

## I. Pretext Stop Section Supporting Data Analyses

### A. Consent and Supervision Searches During Stops for Traffic Violations

During a pretextual stop officers will often ask a person for consent to search a person’s car or the person themselves. Discretionary searches generally increase the opportunity for bias because there are not objective criteria for determining when to conduct a search.<sup>1</sup> Consent searches can be particularly problematic because the officer does not need to suspect any wrong doing and officers can use their discretion to decide when to request a consent search.<sup>2</sup> Traffic stops also leave a tremendous amount of discretion to officers of who to stop and why, because traffic is so heavily regulated an officer could easily stop any driver on a technical violation.<sup>3</sup> Because of these factors, consent searches during traffic stops merit further exploration regarding if and how bias may affect who is stopped and searched.

The rate at which consent to search is requested during stops of different racial and ethnic groups is one measure of whether officers may be allowing a bias to influence their decision to request a search. Officers requested consent to search stopped persons or their property during 2.07 percent of all stops where the primary reason for stop was a traffic violation. During traffic violation stops, officers requested a search more often when they perceived individuals to be Black (4.25%), Hispanic (2.50%), or Multiracial (2.32%). During traffic stops, officers were less likely to request a search when they perceived individuals to be Pacific Islander (1.25%), White (1.05%), Native American (0.78%), Asian (0.60%), or Middle Easter/South Asian (0.43%).<sup>4</sup>

#### Figure XX

*Search Requests during Stops for Traffic Violations by Race and Ethnicity*

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<sup>1</sup> See generally Ridgeway, Assessing the Effect of Race Bias in Post-Traffic Stop Outcomes Using Propensity Scores (2006) 22 J. Quantitative Criminology 1 <<https://www.rand.org/pubs/reprints/RP1252.html>> [as of Dec. 2, 2021]; see also, e.g., Eberhardt, How racial bias works -- and how to disrupt it (June 2020) TED [https://www.ted.com/talks/jennifer\\_l\\_eberhardt\\_how\\_racial\\_bias\\_works\\_and\\_how\\_to\\_disrupt\\_it/transcript?language=en](https://www.ted.com/talks/jennifer_l_eberhardt_how_racial_bias_works_and_how_to_disrupt_it/transcript?language=en) [as of Dec. 2, 2021]; Quattlebaum, Let’s Get Real: Behavioral Realism, Implicit Bias, and the Reasonable Police Officer (2018) 14 Stan. J. C.R. & C.L. 1, 17 <<https://law.stanford.edu/publications/lets-get-real-behavioral-realism-implicit-bias-and-the-reasonable-police-officer>> [as of Dec. 2, 2021] (citing Pamela M. Casey et al., Addressing Implicit Bias in the Courts (2013) 49 Ct. Rev. 64, 67).

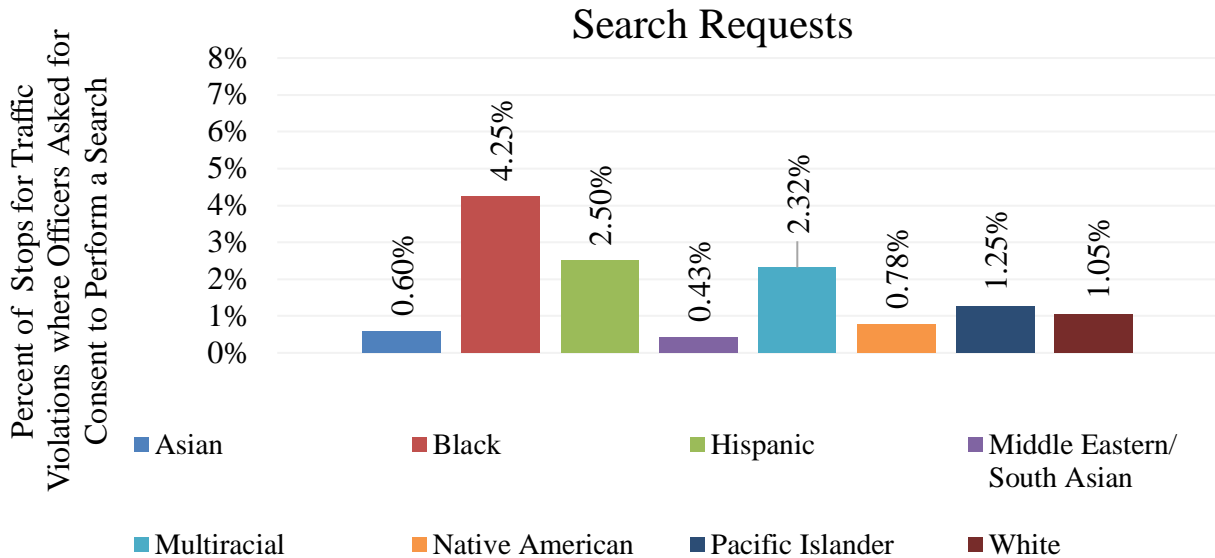
<sup>2</sup> See *Florida v. Royer* (1983) 460 U.S. 491; see also *Schneckloth v. Bustamonte* (1973) 412 U.S. 218

<sup>3</sup> See *Whren v. United States* (1996) 517 U.S. 806, 809.

<sup>4</sup> For the purpose of this section, “traffic stops” refers to stops where officers selected “traffic violation” as the primary reason for stop.

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The data reveal Black individuals were 4 times as likely, Hispanic/Latine(x) were 2.4 times as likely, and Multiracial were 2.2 times as likely to be asked for consent to search during a traffic stop than White individuals. These results review a continued trend from the 2019, 2020, and now 2021 RIPA Data, that Black, Hispanic/Latine(x) and Multiracial individuals generally are asked consent to search at higher rates than those who are perceived as White.

Although a person has the right tell an officer they do not agree to a consent search, in practice, very few people deny an officer’s request when a person is already detained. In a traffic encounter the power dynamics are such that these searches may not actually be consensual or voluntary. The vast majority (98.5%) of people consented to a search of either their person or property when an officer requested to perform a search during a traffic stop. When officers requested a search during a traffic stop, individuals perceived to be Hispanic (99%) and Asian (98.9%) were more likely to consent. Individuals who were Middle Eastern/South Asian (98.3%), Black (98.2%), Multiracial (96.6%), White (97.2%), Pacific Islander (97.7%), or Native American (96.6%) were less likely to consent to a requested search during a traffic stop.

The high rates of consent may be influenced by stopped individuals perceiving their likelihood of being searched to be high, even absent their consent. This perception may be accurate - in the rare cases when an individual denied the officer their consent (i.e. was asked for consent to search either property or person but provided consent to neither) a search still occurred with another basis for search 56.2 percent of the time.

During RIPA data collection, officers report whether “consent given” was among other bases for search and whether the officer actually conducted a search of that person. Consent only searches (searches in which the only basis provided by the officer is “consent given”) occurred in 0.8

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percent (1 in 125) of traffic stops. During a traffic stop, officers performed consent only searches more often when individuals were perceived to be Black (1.5%) or Hispanic (1.0%). Officers performed consent only searches less often during traffic stops when individuals were perceived to be any other racial and ethnic group including Multiracial (0.7%), Pacific Islander (0.5%), White (0.4%), Asian (0.3%), Native American (0.2%), and Middle Eastern/South Asian (0.2%). This means that during traffic stops those who were perceived as Black were searched with the sole basis for search being “consent given” 3.75 times more and Hispanic/Latine(x) 2.5 times more than those who are perceived as White.

One way to examine disparities in the data is to calculate the rate contraband is discovered during consensual searches during traffic stops. Search discovery rates analyses operate under the assumption that if officers are searching people of a particular identity group more frequently but finding less contraband, the searches of individuals in that identity group may be, at least in part, because of their perceived identity.<sup>5</sup> The rate of contraband discovery during traffic stops where officers performed a consent only search was lowest among individuals perceived to be Black (6.8%), Pacific Islander (9.1%), Hispanic (10.3%). The discovery rate of contraband during traffic stops with consent only searches was highest amongst individuals perceived to be White (19.1%), Multiracial (18.4%), Native American (15.0%), Asian (14.3%), and Middle Eastern/South Asian (12.2%).

**Figure XX**

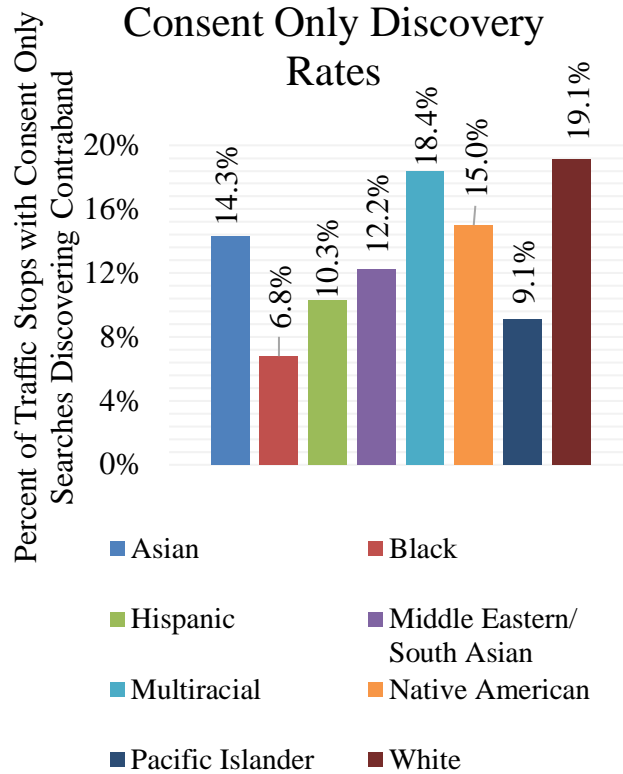
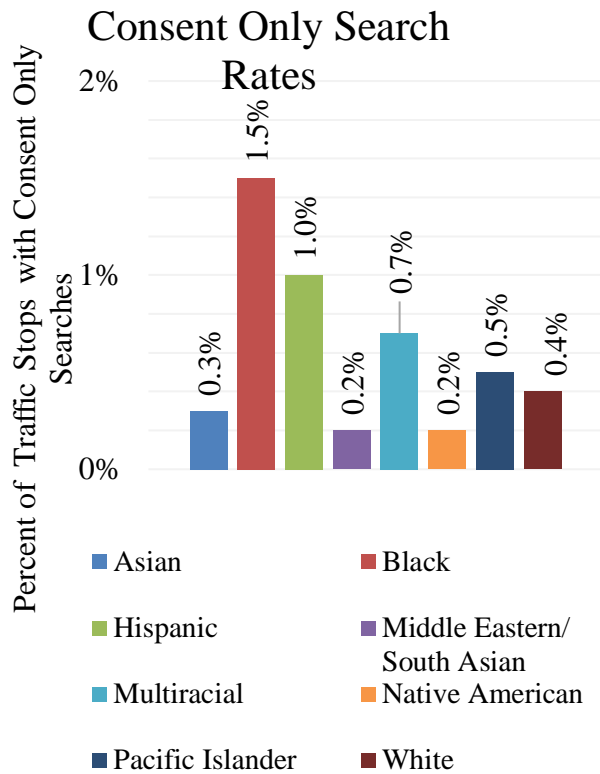
*Consent Only Searches and Discovery Rates*

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<sup>5</sup> See **Appendix X** for a discussion of the limitations of this type of analysis.

