, 57–58 (1986). The state constitution provides for the allocation of these funds directly to local government:

[A]ll moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

N.C. CONST. art. IX, § 7.

157. N.C. CONST. art. IX, § 7.

158. Shea Denning, *We Are NOT Ferguson*, N.C. CRIM. L. (Apr. 16, 2015, 11:13 AM), <https://nccriminallaw.sog.unc.edu/we-are-not-ferguson> [<https://perma.cc/8V5U-Q2RK>]; see also *2017 Court Costs*, N.C. JUD. BRANCH (Aug. 8, 2017), <https://www.nccourts.gov/documents/publications/2017-court-costs> [<https://perma.cc/4UNT-ZBFS>] (providing a breakdown of court costs).

159. Akheil Singla, Charlotte Kirschner & Samuel B. Stone, *Race, Representation, and Revenue: Reliance on Fines and Forfeitures in City Governments*, URB. AFF. REV. ONLINEFIRST, Mar. 2019, at 1, 3, <https://journals.sagepub.com/doi/abs/10.1177/1078087419834632> [<https://perma.cc/EZB5-DTJP>].

160. *Id.*

161. Thomas A. Garrett & Gary A. Wagner, *Red Ink in the Rearview Mirror: Local Fiscal Conditions and the Issuance of Traffic Tickets*, 52 J.L. & ECON. 71, 72 (2009).



be far larger,<sup>162</sup> and these are only the drivers who had been pulled over after the initial suspension. People continue to drive without their license, suggesting that the risk of a DWLR is outweighed by the costs of losing mobility. Given the widespread financial and personal costs of not driving, such decision-making is understandable. Because of the overrepresentation of people of color and the strong correlation between suspensions and poverty, this Article's findings reiterate what has been found in other states: these policies disproportionately affect vulnerable and minority communities.

#### *D. Legislative Efforts*

Legislative approaches have the benefit of not depending on implementation of a decree entered in litigation. In recent years, several states have adopted laws removing automatic driver's license suspension provisions. In response to growing awareness of the costs of driver's license suspensions, many jurisdictions have reconsidered the use of laws requiring suspensions for non-driving-related offenses, including through statutes, administrative actions, and government programs. In 2016, the Department of Justice recommended in a Dear Colleague Letter that state and local courts avoid using suspension as a debt-collection tool.<sup>163</sup> California eliminated such suspensions by statute in 2017, as noted.<sup>164</sup> Washington, D.C., has enacted legislation to end driver's license suspension for failure to pay fines and fees,<sup>165</sup> as

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162. We have made a request to the North Carolina AOC for all DWLR data, going back farther in time, but as of this writing have not yet received these data.

163. Dear Colleague Letter, Vanita Gupta & Lisa Foster, Civil Rights Div., U.S. Dep't of Justice, *Fines and Fees in State and Local Courts* 7 n.9 (Mar. 14, 2016), <https://finesandfeesjusticecenter.org/content/uploads/2018/11/Dear-Colleague-letter.pdf> [<https://perma.cc/2YJ2-8S5B>]. DOJ relied in part on research studies regarding the societal impact of these laws. The DOJ letter cited to a study of suspended drivers in New Jersey, which found that 42 percent of people lost their jobs as a result of the driver's license suspension, that 45 percent could not find another job, and that this had the greatest impact on seniors and low-income individuals. *Id.* at 7 n.8 (citing ALAN M. VOORHEES TRANSP. CTR. & N.J. MOTOR VEHICLE COMM'N, *MOTOR VEHICLES AFFORDABILITY AND FAIRNESS TASK FORCE: FINAL REPORT* xii (2006), [https://www.state.nj.us/mvc/pdf/about/AFTF\\_final\\_02.pdf](https://www.state.nj.us/mvc/pdf/about/AFTF_final_02.pdf) [<https://perma.cc/E6V4-EZUV>]).

164. See *supra* note 93 and accompanying text.

165. Traffic and Parking Ticket Penalty Amendment Act of 2018, 65 D.C. Reg. 9546 (Sept. 14, 2018).

has Maine.<sup>166</sup> Missouri,<sup>167</sup> Washington,<sup>168</sup> and Vermont<sup>169</sup> have limited the circumstances in which license suspension can occur and have capped suspension time periods. Legislation to end suspensions for non-driving-related offenses is presently under consideration in New York.<sup>170</sup>

The “Next Step Act” legislation introduced in North Carolina in 2019 would limit suspensions to one year for failure-to-pay cases.<sup>171</sup> The Act would require that, for people facing suspensions for a failure to pay, “there [be] a court finding at sentencing that the person is able to pay and the license should be suspended if the person fails to pay.”<sup>172</sup> Further, even for such suspensions, the suspension would be limited to twelve months.<sup>173</sup> This legislation would provide improved process and a defined suspension period for FTC cases. However, the Act would not address the problems with FTAs, making it an incomplete response to the overall body of suspensions, the vast majority of which, as described, consist of FTAs. Nor would the legislation be retroactive; its text does not speak to any such retroactive application, and as a result, it would not affect the large numbers of current suspensions.