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Here, the data shows a continued trend from the 2019, 2020, and now 2021 data that during stops where officers perform consent only searches officers are least likely to find contraband in the possession of those who are perceived as Black. Despite this, a far higher percentage of stops of individuals perceived as Black involve consent-only searches compared to any other identity group.

During a traffic stop an officer can also conduct a search on the basis of an individual being on parole, probation, post-release community supervision, or mandatory supervision. During supervision only searches supervision status is the only basis for search provided by the officer. Supervision only searches occur during one percent of all traffic stops. The percentage of traffic stops that involved supervision only searches was highest among individuals perceived to be Black (2.6%). All other groups had a lower percentage of stops involving supervision only searches (Hispanic 0.9%, Multiracial 0.9%, Pacific Islander 0.6%, Native American 0.5%, White 0.5%, Asian 0.2%, and Middle Eastern/South Asian 0.2%).

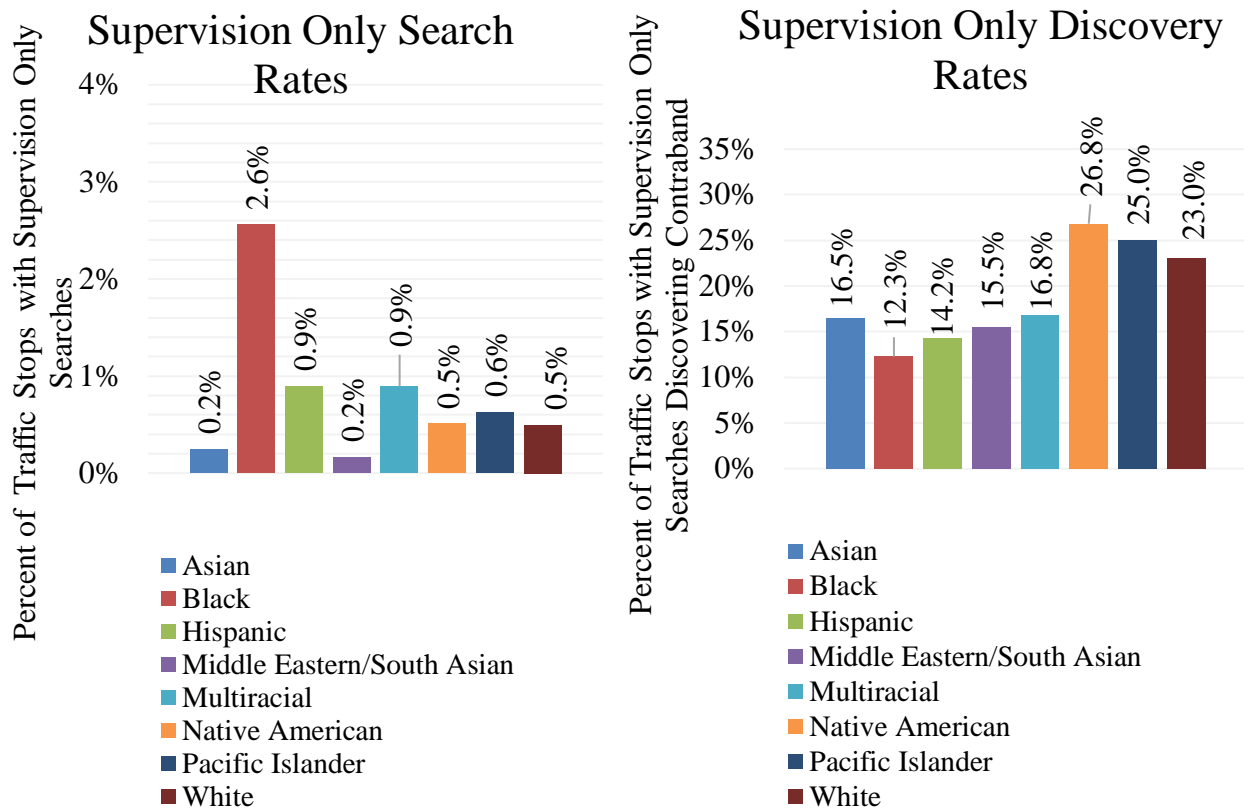
During 15 percent of all traffic stops involving supervision only stops some type of contraband was discovered. Compared to this average, traffic stops involving supervision searches resulted in contraband discovery less frequently when individuals were perceived to be Black (12.3%) or Hispanic (14.2%). By contrast, supervision only searches during traffic stops resulted in

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discovery of contraband more frequently when individuals were perceived to be Middle Eastern/South Asian (15.5%), Asian (16.5%), Multiracial (16.8%), White (23.0%), Pacific Islander (25.0%), and Native American (26.8%). This means that officers were only about half as likely to discover contraband or evidence during supervision only searches during stops for traffic violations of Black individuals as White individuals they searched in this context. However, Black individuals stopped by officers for traffic offenses were still 5.2 times as likely to experience a search based solely upon supervision status compared to White individuals stopped for traffic offenses.

**Figure XX**  
*Supervision Only Searches and Discovery Rates*



Consent and supervision searches during bicycle, pedestrian roadway (i.e. jaywalking), and loitering stops raise similar concerns. Not only is a person detained by an officer when they are asked for consent to search, but during a these types of non-motor vehicle stops, the person is often ordered to sit on the curb or in some cases handcuffed. Officers requested consent to perform a search of either a person or their property during 3.48 percent of all stops (traffic, consensual encounters, supervision, reasonable suspicion, warrant/wanted person, etc. stops).

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Officers asked for consent to perform a search during a larger percentage of bicycle stops (18.43%), pedestrian roadway stops (4.65%), and loitering stops (10.97%). Compared to the search request rate for all stops (3.48%) officers requested searches less frequently during traffic stops (2.07%).

More frequent requests by officers for searches during stops bicycle, pedestrian roadway, and loitering stops correspond to more frequent consent-only searches occurring during these stop types when compared to the overall rates of consent-only searches in traffic stops (0.8%) or when compared to all stops (1.2%). Officers performed consent-only searches during a larger percentage of bicycle stops (6.21%), pedestrian roadway stops (1.60%), and loitering stops (3.12%).

Supervision only searches occurred during 1.5 percent of all stops. During traffic stops specifically, the rate is lower, with supervision-only stops occurring during 0.9 percent of stops. By contrast, the percentage of stops during which a supervision-only search occurred is higher during stops for bicycle violations (7.4%), pedestrian roadway violations (1.6%), and loitering violations (3.9%).

## **B. Bicycle Related Violations**

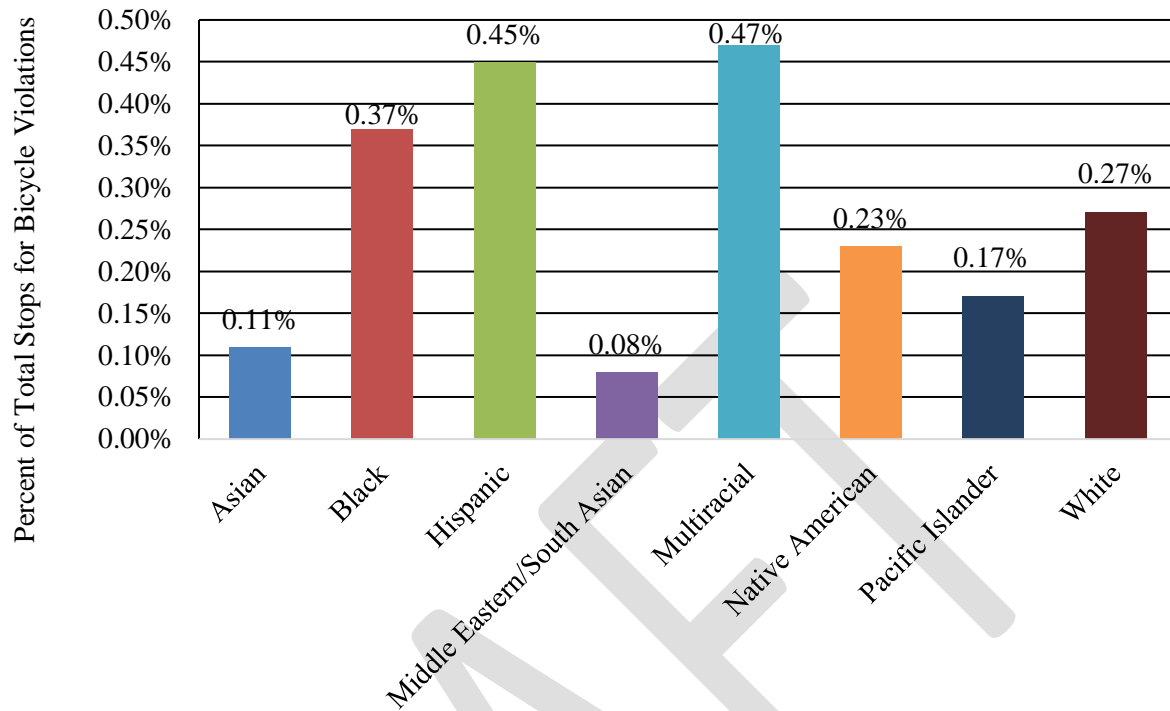
Examining stops of bicyclists can shed further light on the practice of pretextual stops and experiences individuals have when they are stopped. Overall, bicycle related violations represent 0.35 percent of all reported stops, or approximately 1 in 300 stops. Bicycle stops made up a larger percentage of stops of individuals perceived to be Multiracial (0.47%), Hispanic (0.45%), and Black (0.37%). In contrast, bicycle stops made up a smaller percentage of all stops amongst individuals perceived to be White (0.27%) Native American (0.23%), Pacific Islander (0.17%), Asian (0.11%), and Middle Eastern/South Asian (0.08%).

### **Figure XX**

*Percent Bicycle Related Violations by Race and Ethnicity*

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This particular analysis also reveals a continued trend from the 2020 data and now 2021 data that out of all stops within racial and ethnic groups, bicycle stops are a larger percentage among those who are perceived to be Multiracial, Hispanic/Latine(x), or Black than those who are perceived as White.

During stops for bicycle violations generally the rates of search, curbside or patrol car detention, and of being handcuffed were much higher compared to stops for all other reasons.<sup>6</sup> When officers stopped individuals for bicycle violations, they performed searches during 37.5 percent of stops compared to 11.8 percent of all other stops. Similarly, when officers stopped individuals for bicycle violations they performed detentions during 43 percent of stops, compared to 11.2 percent of all other stops. Finally, when officers stopped individuals for bicycle violations they handcuffed an individual during 25.8 percent of stops compared to 9.7 percent of all other stops. During stops for bicycle related offenses officers were 3.2 times as likely to perform a search, 3.8 times as likely to detain the individual, and 2.7 times as likely to handcuff the individual. Overall, officers were more likely to search, detain, or handcuff a person during a bicycle stop when compared to stops for reasons other than bicycle violations.

<sup>6</sup> Officers may sometimes order that bicyclist wait curbside while the officers perform tasks, such as using mobile data terminals or writing citations. In some cases, officers may forgo this type of request during comparable stops of motorists, instead asking that the motorist wait in their vehicle.

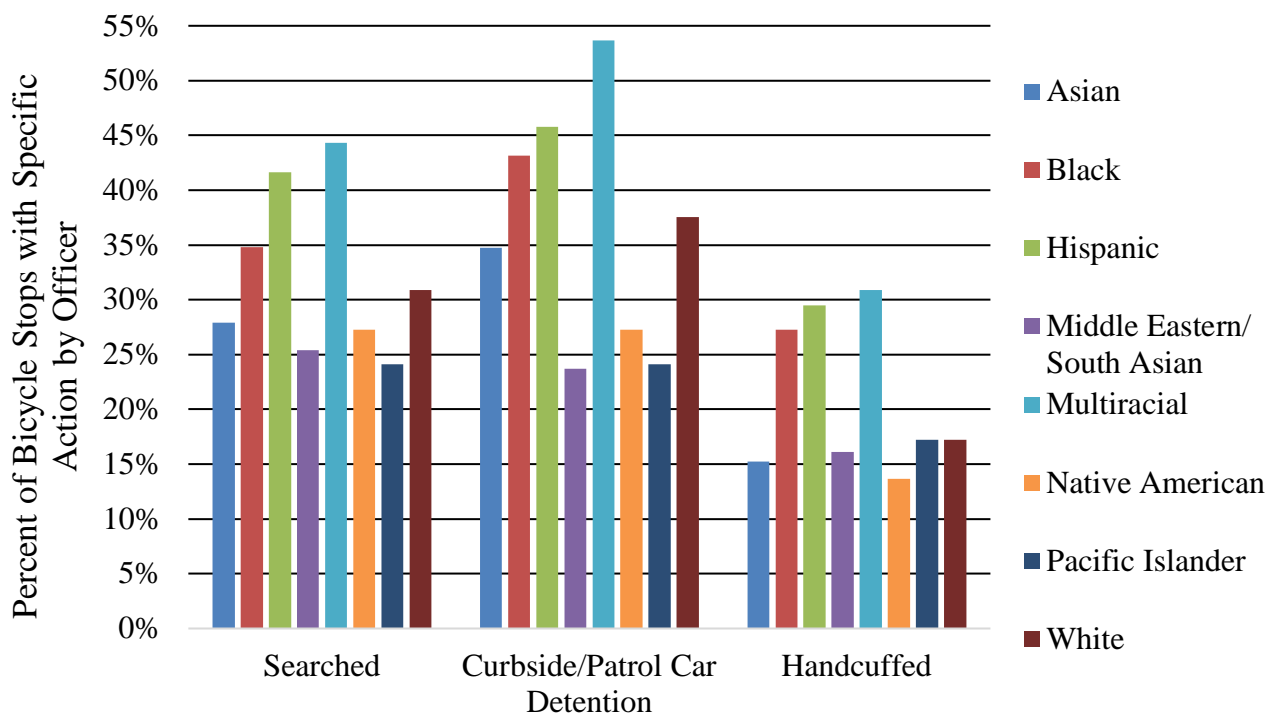
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Who is stopped is an important consideration when looking at disparities but how a person is treated during that encounter another key aspect of testing for disparate treatment. Compared to average action rates during bicycle stops described above, an officer was more likely to search, detain, or handcuff individuals who were perceived to be Multiracial or Hispanic and more likely to detain or handcuff individuals perceived to be Black. In contrast, during bicycle-related stops the rate of search, curbside or patrol car detention, and of being handcuffed are lower among individuals perceived to be White, Asian, Middle Eastern/South Asian, Pacific Islander, and Native American.

**Figure XX**

*Bicycle Stops – Search, Detention, and Handcuffing by Race and Ethnicity*



The data helps bring light to the varied experiences one may have with the police when stopped for a bicycle violation. Across the board those who are Multiracial, Hispanic/Latine(x), or Black were more likely to be searched, detained in a patrol car or on the curb, and handcuffed than any other race or ethnicity. These data are consistent with patterns we would observe if extant officer biases based on perceived race and ethnicity contributed towards additional actions being taken toward Multiracial, Hispanic/Latine(x), and Black individuals.

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Among the searches occurring during bicycle stops, consent only and supervision only searches may be particularly susceptible to bias since officers do not need to have reasonable suspicion or probable cause to conduct those types of searches. Supervision only searches occurred during 1.5 percent of all non-bicycle stops and consent only searches occurred during 1.2 percent of all non-bicycle stops. During bicycle stops, these rates were substantially higher, with 7.5 percent of bicycle stops involving a supervision only search and 6.2 percent of bicycle stops involving a consent only search. This means that supervision searches were 5 times as likely during a stop for a bicycle violation compared to a stop for a reason other than a bicycle violation. Similarly, consent only searches were 5.2 times as likely during a stop for a bicycle violation compared to a stop for a reason other than a bicycle violation.

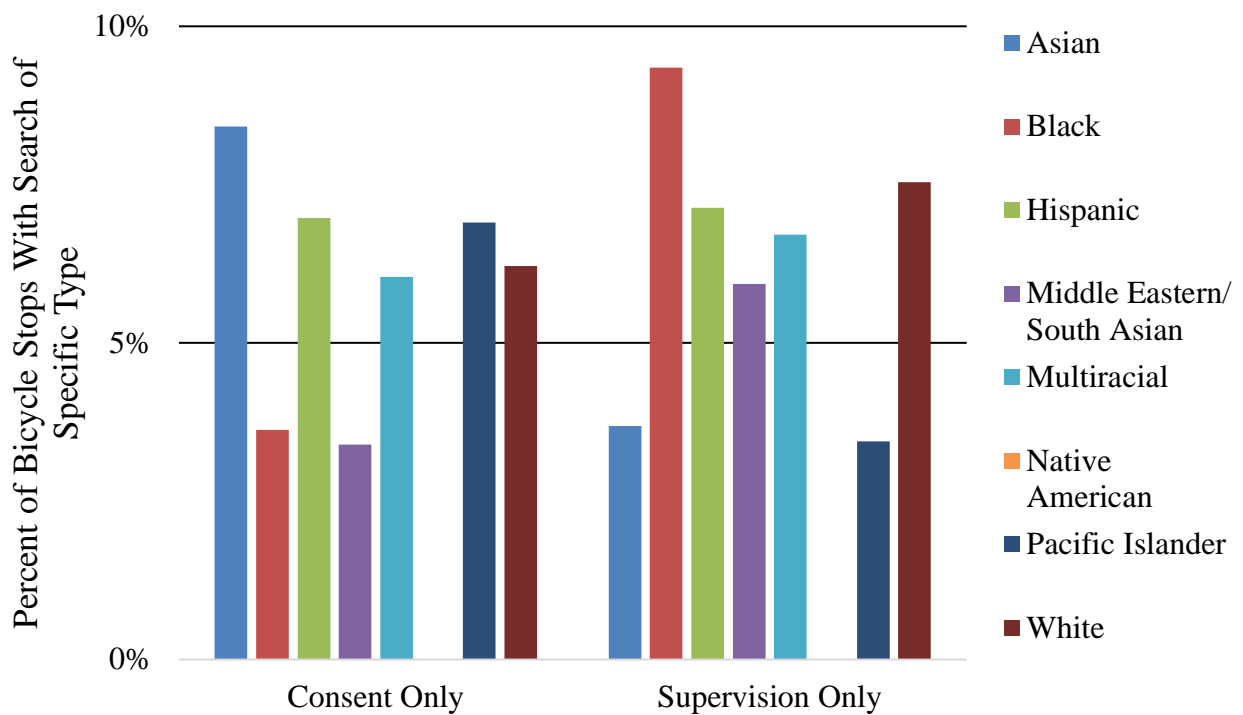
The rates of consent and supervision only searches that occur during stops for bicycle violations are high compared to all other stops, but also vary between racial and ethnic groups. Compared to the average of 6.2% of bicycle stops involving a consent only search, rates of consent only search were higher among bicycle stops of individuals perceived to be Asian (8.4%), Hispanic (7.0%), and Pacific Islander (6.9%). Rates were equal to the average among individuals perceived to be White (6.2%), and lower among individuals perceived to be Multiracial (6.0%), Black (3.6%), Middle Eastern/South Asian (3.4%), and Native American (0.0%). Compared to the average of 7.5% of bicycle stops involving a supervision only search, rates of supervision only search were higher among bicycle stops of individuals perceived to be Black (9.3%). Rates were equal to the average among individuals perceived to be White (7.5%), and lower among individuals perceived to be Hispanic (7.1%), Multiracial (6.7%), Middle Eastern/South Asian (5.9%), Pacific Islander (3.4%), and Native American (0.0%).