This retroactivity problem highlights a challenge nationally, where millions of adult drivers have suspensions. Even the enactment of more comprehensive legislation, which can alter fines-and-fees practices statewide, may not address how to restore driving privileges and address debt for millions of individuals affected by the statutes and practices that have been in place in the past. Indeed, even retroactive legislation would still require individuals to return to the DMV and reapply for a license. To provide individuals with notice to do so may be a challenge, given problems with outdated address information. Our research suggests that localized, service-oriented efforts may be

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166. An Act Regarding Driver’s License Suspensions for Nondriving-Related Violations, 2018 Me. Laws ch. 462.

167. MO. REV. STAT. § 302.341 (2019) (limiting the scope of driver’s license suspensions for nonpayment to nonminor moving traffic violations).

168. WASH. REV. CODE § 46.20.289 (2019) (ending suspension of driver’s licenses for nonpayment of fines or fees for nonmoving traffic violations).

169. VT. STAT. ANN. tit. 4, § 1109 (2019) (limiting the time period of driver’s license suspension to thirty days).

170. Assemb. B. 7463A, 2019–2020 Assemb., Reg. Sess. (N.Y. 2019); S.B. 5348A, 2019–2020 Assemb., Reg. Sess. (N.Y. 2019).

171. Next Step Act, H.B. 988, 2019 Gen. Assemb., Reg. Sess. (N.C. 2019).

172. *Id.* § 1(a) (amending N.C. GEN. STAT. § 20-24.1(a)(2)).

173. *Id.* (amending N.C. GEN. STAT. § 20-24.1(b)(5)).

needed to inform individuals of their rights and assist them in restoring driving privileges.

### E. Local Policy Efforts

Localized efforts have focused on providing services to assist individuals with restoring their rights, even if fines have been waived and their privileges restored. Such efforts may be very important because, as we have described, individuals with suspended licenses often do not appear in court and may not be easy to reach. They may distrust courts, be wary of legal notices, and fear that they cannot pay fees to restore rights or fear consequences of participation in legal processes. For those reasons, local efforts have focused on informing people with suspended driver's licenses of their ability to restore licenses and providing resources to assist them in that process.<sup>174</sup> Several states have programs designed to help people resolve overdue payment of fines or cure FTAs.<sup>175</sup> In Durham, North Carolina, as part of a pilot program, the Durham Expungement and Restoration ("DEAR") program, the district attorney dismissed 2,500 charges for eligible individuals with suspended driver's licenses in June 2018 and dismissed another six hundred cases in January 2019, with additional dismissal dockets conducted every two weeks.<sup>176</sup> For context, Durham

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174. KATHERINE FITZGERALD & MICHAEL GRISWOLD, MECKLENBURG COUNTY DRIVER LICENSE RESTORATION CLINIC PILOT SUMMARY 3-5 (2016), [https://www.mecknc.gov/CriminalJusticeServices/Documents/Other%20Publications/DLRC%20Statistical%20Summary\\_Final.pdf](https://www.mecknc.gov/CriminalJusticeServices/Documents/Other%20Publications/DLRC%20Statistical%20Summary_Final.pdf) [<https://perma.cc/24FM-NMWH>]; Katherine Kershaw, *Law Students Help with Driver's License Restoration and Immigration over Spring Break*, UNC-CHAPEL HILL U. NEWS (Mar. 23, 2018), <https://www.unc.edu/posts/2018/03/23/pro-bono-students-help-with-drivers-license-restoration-and-immigration-over-spring-break> [<https://perma.cc/T985-7A4D>]; Kristen Powers, *Clean Slate Success in Durham*, SOUTHERN COALITION FOR SOC. JUST. (May 1, 2014), <https://www.southerncoalition.org/clean-slate-success-durham> [<https://perma.cc/MUJ9-DEW7>]; *Greensboro Driver's License Restoration Clinic*, N.C. PRO BONO RESOURCE CTR., <https://ncprobono.org/volunteergreensboro> [<https://perma.cc/VD3L-SLQF>].

175. See, e.g., HELENA GARDNER, DRIVER'S LICENSE SUSPENSIONS AND DRIVING WITH A LICENSE SUSPENDED IN VERMONT: BACKGROUND 2 (2016), <https://legislature.vermont.gov/Documents/2016/WorkGroups/House%20Judiciary/Bills/H.571/W-Helena%20Gardner-License%20Suspensions%20in%20Vermont-1-7-2016.pdf> [<https://perma.cc/SWK4-36RF>] (Vermont); Moyer, *supra* note 91 (Charlottesville, Virginia); *CAP - Compliance Assistance Program*, CITY OF PHX., <https://www.phoenix.gov/court/cap> [<https://perma.cc/K4YH-VBWM>] (Phoenix, Arizona); *Relicensing Program*, SPOKANE CITY, <https://my.spokanecity.org/courts/prosecutor/relicensing> [<https://perma.cc/9G5X-4VX7>] (Spokane, Washington).

176. Derrick Lewis, *Durham DA Dismisses Traffic Charges for 500 People*, CBS17.COM (July 1, 2018, 9:36 PM), <https://www.cbs17.com/news/local-news/durham-county-news/durham-da-dismisses-traffic-charges-for-500-people> [<https://perma.cc/CST9-P7S6>]; Sarah Willets, *Durham*

County had 40,500 suspensions,<sup>177</sup> which may not include the 2,500 dismissals in 2018 if they were resolved quickly. The program, a collaboration between the city of Durham, the court, the North Carolina Justice Center, Legal Aid, local law schools, and others, is housed in an office at the courthouse, and it provides free help to clients with driver's license restoration, expungements, and certificates of relief.<sup>178</sup> Thus, one additional local response to the growing numbers of these suspensions would be for prosecutors to use their discretion to dismiss such charges on a larger scale. Even such an approach, however, requires efforts to inform people of that relief, and then work with them to formally restore driving privileges through the state DMV.

#### *F. Future Directions in Addressing Driver's License Suspensions*

This Article provides a largely descriptive analysis that is not intended to advocate for any particular policy or legislative solutions. However, it has emphasized in its discussion of policy approaches that any response to these suspensions, which currently affect millions of people across the country, will likely need to be multifaceted in any jurisdiction. As this Article shows, many individuals have either FTAs or FTCs, and some have both. Although some changes may be effective in reducing FTC suspensions, such as litigation approaches or efforts requiring judges to conduct an ability-to-pay inquiry, FTAs are likely much more challenging because, logically, one cannot waive fees in court if a person does not appear in court. Legislative approaches could address such FTAs. More structural solutions to court processes, such as facilitating transportation to court or online payment of fines, based on ability to pay, might also be successful. We have separately documented a problem that individuals may fail to receive notice by mail of driver's license suspensions; still additional policy should be directed toward ensuring actual notice of these serious outcomes.<sup>179</sup>

Given the large number of suspensions, changing practices or law going forward will not address the large number of existing suspensions, for which local efforts and social-services approaches may

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*County Dismisses Hundreds of Traffic Fines as Part of a License Restoration Effort*, INDY WEEK (Jan. 15, 2019, 2:12 PM), <https://indyweek.com/news/durham/durham-county-dismisses-hundreds-of-traffic-fines> [<https://perma.cc/8HYU-MSE3>].

177. See *infra* Appendix B.

178. Willets, *supra* note 176.

179. See *supra* note 149 and accompanying text.

be needed. Further, even if a change is made retroactive or old charges are dismissed by prosecutors, comprehensively notifying those affected would itself be a challenging process. For the same reasons that individuals who are indigent faced difficulty appearing in traffic court, they may face difficulties with the DMV process for restoring a license, which would involve further applications, waiting, and fees. Service-oriented restoration efforts are therefore an important component of any effort to reduce driver's license suspensions in any community. Such restoration efforts would require tailoring to the financially burdened, primarily minority populations that make up the majority of North Carolina citizens with suspended licenses.

Successful reform also requires a better understanding of the causes of driver's license suspensions, population-level characteristics of those with suspended licenses, and the impact of having a suspended license on individuals' lives. Each of those issues will be the subject of further empirical research. Though illustrative, these data do not complete the entire picture of driver's license suspensions. It is worth a reminder that these data are all correlational, preventing causal inferences—for example, that poverty causes higher rates of license suspensions. Further, because data were analyzed at an aggregate, county level, we cannot draw conclusions about individual-level factors for suspensions, such as whether being black puts you at a higher risk for having an active suspension. But even though the data do paint a clear picture of racial disparity in suspensions and the analyses point to a complicated race–poverty interaction, they do not provide an underlying mechanism or cause.

We note that driving distances to jobs have increased over the past two decades, and there is evidence that residents of higher-poverty neighborhoods have experienced even greater declines in job proximity.<sup>180</sup> Future research should further examine not only the connection between race, poverty rates, and driver's license suspensions, but also the geography of driver's license suspension.