**Figure XX**

*Bicycle Stops – Search Bases and Racial and Ethnic Groups*

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The result of a stop can be summarized as one of six categories (citation, custody, in field cite and release, no action taken, other, and warning).<sup>7</sup> A comparison of the results of stops for bicycle violations with those from all other stops could provide evidence of the extent to which bicycle stops were used as pretext. Bicycle stops contained a lower citation rate (12.5% compared to 51.7% in all other stops). In contrast, all other stop outcomes were more common during bicycle related stops. This includes no action (16.9% of bicycle stops compared to 7.6% of all other stops) and warning (47.7% of bicycle stops compared to 25.1% of all other stops). Bicycle stops more frequently resulted in a custodial arrest<sup>8</sup> (10.7% vs 7.3%) and in-field cite and release (7.1% vs 5.5%) compared to all other stops in aggregate. Other results of stops (field interview cards, contacted homeland security, noncustodial transport, psychiatric hold, and contact parent or guardian) were collectively more common during pedestrian roadway stops (5.2% vs 2.9%).

<sup>7</sup> The “other” category used in this set of analyses includes the following result of stop categories, all of which occurred in less than 3.7 percent of stops: field interview card completed, non-criminal transport or caretaking transport, contacted parent/legal guardian or other person responsible for the minor, psychiatric hold, referred to U.S. Department of Homeland Security, referral to school administrator, and referral to school counselor or other support staff.

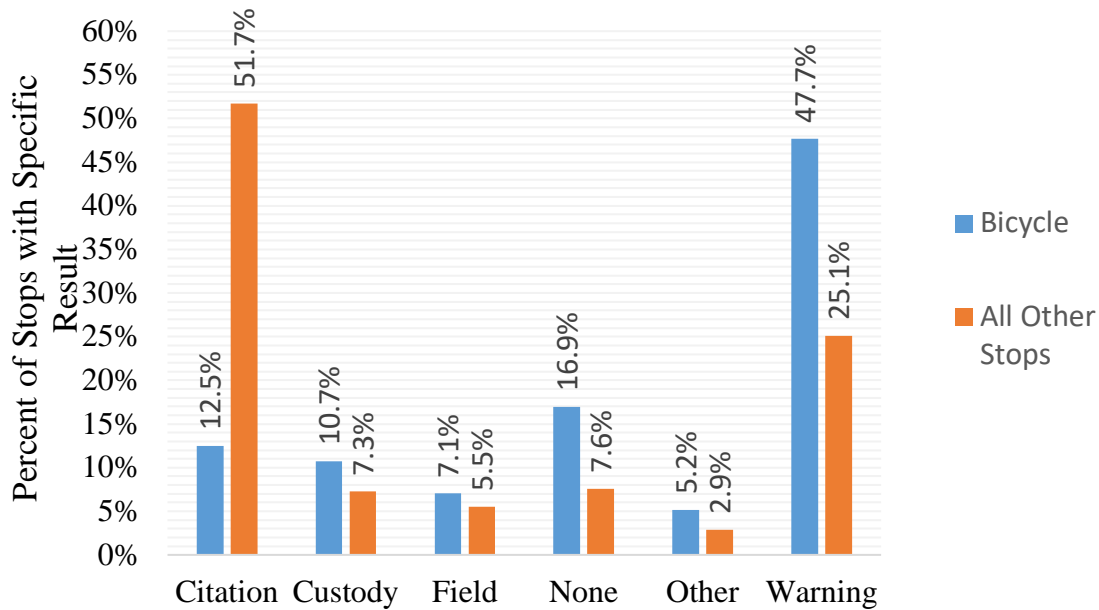
<sup>8</sup> Stops resulting in custodial arrest is a combination of two results of stop – custodial arrest with a warrant and custodial arrest without a warrant.

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**Figure XX**

*Comparison of Results of Stop – Bicycle Stop and All Traffic Stops*



### C. Pedestrian Roadway Violation Stops

Stops of pedestrians for roadway violations (often referred to as jaywalking) can be pretextual in nature and merit closer examination to determine if certain violations are disparately used against a certain group of individuals. Pedestrian roadway stops include offenses such as not crossing at a designated intersection or failure to obey a traffic sign.<sup>9</sup>

Pedestrian roadway violations represent 0.6 percent, or approximately 1 in 150, of all stops. Compared to this average, pedestrian roadway violations were identified as the reason for stop a higher proportion of the time when individuals stopped were perceived to be Black (0.81%), White (0.80%), and Multiracial (0.66%). Officers listed a pedestrian roadway violation as the primary reason for stop for a smaller proportion of stops of individuals perceived to be Native American (0.54%), Hispanic (0.53%), Pacific Islander (0.33%), Asian (0.27%), and Middle Eastern/South Asian (0.22%).

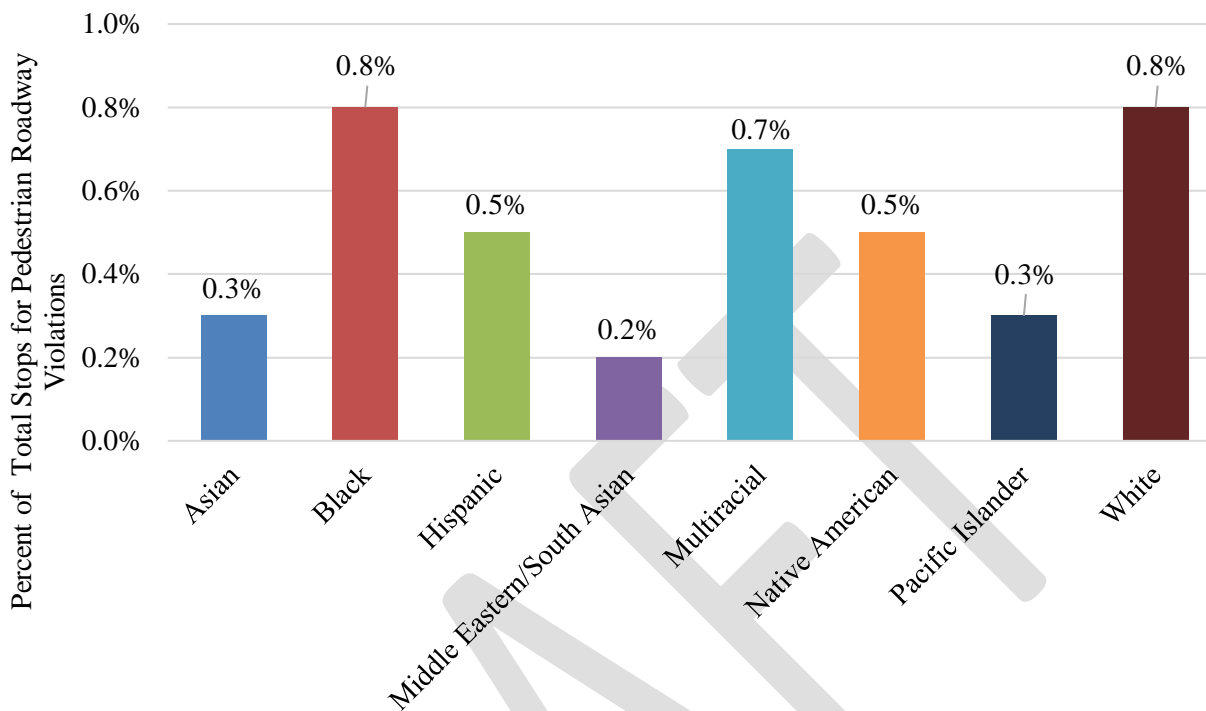
**Figure XX**

<sup>9</sup> See Veh. Code § 21461.5, 21953, 21955, 21956, 21106(B), 21451(C), 21452(B), 21453(D), 21456(B), 21950(B), 21954(a).

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### Percent Pedestrian Roadway Violations by Race and Ethnicity



During stops for pedestrian roadway violations the rates of search, curbside or patrol car detention, and of being handcuffed were higher when compared to stops made for reasons other than pedestrian roadway violations. Officers conducted searches during 13.7 percent of pedestrian roadway stops, compared to 11.8 percent in other stops. The detention rate of individuals during pedestrian roadway stops was 17.2 percent, compared to 11.2 percent for all other stops. Handcuffing occurred in 11.5 percent of pedestrian roadway stops, while occurring during 9.8 percent of all other stops.

It is important to also contrast the different actions officers take during a stop for a particular violation to understand if disparities exist. Compared to the average rates among pedestrian roadway stops, officers more frequently searched, detained, and handcuffed individuals when they perceived them to be Multiracial, Black, or Hispanic.<sup>10</sup> Individuals perceived to be Native American were more frequently searched or detained, but were less frequently handcuffed during pedestrian roadway stops. Individuals perceived to be Pacific Islander were more frequently detained and handcuffed, but were less frequently searched during pedestrian roadway violation

<sup>10</sup> Officers may sometimes order that pedestrians wait curbside while the officers perform tasks, such as using mobile data terminals or writing citations. In some cases, officers may forgo this type of request during comparable stops of motorists, instead asking that the motorist to wait in their vehicle.