This Article's findings and limitations in the data and analyses point to further areas of research. Perhaps the most important missing piece here are analyses at the individual, rather than county-year, level. Data that include cured and active suspensions, as well as economic

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180. ELIZABETH KNEEBONE & NATALIE HOLMES, METRO. POLICY PROGRAM AT BROOKINGS, *THE GROWING DISTANCE BETWEEN PEOPLE AND JOBS IN METROPOLITAN AMERICA* 1 (2015), [https://www.brookings.edu/wp-content/uploads/2016/07/Srvy\\_JobsProximity.pdf](https://www.brookings.edu/wp-content/uploads/2016/07/Srvy_JobsProximity.pdf) [<https://perma.cc/2WPA-4CJY>].

data such as employment and income, would more clearly reveal any relationship between race, poverty, and suspension status. Specifically, how these factors predict whether a suspension is active or cured would illustrate the effectiveness of suspensions as debt-collection tools and individual-level risk factors for remaining suspended.<sup>181</sup>

Another approach for analyzing such data would be a more in-depth analysis of county-level factors that predict the number of suspensions. Here, because driver's license suspension policies in North Carolina are statewide, we chose to assign county-year as a random effect to analyze statewide trends. However, that random effect naturally encompasses a great deal of variation between counties. County-level variation in population density, policing, neighborhood and racial dispersion, court and police resources, employment, public transportation, and commute times all likely contribute to variation in how suspensions are enforced. Examination of these factors may yield trends that suggest more tailored outcomes and needed policy reforms for each county.

Beyond the status of suspensions, we need further data on how suspensions affect people's day-to-day lives. Although previous reports have found people suffer from lost jobs, financial difficulties, and mounting, unpayable debts,<sup>182</sup> the ability to quantify these effects and directly link them to individual risk factors would paint a clearer picture of the true effect of these suspension policies. Interview and survey methods could explore why people do not appear in court or pay their fines, providing empirical evidence for both the causes and effects of suspended driver's licenses.

## CONCLUSION

This Article reviews the extant empirical literature on driver's license suspensions and then examines driver's license suspension data from North Carolina. We find that there are 1,225,000 active driver's license suspensions in North Carolina with 827,000 for failure to appear, 263,000 for failure to comply, and 135,000 for both. This constitutes about 15 percent of all adult drivers in the state. We describe the demographics of the people subject to active suspensions and examine variation in county-level imposition of such suspensions.

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181. We are presently pursuing such an analysis of North Carolina FTC data.

182. See, e.g., ALEX BENDER ET AL., *supra* note 92, at 6–8; see also CARNEGIE, IMPACTS AND FAIRNESS STUDY, *supra* note 86, at 3, 8.

We detail how neither the volume of traffic stops nor the size of traffic court dockets can explain the observed disparities. We also report data on further prosecution for driving with a revoked license in North Carolina.

We set out a range of policy responses to these driver's license suspensions. We suggest that driver's license suspensions for non-driving-related reasons do not accomplish the policy goal of ensuring payment of fines and fees but rather exacerbate poverty and impose negative economic consequences on individuals and communities. However, we suggest that constitutional challenges are an incomplete response since they only focus on punishments directed at those unable to pay fees, and therefore the remedies may focus solely on ability-to-pay hearings and not on failures to appear. Failures to appear in court are a central part of the policy problem identified, but responses to nonappearance may be different, in part because they may implicate different underlying causes, including insufficient methods for notifications from the court and lack or loss of access to transportation.

What can be done to address this problem? The most straightforward path, adopted in several states in recent years, would be to eliminate driver's license suspension as an "incentive" for appearing in court and paying fines. Ideally, jurisdictions should do so retroactively, clearing dated suspensions. Barring a jurisdiction-wide solution, states should improve communication, such as by issuing notices in a method other than by mail and being proactive regarding failed communication. States should make efforts to reduce the number of suspensions put in place by having more mechanisms for assessing ability to pay at hearings and consideration of individual circumstances. In addition, states can limit the impact of suspensions, including by capping the duration of such suspensions. States should also support restoration efforts, including by actively notifying suspended drivers and/or automatically restoring driving privileges. As described, although litigation or legislation can prospectively address both FTC and FTA cases statewide, such legal changes may not effectively retrospectively address the millions of prior suspensions that exist in many states, like North Carolina. Social services at the local level may assist individuals to restore driving privileges.

It is a comparatively recent phenomenon that states suspend millions of adult drivers' privileges indefinitely for failure to pay traffic tickets and other non-driving-related reasons. The story this Article tells is one of unintended consequences: federal funding tied to driver's license suspension as a condition of receipt of highway and other funds

in order to recoup child support and punish drug offenders. Yet, driver's license suspensions exploded as states like North Carolina incorporated suspension data into electronic court-records systems and turned temporary suspensions into indefinite ones that can persist for years and even decades. What began as a system for collecting court debt may instead reinforce poverty. The resulting problem of driver's licenses suspension is so large scale and deep rooted that it will require a multifaceted policy response. Given the paucity of prior research and the complexity of the problem, this Article emphasizes that important questions remain for future research that could inform constitutional litigation, local restoration efforts, dismissals of charges, and legislative efforts to restore licenses and end the suspension of driver's licenses for non-driving-related traffic offenses. Constitutional challenges to driver's license suspensions, legislative efforts, and community efforts have all enjoyed growing success in recent years. The story of driver's license suspension in North Carolina can hopefully inform the sustained efforts that will be required to undo large-scale driver's license suspension in the United States.