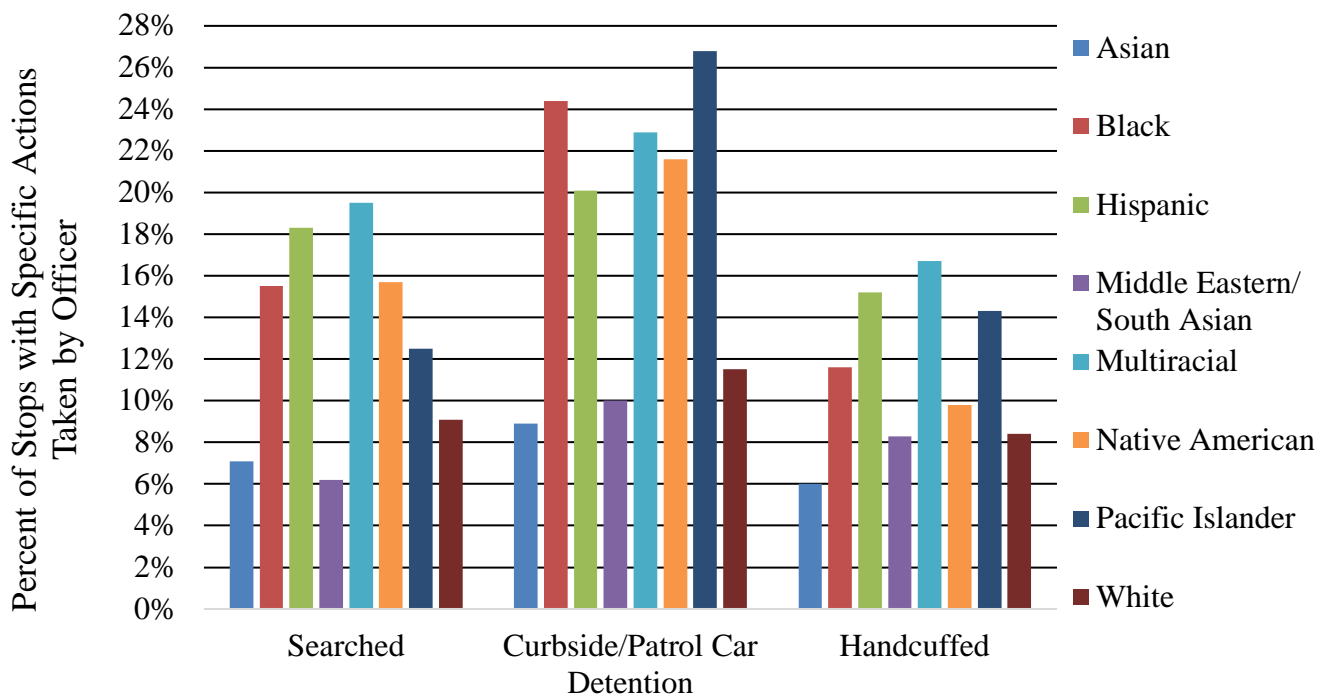
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stops. In contrast, individuals who were perceived to be White, Asian, or Middle Eastern/South Asian were less likely to be searched, detained, or handcuffed during pedestrian roadway stops.

**Figure XX**

*Pedestrian Roadway Violation Stops – Search, Detention, and Handcuffing by Race and Ethnicity*



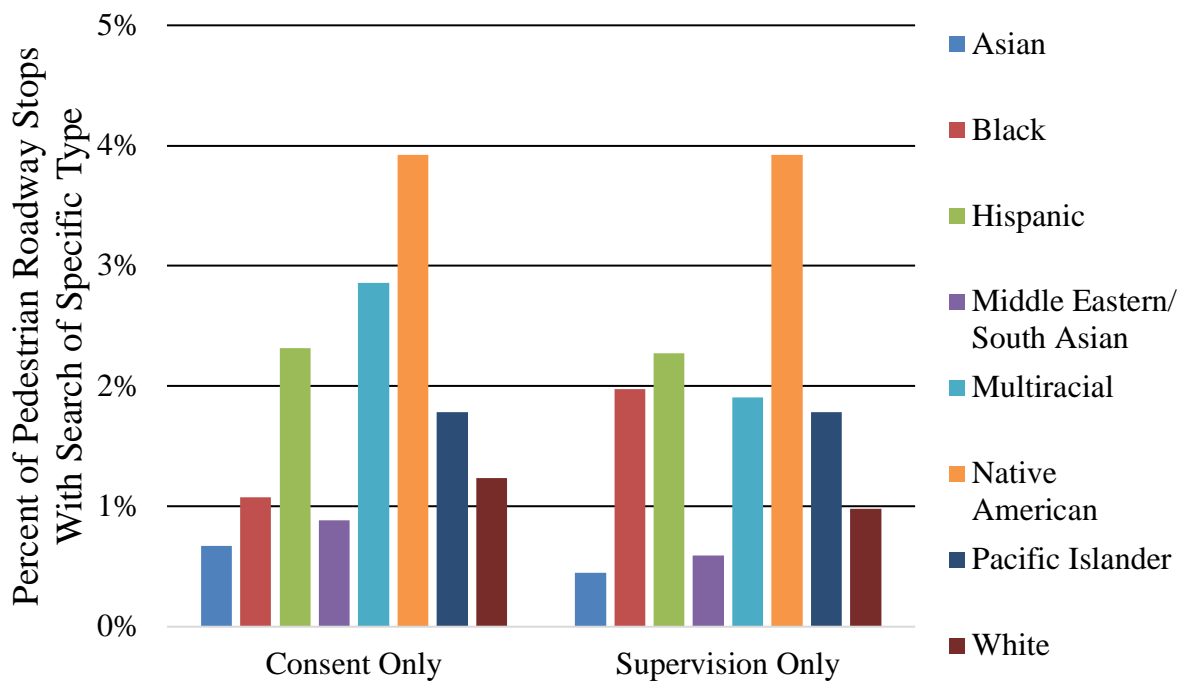
Among the searches occur during pedestrian roadway violation stops, consent only and supervision only searches may be particularly susceptible to bias since officers do not need to have reasonable suspicion or probable cause to conduct those types of searches. A higher percentage of stops resulting in consent or supervision stops could be an indicator that those stops are being used as a pretext to search individuals. Supervision only searches occurred during 1.5 percent of all non-pedestrian roadway stops, while consent only searches occurred during 1.2 percent of all stops made for other reasons. During pedestrian roadway stops, these rates were slightly higher, with 1.6 percent of pedestrian roadway stops involving a supervision only search and the same percentage (1.6%) of pedestrian roadway stops involving a consent only search.

The rates of consent and supervision only searches that occur during stops for pedestrian roadway violations are slightly elevated compared to all other stops, but also vary between racial and ethnic groups. Compared to the average of 1.6 percent of pedestrian roadway stops involving a consent only search, rates of consent only search were higher among pedestrian roadway stops

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of individuals perceived to be Native American (3.9%), Multiracial (2.9%), Hispanic (2.3%), and Pacific Islander (1.8%). Compared to the average consent only search rate during pedestrian roadway violations, rates of consent only stops were lower among individuals perceived to be White (1.2%), Black (1.1%), Middle Eastern/South Asian (0.9%), and Asian (0.7%). Compared to the average of 1.6 percent of pedestrian roadway stops involving a supervision only search, rates of supervision only search were higher among pedestrian roadway stops of individuals perceived to be Native American (3.9%), Hispanic (2.3%), Black (2.0%), Multiracial (1.9%), or Pacific Islander (1.8%). Compared to the average supervision only search rate during pedestrian roadway violations, rates of supervision only stops were lower among individuals perceived to be White (1.0%), Middle Eastern/South Asian (0.6%), or Asian (0.4%).



Stops where an officer takes no action at the conclusion of the stop should be evaluated to assess the reasons for these stops, if they actually promote public safety, and if these enforcement strategies result in disparate treatment of individuals. Overall, pedestrian roadway violation stops typically resulted in action taken as the result of the stop, with just 5.4 percent of stops resulting in no action (i.e. no citation, no warning, no custodial arrest, and no other reportable actions). Pedestrian roadway violation stops more frequently resulted in no action when the person stopped was perceived to be Black (8%), Pacific Islander (7.14%), Hispanic (6.9%), Multiracial (6.7%), or Native American (5.9%). Pedestrian roadway violation stops were less likely to result

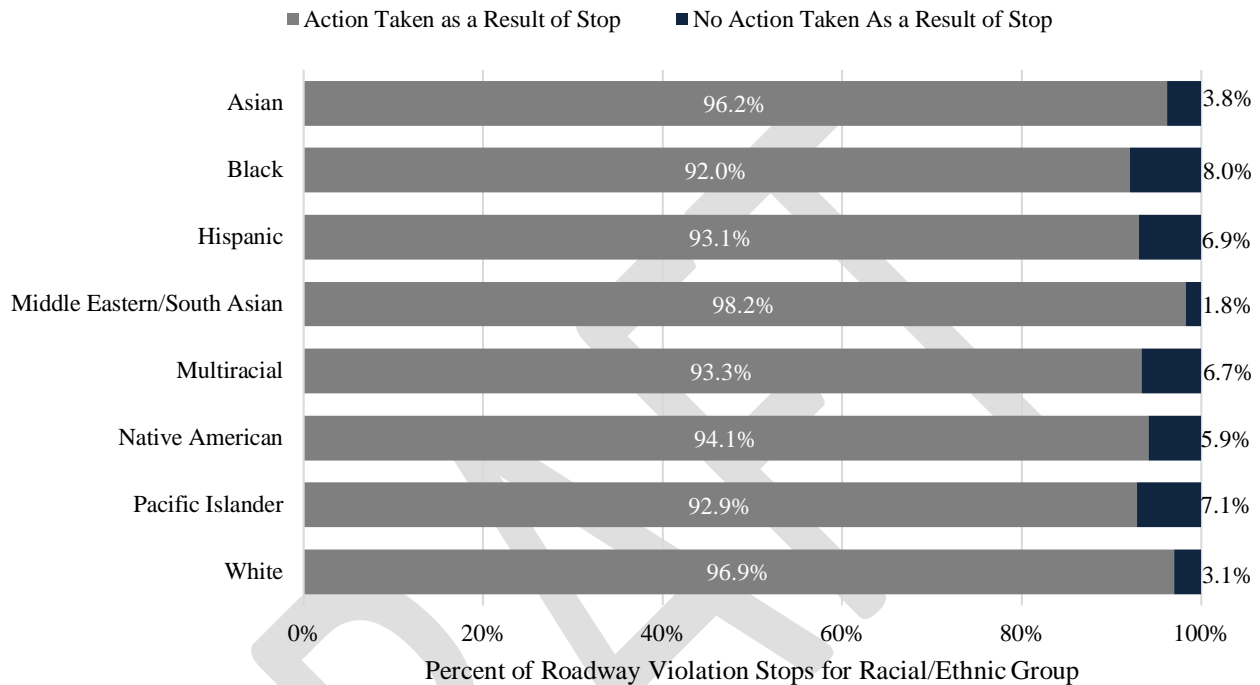
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in no action when individuals were perceived to be Asian (3.8%), White (3.1%), or Middle Eastern/South Asian (1.8%).