**Appendix A: Modeling Explanation, Tests, and Output**

<b>Variable</b>	<b>Description</b>	<b>Source</b>
Traffic stops	Count of traffic stops in a county, per year	NC State Bureau of Investigation
Traffic cases	Count of traffic cases in a county, per year	AOC (via Charlotte Observer)
Whites below poverty	Count of 16yo+ whites below poverty line in a county, per year	US Census Website
Blacks below poverty	Count of 16yo+ blacks below poverty line in a county, per year	US Census Website
Whites above poverty	Count of 16yo+ whites above poverty line in a county, per year	US Census Website
Whites below poverty	Count of 16yo+ blacks above poverty line in a county, per year	US Census Website
Population	County population, per year	US Census Website
FTC Suspensions	Individuals with only an FTC	NC AOC
FTA Suspensions	Individuals with only an FTA	NC AOC
Both Suspensions	Individuals with an FTC & FTA	NC AOC

*Note: All predictors (but not outcome variables) were mean-centered for analysis.*

<i>Predictors</i>	<b>FTC Model 1</b>			<b>FTC Model 2</b>		
	<i>Estimates</i>	<i>CI</i>	<i>p</i>	<i>Estimates</i>	<i>CI</i>	<i>p</i>
(Intercept)	1847.61	1450.39 – 2244.83	<b>&lt;0.001</b>	1615.02	1191.60 – 2038.44	<b>&lt;0.001</b>
Stops	-0.02	-0.04 – 0.00	0.088			
Traffic Cases	-0.09	-0.12 – -0.07	<b>&lt;0.001</b>			
Whites Below	-0.17	-0.29 – -0.06	<b>0.004</b>	0.15	0.08 – 0.22	<b>&lt;0.001</b>
Blacks Below	0.50	0.32 – 0.67	<b>&lt;0.001</b>	0.04	0.01 – 0.06	<b>0.002</b>
Blacks Above	-0.20	-0.28 – -0.12	<b>&lt;0.001</b>	0.19	0.13 – 0.24	<b>&lt;0.001</b>
Whites Above	-0.01	-0.07 – 0.04	0.605	0.09	0.05 – 0.13	<b>&lt;0.001</b>
Population	0.05	0.02 – 0.09	<b>0.001</b>	-0.05	-0.08 – -0.03	<b>&lt;0.001</b>
<b>Random Effects</b>						
$\sigma^2$		263406.73			463761.25	
$\tau_{00}$		2557082.79 County			3310516.65 County	
		44944.08 Year			103890.28 Year	
ICC		0.89 County			0.85 County	
		0.02 Year			0.03 Year	
Observations		352			800	
Marginal R <sup>2</sup> / Conditional R <sup>2</sup>		0.684 / 0.971			0.694 / 0.963	

*Note: Predictors are bolded when significant at the  $p < 0.05$  level.*

<i>Predictors</i>	<b>FTA Model 1</b>			<b>FTA Model 2</b>		
	<i>Estimates</i>	<i>CI</i>	<i>p</i>	<i>Estimates</i>	<i>CI</i>	<i>p</i>
(Intercept)	6642.95	5063.11 – 8222.79	<b>&lt;0.001</b>	6311.28	4887.35 – 7735.21	<b>&lt;0.001</b>
Stops	0.01	-0.00 – 0.02	0.224			
Traffic Cases	-0.07	-0.09 – -0.05	<b>&lt;0.001</b>			
Whites Below	0.05	-0.05 – 0.14	0.337	0.34	0.27 – 0.41	<b>&lt;0.001</b>
Blacks Below	0.43	0.29 – 0.57	<b>&lt;0.001</b>	0.05	0.03 – 0.07	<b>&lt;0.001</b>
Blacks Above	0.39	0.31 – 0.47	<b>&lt;0.001</b>	0.58	0.52 – 0.65	<b>&lt;0.001</b>
Whites Above	0.15	0.09 – 0.22	<b>&lt;0.001</b>	0.21	0.16 – 0.25	<b>&lt;0.001</b>
Population	-0.07	-0.11 – -0.04	<b>&lt;0.001</b>	-0.13	-0.16 – -0.10	<b>&lt;0.001</b>
<b>Random Effects</b>						
$\sigma^2$		87948.85			311674.05	
$\tau_{00}$		56954551.57 County			50060818.96 County	
		85445.03 Year			214523.87 Year	
ICC		1.00 County			0.99 County	
		0.00 Year			0.00 Year	
Observations		352			800	
Marginal R <sup>2</sup> / Conditional R <sup>2</sup>		0.637 / 0.999			0.641 / 0.998	

Note: Predictors are bolded when significant at the  $p < 0.05$  level.

<i>Predictors</i>	<b>Both Model 1</b>			<b>Both Model 2</b>		
	<i>Estimates</i>	<i>CI</i>	<i>p</i>	<i>Estimates</i>	<i>CI</i>	<i>p</i>
(Intercept)	1122.77	852.66 – 1392.89	<b>&lt;0.001</b>	1025.4 5	738.70 – 1312.21	<b>&lt;0.001</b>
Stops	-0.00	-0.01 – 0.00	0.550			
Traffic Cases	-0.03	-0.04 – -0.02	<b>&lt;0.001</b>			
Whites Below	-0.05	-0.09 – -0.01	<b>0.009</b>	0.11	0.08 – 0.13	<b>&lt;0.001</b>
Blacks Below	0.17	0.11 – 0.22	<b>&lt;0.001</b>	0.02	0.01 – 0.03	<b>&lt;0.001</b>
Blacks Above	-0.05	-0.09 – -0.02	<b>0.001</b>	0.08	0.06 – 0.10	<b>&lt;0.001</b>
Whites Above	0.01	-0.01 – 0.04	0.335	0.06	0.04 – 0.07	<b>&lt;0.001</b>
Population	0.01	-0.00 – 0.03	0.095	-0.03	-0.04 – -0.02	<b>&lt;0.001</b>
<b>Random Effects</b>						
$\sigma^2$		18801.21			48630.78	
$\tau_{00}$		1499229.04 County			1956058.46 County	
		9196.14 Year			14273.95 Year	
ICC		0.98 County			0.97 County	
		0.01 Year			0.01 Year	
Observations		352			800	
Marginal R <sup>2</sup> / Conditional R <sup>2</sup>		0.607 / 0.995			0.654 / 0.992	

*Note: Predictors are bolded when significant at the  $p < 0.05$  level.*

### Appendix B: North Carolina Driver's License Suspension Statistics by County

COUNTY	FTA Cases	FTC Cases	Both Cases	Total Cases	16yo+ Pop	Total as % of 16yo+ Pop	White %	Black %	Latinx %	Other %
ALAMANCE	12,572	3,951	1,902	18,425	130,200	14.2%	30.7%	35.8%	26.9%	6.6%
ALEXANDER	1,175	1,093	916	3,184	30,654	10.4%	68.9%	13.9%	14.6%	9.1%
ALLEGHANY	1,200	207	71	1,478	9,355	15.8%	38.2%	2.2%	40.3%	21.9%
ANSON	3,441	1,290	1,158	5,889	20,711	28.4%	23.2%	65.6%	8.0%	22.5%
ASHE	1,192	375	216	1,783	22,741	7.8%	59.3%	1.8%	33.8%	8.4%
AVERY	1,614	528	230	2,372	15,213	15.6%	72.3%	3.1%	19.1%	10.6%
BEAUFORT	4,932	1,553	1,166	7,651	38,679	19.8%	32.2%	42.4%	19.8%	11.0%
BERTIE	2,248	277	197	2,722	16,200	16.8%	21.7%	68.3%	7.2%	8.3%
BLADEN	5,206	1,836	1,098	8,140	27,351	29.8%	25.1%	36.9%	27.6%	13.2%
BRUNSWICK	7,904	2,602	806	11,312	112,669	10.0%	51.1%	17.1%	27.5%	14.8%
BUNCOMBE	20,193	1,648	1,594	23,435	214,880	10.9%	62.9%	15.1%	18.6%	7.8%
BURKE	6,012	2,968	2,394	11,374	74,411	15.3%	65.3%	12.8%	18.4%	6.9%
CABARRUS	15,945	4,105	3,303	23,353	159,806	14.6%	38.9%	36.7%	20.4%	7.4%
CALDWELL	3,556	2,253	1,101	6,910	67,424	10.2%	71.1%	13.4%	13.7%	5.7%
CAMDEN	1,771	206	248	2,225	8,420	26.4%	47.6%	38.9%	9.6%	5.7%
CARTERET	6,194	1,779	1,475	9,448	58,173	16.2%	68.1%	18.1%	11.3%	6.4%
CASWELL	2,231	899	633	3,763	18,937	19.9%	36.1%	52.3%	8.2%	5.9%
CATAWBA	11,081	3,337	1,846	16,264	126,798	12.8%	52.7%	21.7%	21.3%	7.6%
CHATHAM	5,640	1,821	778	8,239	58,638	14.1%	27.0%	22.4%	37.5%	17.4%
CHEROKEE	2,060	752	346	3,158	23,801	13.3%	87.4%	5.5%	4.7%	15.5%