**Figure XX**

*Pedestrian Stops – Percent Stops with Action Taken by Race and Ethnicity*



Individuals whom officers stopped and perceived to be Black were 2.6 times as likely to have no action taken at the end of a stop for a pedestrian crossing violation than those who were perceived as White, calling into question if there was a reasonable suspicion of criminal activity prior to initiating the stop. The legislature and community leaders should consider if certain types of pedestrian roadway stops could be decriminalized to address disparities observed in stops for those offenses.

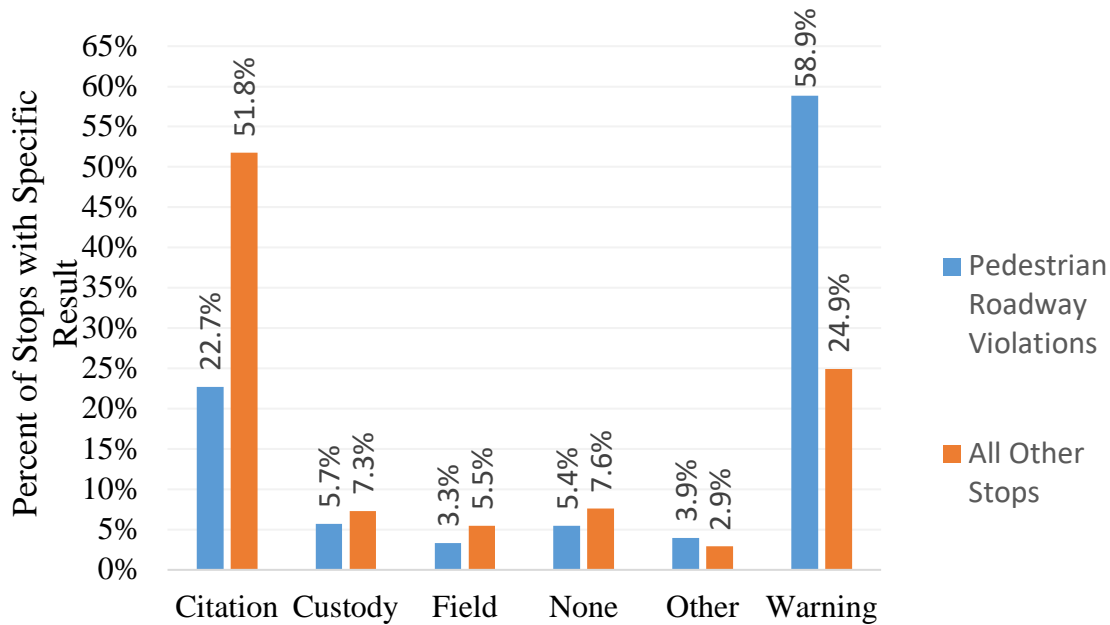
A comparison of the primary results of stops for pedestrian roadway violations with those from all other violation codes could provide evidence of the extent to which pedestrian roadway stops were used as pretext. Pedestrian roadway stops contained a lower citation rate (22.7% compared to 51.8% in all other stops). In contrast, warnings were more common during pedestrian roadway stops (58.9% of stops compared to 24.9% of all other stops). Pedestrian roadway stops less frequently resulted in custodial arrests (5.7% vs 7.3%), in field cite and release (3.3% vs 5.5%), and no action taken (5.4% vs 7.6%) compared to all other stops in aggregate. Other results of stops (field interview cards, contacted homeland security, noncustodial transport, psychiatric hold, contact parent or guardian, referral to school administrator, and referral to school counselor) were collectively more common during pedestrian roadway stops (3.9% vs 2.9%).

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**Figure XX**

*Comparison of Results of Stop – Pedestrian Roadway Stops and All Other Stops*



#### **D. Loitering Related Stops**

Loitering laws, because of their breadth and ambiguity, are also vulnerable to bias.<sup>11</sup> In California, generally it is a crime to loiter or linger on a property without a lawful purpose, giving law enforcement broad discretion to stop a person if there is a reasonable suspicion the person has the intent to commit a crime on the property and does not seem to have a lawful purpose for being there.<sup>12</sup> Overall, loitering violations were reported as the primary reason for stop by officers in 1.03 percent of all stops, or approximately 1 in 97 stops. Loitering violations made up a larger percentage of stops when the individual was perceived to be Black (1.68%), White (1.27%), or Multiracial (1.05%). In contrast, loitering violations made up a smaller percentage of stops when the individuals were perceived to be Native American (0.96%), Hispanic (0.79%), Pacific Islander (0.66%), Asian (0.41%), or Middle Eastern/South Asian (0.30%).

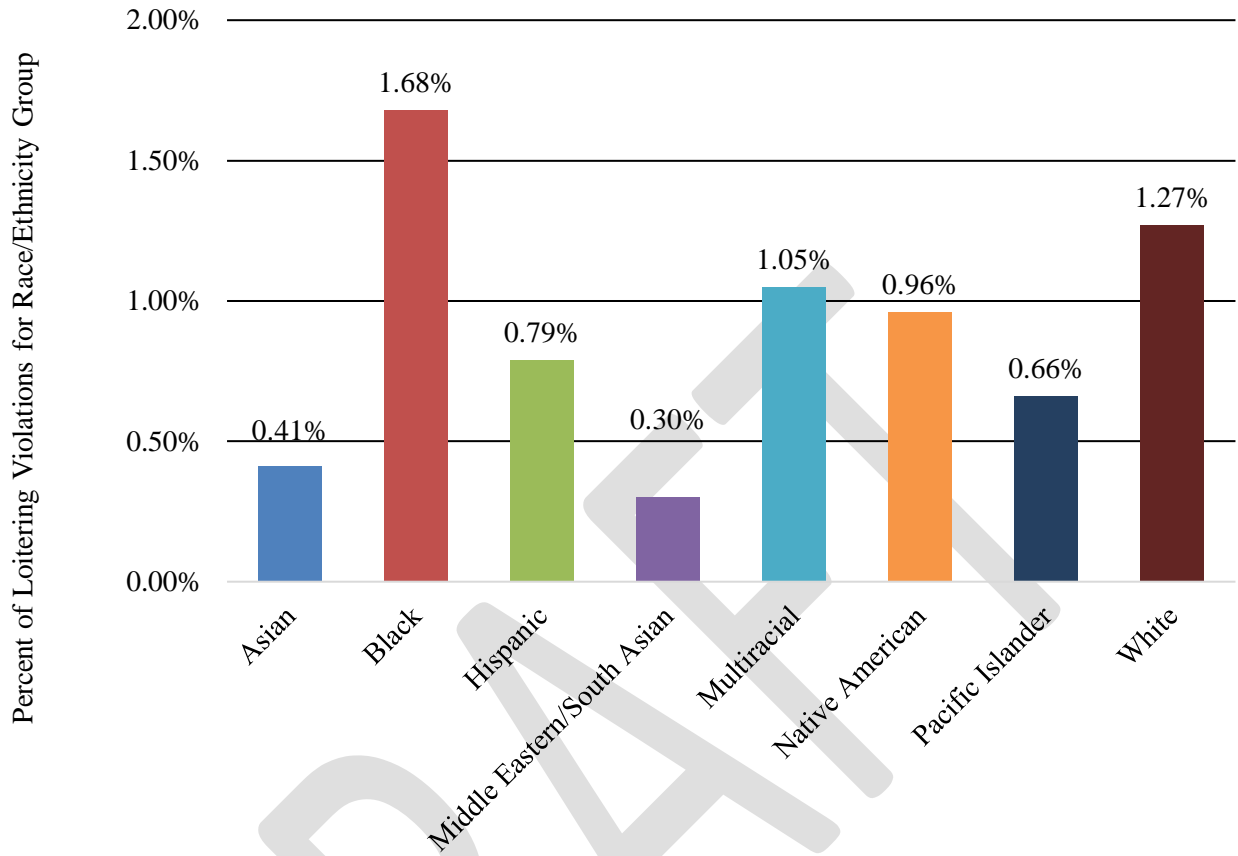
**Figure XX**

*Loitering Stops – Percent Stops for Loitering Related Violations by Race and Ethnicity*

<sup>11</sup> See Pen. Code § 602, 647(B), 647(B)(1), 647(B)(2), 647(C), 647(E), 647(H), 653.22(A), 653.23(A)(1), 653.23(A)(2), 653B(A), 653B(A); Health and Safety Code 11532(A).

<sup>12</sup> See Pen Code § 647(h).