COUNTY	FTA Cases	FTC Cases	Both Cases	Total Cases	16yo+ Pop	Total as % of 16yo+ Pop	White %	Black %	Latinx %	Other %
CHOWAN	1,130	217	206	1,553	11,571	13.4%	32.3%	53.8%	10.8%	5.5%
CLAY	529	154	47	730	9,349	7.8%	87.5%	2.7%	8.1%	4.7%
CLEVELAND	7,099	1,544	720	9,363	78,461	11.9%	48.3%	39.6%	9.4%	4.3%
COLUMBUS	6,628	1,897	1,093	9,618	45,562	21.1%	35.8%	42.0%	14.8%	10.0%
CRAVEN	7,535	1,315	1,134	9,984	82,460	12.1%	45.0%	42.6%	9.3%	10.5%
CUMBERLAND	47,798	7,112	7,496	62,406	259,106	24.1%	31.4%	56.0%	6.6%	9.1%
CURRITUCK	3,675	245	168	4,088	21,170	19.3%	77.4%	14.3%	5.5%	8.7%
DARE	7,642	294	274	8,210	30,012	27.4%	81.3%	7.7%	8.1%	5.7%
DAVIDSON	9,708	7,247	1,028	17,983	133,406	13.5%	49.0%	29.4%	18.0%	6.5%
DAVIE	2,772	1,435	288	4,495	34,587	13.0%	53.2%	22.5%	20.1%	7.7%
DUPLIN	12,685	2,056	2,181	16,922	46,455	36.4%	18.8%	27.3%	38.7%	19.3%
DURHAM	27,979	9,315	3,199	40,493	252,295	16.0%	16.7%	44.1%	34.8%	19.5%
EDGEcombe	7,134	979	1,149	9,262	42,100	22.0%	16.7%	69.1%	11.3%	7.3%
FORSYTH	39,442	9,693	7,726	56,861	299,282	19.0%	25.8%	41.6%	29.8%	5.8%
FRANKLIN	4,389	1,773	2,050	8,212	53,238	15.4%	27.1%	48.5%	18.2%	9.0%
GASTON	19,551	3,595	1,728	24,874	176,124	14.1%	50.0%	31.7%	15.6%	8.8%
GATES	1,534	147	158	1,839	9,503	19.4%	32.8%	61.7%	4.0%	4.3%
GRAHAM	533	96	52	681	7,026	9.7%	81.8%	1.5%	6.3%	12.0%
GRANVILLE	5,811	1,898	1,835	9,544	48,940	19.5%	24.2%	58.9%	11.9%	15.3%
GREENE	1,706	368	152	2,226	17,256	12.9%	14.5%	40.8%	33.5%	16.1%

GUILFORD	38,400	25,400	10,641	74,441	422,903	17.6%	32.2%	52.5%	11.7%	14.9%
HALIFAX	9,629	976	1,046	11,651	41,718	27.9%	27.7%	60.9%	6.0%	9.1%
HARNETT	11,560	2,023	2,639	16,222	101,334	16.0%	31.1%	39.4%	24.2%	10.8%
HAYWOOD	6,338	1,924	575	8,837	51,244	17.2%	66.8%	9.8%	16.4%	12.4%
HENDERSON	9,223	3,674	1,101	13,998	96,213	14.5%	56.7%	12.1%	24.8%	13.5%
HERTFORD	2,746	207	121	3,074	19,879	15.5%	19.3%	70.8%	7.5%	8.8%
HOKE	4,984	1,338	932	7,254	40,639	17.8%	14.8%	34.4%	34.3%	19.0%
HYDE	531	99	55	685	4,573	15.0%	49.6%	25.5%	18.4%	23.0%
IREDELL	13,015	5,164	2,679	20,858	140,085	14.9%	50.8%	29.0%	17.1%	9.5%
JACKSON	3,204	745	389	4,338	36,487	11.9%	53.6%	4.8%	18.9%	25.8%
JOHNSTON	19,397	3,985	1,335	24,717	151,943	16.3%	35.7%	29.9%	27.1%	29.9%
JONES	1,651	458	221	2,330	8,032	29.0%	43.3%	37.6%	14.4%	12.0%
LEE	6,822	1,520	1,015	9,357	47,492	19.7%	27.9%	29.1%	36.5%	11.2%
LENOIR	6,131	1,370	525	8,026	45,704	17.6%	22.4%	46.2%	24.0%	13.9%
LINCOLN	3,775	1,170	184	5,129	67,086	7.6%	58.4%	16.7%	20.9%	11.4%
MACON	2,146	476	136	2,758	28,985	9.5%	67.2%	6.6%	21.0%	9.2%
MADISON	3,041	553	456	4,050	18,305	22.1%	75.9%	8.3%	12.0%	9.1%
MARTIN	2,763	1,024	750	4,537	18,730	24.2%	26.2%	61.1%	7.1%	9.5%
MCDOWELL	2,827	1,322	389	4,538	37,044	12.3%	65.6%	9.1%	22.7%	8.2%
MECKLENBURG	23,805	11,280	1,834	36,919	847,754	4.4%	22.1%	57.8%	17.6%	5.1%
MITCHELL	886	381	226	1,493	12,637	11.8%	59.3%	1.1%	30.9%	11.1%