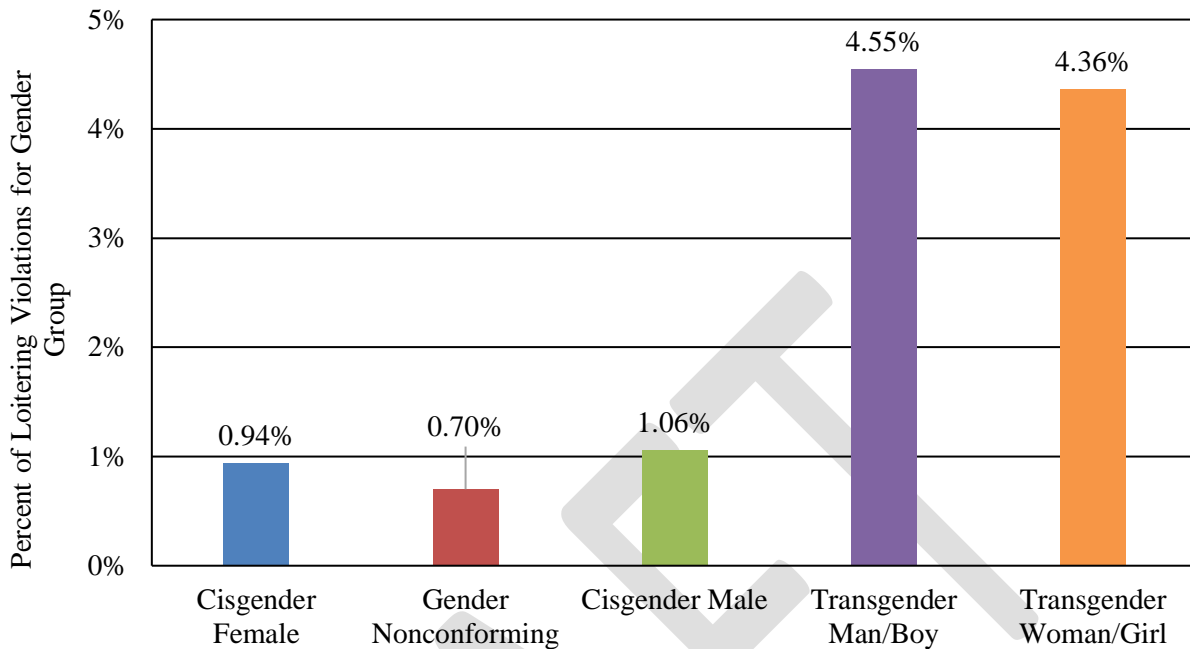
Loitering violations made up a larger percentage of all stops when officers perceived individuals to be Transgender Men/Boys (4.55%) or Transgender Women/Girls (4.36%) – a four times higher percentage of stops that were for loitering than the overall average. Among cisgender males, loitering violations make up a slightly higher than average percentage of all stops (1.06%). In contrast, loitering stops make up a smaller percentage of all stops among individuals perceived to be Cisgender Females (0.94%) and Gender Nonconforming individuals (0.70%).

**Figure XX**

*Loitering Stops – Percent Stops for Loitering Related Violations by Gender*

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In 2022, California passed the Safer Streets for All Act which decriminalized certain loitering offenses in order to address pretextual stops, particularly those of Black and Brown Transgender individuals.<sup>13</sup> The Board applauds the change in the law and hopes to track any changes in disparities or impact the new law may have in addressing it.

Stops for loitering also constituted a disproportionate percentage of stops of persons whom officers perceived to have a disability or disabilities, when compared to persons whom officers perceive not to have a disability. Loitering violations made up a larger percentage of all stops when officers perceived individuals to be have a mental health disability (6.04%) or another disability (4.04%). Among individuals whom officers perceived to not have a disability, loitering was reported as the primary reason for stop for 0.98 percent of stops.

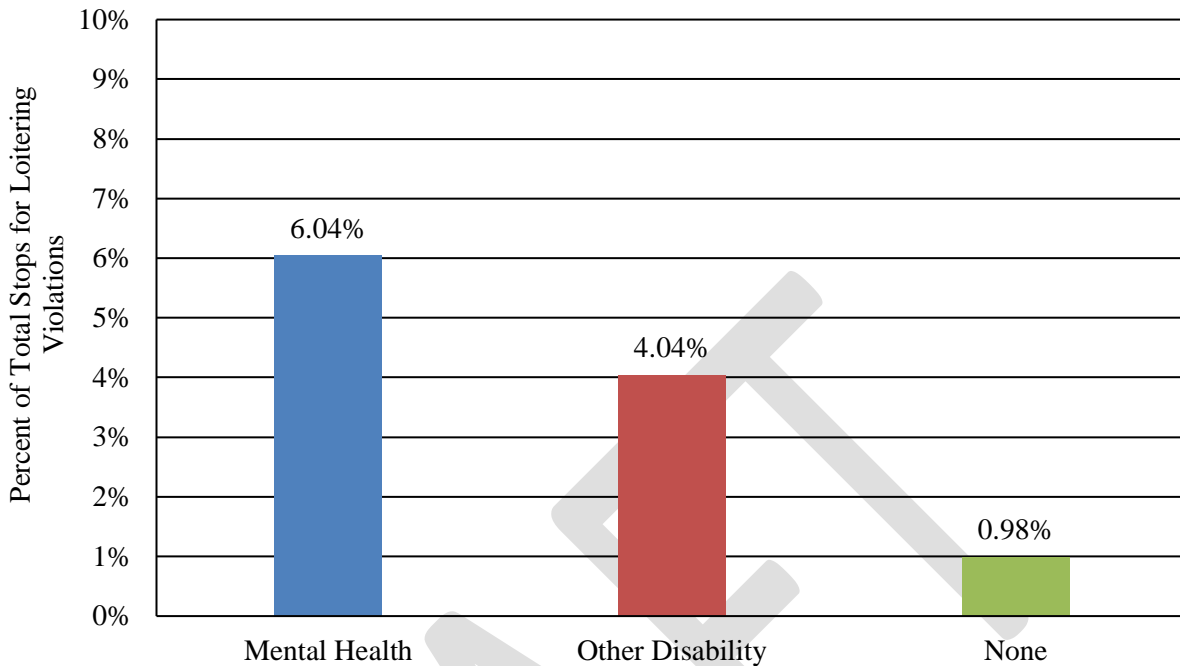
**Figure XX**

*Loitering Stops – Percent Stops for Loitering Related Violations by Perceived Disability*

<sup>13</sup> See Sen. Bill No. 357 (2021-2022 Reg. Sess.).

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Here, loitering stops make up a 6 times larger percentage of total stops for people with perceived mental health disabilities and a 4 times larger percentage of total stops for people with another disability compared to those perceived to have no disabilities.

During stops for loitering violations the rates of search, curbside or patrol car detention, and of being handcuffed were much higher compared to all other stops.<sup>14</sup> When officers stopped individuals for loitering violations, they performed searches during 34.8 percent of stops compared to 11.6 percent in all other stops. Similarly, when officers stopped individuals for loitering violations they performed detentions during 46.2 percent of stops, compared to 10.9 percent in all other stops. Finally, when officers stopped individuals for loitering violations they handcuffed an individual during 34.6 percent of stops compared to 9.5 percent in all other stops. During stops for loitering related offenses, officers were 3 times as likely to perform a search, 4.2 times as likely to detain the individual, and 3.6 times as likely to handcuff the individual compared to all other stops.

Examining the actions taken during a stop towards a particular identity group for the same charge can help shed further light on if a practice results in disparate treatment. When officers stopped individuals for loitering, they performed searches during 34.8 percent of stops, detentions during 46.2 percent of stops, and handcuffed an individual during 34.6 percent of

<sup>14</sup> Officers may sometimes order that pedestrians wait curbside while the officers perform tasks, such as using mobile data terminals or writing citations. In some cases, officers may forgo this type of request during comparable stops of motorists, instead asking that the motorist to wait in their vehicle.

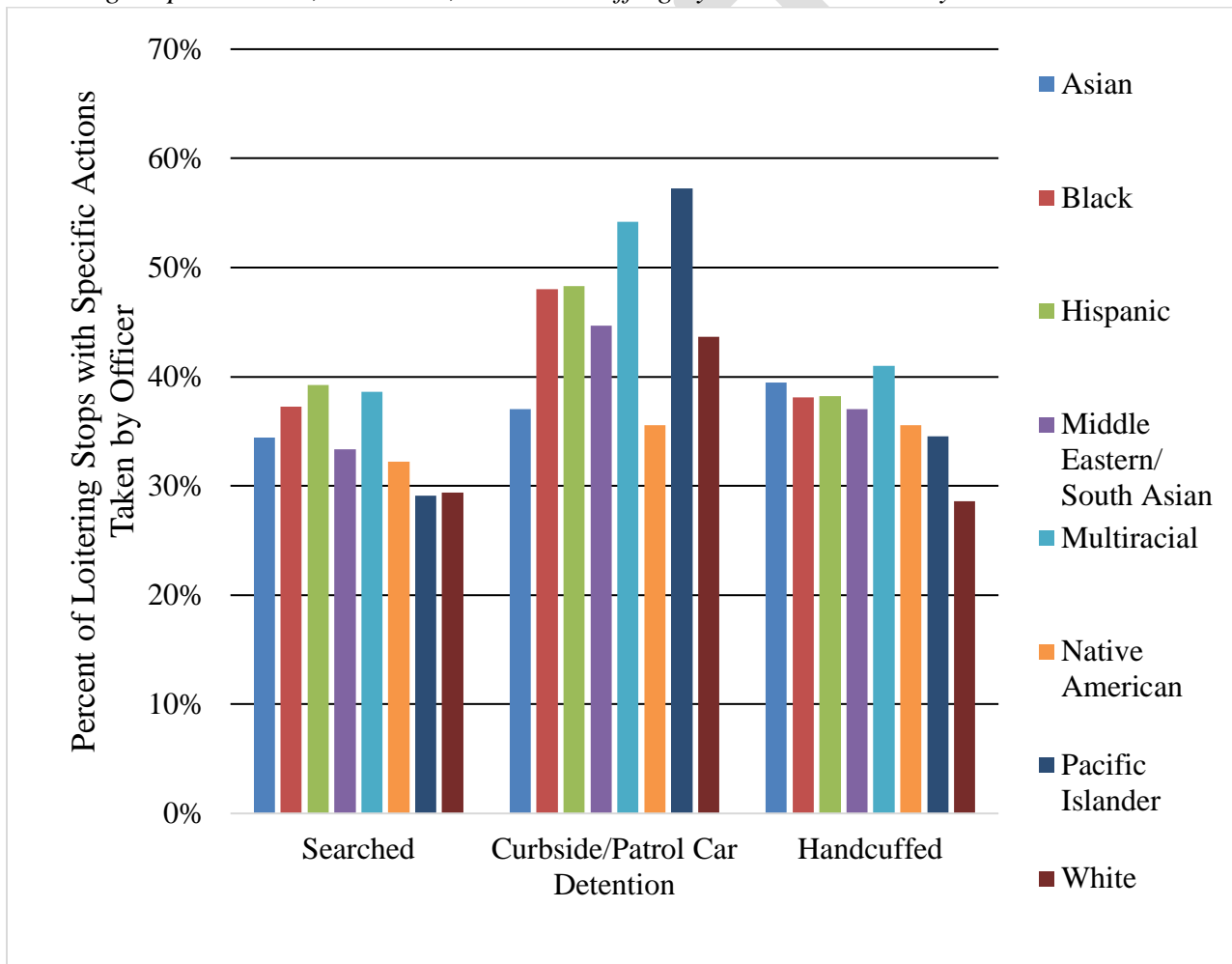
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stops. Compared to these averages, individuals perceived to be Multiracial, Black, or Hispanic were even more likely to be searched, detained, and handcuffed during a stop for a loitering offense. During stops for loitering, individuals perceived to be Asian or Native American are searched and detained with lower frequencies but were more commonly handcuffed than the average. Individuals perceived to be Pacific Islander are searched and handcuffed less, but more frequently detained during stops for loitering. In contrast, individuals perceived to be White are less likely to be searched, detained, or handcuffed during stops for loitering-related violations compared to the averages across race/ethnicity groups.

**Figure XX**

*Loitering Stops – Search, Detention, and Handcuffing by Race and Ethnicity*



Here, despite being stopped for the same set of violation codes, those who are Multiracial, Black, or Hispanic/Latine(x) were more likely to have certain actions taken against them. This supports the position that bias may play a role in who is searched, handcuffed, or detained on the curb or inside a patrol car.

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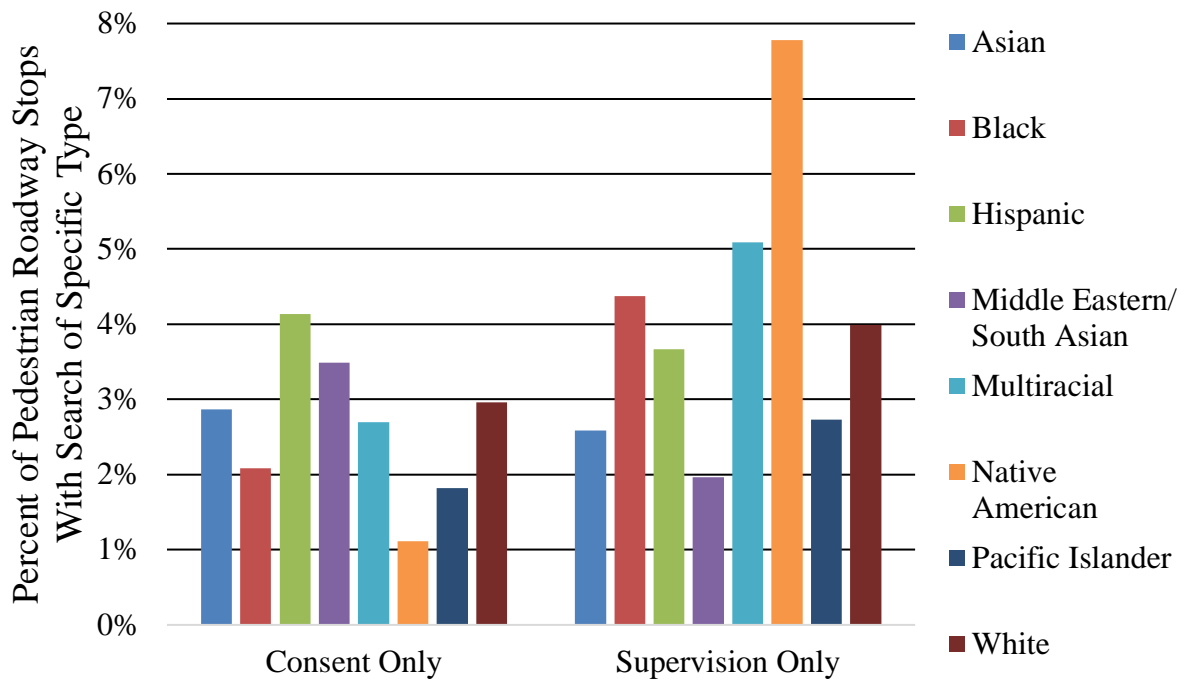
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Among the searches occurring during loitering violation stops, consent only and supervision only searches may be particularly susceptible to bias since officers do not need to have reasonable suspicion or probable cause to conduct those types of searches. Supervision only searches occurred during 1.5 percent of all non-loitering stops, while consent only searches occurred during 1.2 percent of all non-loitering stops. During loitering stops, these rates were substantially higher, with 3.9 percent of loitering stops involving a supervision only search and 3.1 percent of loitering stops involving a consent only search.

The rates of consent and supervision only searches that occur during stops for loitering violations are elevated compared to all other stops, but also vary between racial and ethnic groups. Compared to the average of 3.1 percent of loitering stops involving a consent only search, rates of consent only search were higher among loitering stops of individuals perceived to be Hispanic (4.1%) or Middle Eastern/South Asian (3.5%). Compared to the average consent only search rate during loitering stops, rates of consent only stops were lower among individuals perceived to be White (3.0%), Asian (2.9%), Multiracial (2.7%), Black (2.1%), Pacific Islander (1.8%), and Native American (1.1%). Compared to the average of 3.9 percent of loitering stops involving a supervision only search, rates of supervision only search were higher among individuals perceived to be Native American (7.8%), Multiracial (5.1%), Black (4.4%), and White (4.0%). Compared to the average supervision only search rate during loitering violations, rates of supervision only stops were lower among individuals perceived to be Hispanic (3.7%), Pacific Islander (2.7%), Asian (2.6%), and Middle Eastern/South Asian (2.0%).

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A comparison of the results of loitering violation stops with those from all other stops could provide evidence of the extent to which loitering stops were used as pretext. Loitering stops contained a much lower citation rate (2.8% compared to 52.1% in all other stops). This means that during a non-loitering stop, an individual is 18.6 times as likely to receive a citation as a result of the stop when compared to a stop for loitering.

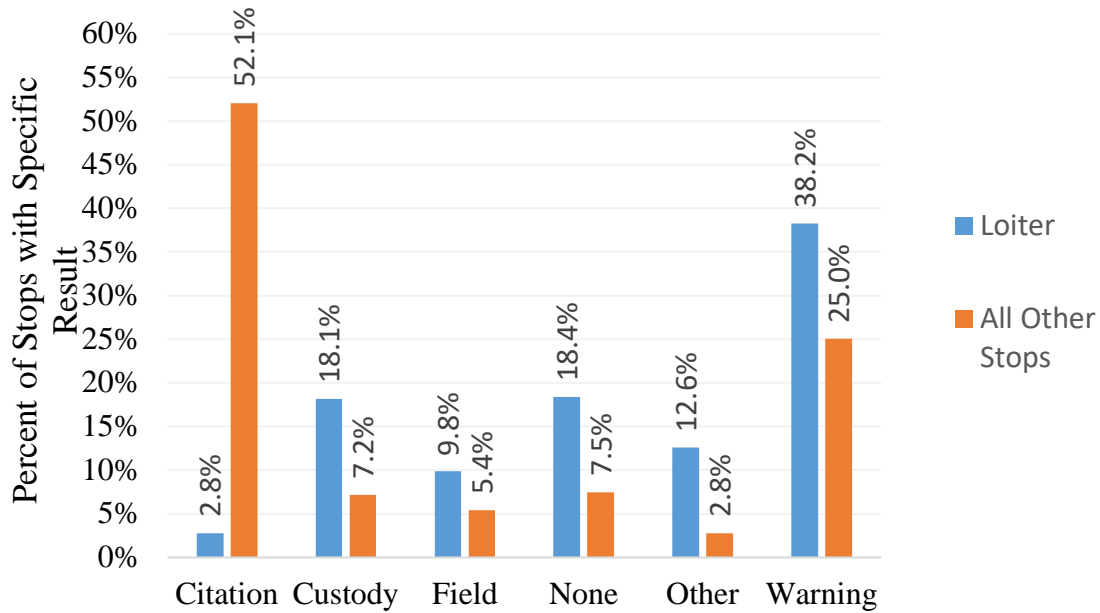
In contrast, all other results of stop were more common during stops for loitering including warnings (38.2% of stops compared to 25.0% of all other stops). Loitering stops more frequently resulted in custodial arrests (18.1% vs 7.2%), in field cite and release (9.8% vs 5.4%), and no action taken (18.4% vs 7.5%) compared to all other stops in aggregate. Other results of stops (field interview cards, contacted homeland security, noncustodial transport, psychiatric hold, and contact parent or guardian, referral to school administrator, and referral to school counselor) were collectively more common during loitering stops (12.6% vs 2.8%).

**Figure XX**

*Comparison of Results of Stop – Loitering Stop and All Other Stops*

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Given these disparities, leaders should consider the harm to the community caused by loitering stops and the benefit these stops have, if any, in improving public safety. The California legislature has already taken steps to decriminalize some loitering stops related to sex work, but they may wish to consider additional measures or charges that could be decriminalized such as loitering generally.

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