COUNTY	FTA Cases	FTC Cases	Both Cases	Total Cases	16yo+ Pop	Total as % of 16yo+ Pop	White %	Black %	Latinx %	Other %
MONTGOMERY	3,308	1,756	712	5,776	22,037	26.2%	32.4%	29.0%	25.7%	21.6%
MOORE	6,060	2,521	396	8,977	78,900	11.4%	37.6%	31.9%	23.8%	19.7%
NASH NEW HANOVER	12,734	1,226	1,339	15,299	75,712	20.2%	25.3%	55.4%	13.2%	12.9%
NORTHAMPTON	16,887	4,403	2,977	24,267	189,193	12.8%	51.0%	29.6%	16.8%	8.7%
	2,293	239	139	2,671	16,771	15.9%	25.3%	64.4%	6.6%	6.4%
ONSLow	13,974	5,317	2,432	21,723	150,574	14.4%	53.0%	35.6%	7.7%	7.5%
ORANGE	12,402	3,147	774	16,323	119,736	13.6%	34.6%	36.9%	21.5%	10.7%
PAMLICO	484	167	58	709	10,968	6.5%	54.7%	31.6%	10.3%	10.4%
PASQUOTANK	3,649	1,146	546	5,341	31,911	16.7%	33.8%	52.7%	10.8%	6.1%
PENDER	4,605	1,809	600	7,014	48,961	14.3%	45.9%	25.8%	20.5%	10.5%
PERQUIMANS	1,886	268	209	2,363	11,245	21.0%	40.2%	48.8%	7.4%	11.3%
PERSON	2,861	1,918	941	5,720	32,061	17.8%	34.0%	50.2%	10.4%	8.9%
PITT	15,528	4,899	2,799	23,226	144,843	16.0%	22.8%	53.0%	16.3%	13.3%
POLK	2,888	721	80	3,689	17,662	20.9%	65.9%	18.8%	12.2%	11.0%
RANDOLPH	9,194	5,803	1,899	16,896	114,668	14.7%	47.2%	21.2%	27.4%	7.3%
RICHMOND	4,676	1,873	969	7,518	35,815	21.0%	34.2%	43.5%	18.3%	8.2%
ROBESON	25,315	10,949	4,334	40,598	103,157	39.4%	16.1%	26.5%	27.1%	34.3%
ROCKINGHAM	8,472	2,986	1,693	13,151	74,734	17.6%	43.7%	35.0%	18.0%	33.7%
ROWAN	10,172	6,985	2,525	19,682	112,855	17.4%	40.9%	40.2%	15.3%	6.9%
RUTHERFORD	2,149	2,567	494	5,210	54,511	9.6%	67.4%	22.4%	7.9%	6.0%



SAMPSON	14,350	1,364	1,673	17,387	49,755	34.9%	19.7%	26.9%	26.0%	29.8%
SCOTLAND	3,736	1,839	1,412	6,987	27,931	25.0%	24.3%	50.0%	7.4%	45.7%
STANLY	3,468	1,958	836	6,262	49,770	12.6%	46.8%	30.1%	19.7%	21.7%
STOKES	2,685	1,180	1,254	5,119	38,176	13.4%	68.8%	15.6%	10.4%	8.7%
SURRY	7,977	1,792	1,216	10,985	58,779	18.7%	60.4%	12.6%	18.6%	13.7%
SWAIN	1,770	321	66	2,157	11,464	18.8%	68.0%	3.1%	9.4%	28.0%
TRANSYLVANIA	1,467	659	126	2,252	29,291	7.7%	66.6%	11.5%	19.8%	21.7%
TYRRELL	1,217	138	141	1,496	3,367	44.4%	53.2%	25.9%	15.0%	8.0%
UNION	17,165	3,849	1,949	22,963	176,786	13.0%	29.7%	31.3%	35.5%	9.4%
VANCE	7,317	3,716	1,835	12,868	34,992	36.8%	18.8%	64.6%	10.7%	9.3%
WAKE	67,656	26,710	12,947	107,313	842,324	12.7%	28.4%	43.8%	22.6%	11.1%
WARREN	2,625	908	289	3,822	16,676	22.9%	18.9%	64.7%	9.3%	12.5%
WASHINGTON	1,174	309	164	1,647	9,844	16.7%	30.2%	47.3%	14.5%	15.3%
WATAUGA	791	814	168	1,773	48,790	3.6%	81.2%	7.4%	8.5%	11.0%
WAYNE	12,321	2,949	1,213	16,483	98,304	16.8%	20.5%	38.6%	24.3%	19.5%
WILKES	3,911	1,999	1,000	6,910	56,217	12.3%	65.9%	11.1%	19.5%	20.2%
WILSON	9,124	1,359	883	11,366	65,060	17.5%	23.0%	48.2%	18.7%	13.6%
YADKIN	2,840	655	123	3,618	30,817	11.7%	53.5%	13.7%	27.6%	15.3%
YANCEY	1,077	267	144	1,488	14,901	10.0%	44.4%	2.4%	49.9%	8.5%