

YES, YOUR BROKEN TAILLIGHT DOES MATTER: WHY ENFORCEMENT OF MINOR TRAFFIC VIOLATIONS IS INTEGRAL FOR A SAFE SOCIETY

Richard Berner

I. INTRODUCTION

“At his best, man is the noblest of all animals; separated from law and justice he is the worst.”¹ These words serve as a reminder that within the framework of law and order, human beings are the most spectacular creatures to walk the face of the Earth. Outside of this framework, we are no greater than the most savage of beasts. The United States has historically faced challenges with the presence of racial bias within the legal system.² In particular, traffic laws have been subject to uneven enforcement across the country, with one study indicating that black drivers were approximately twenty percent more likely to be pulled over than their white counterparts, relative to their share of the population.³ To combat this disparity, cities across the country have enacted reforms to prevent law enforcement from pulling over drivers for minor traffic violations.⁴

These reforms have come in a variety of forms. The Commonwealth of Virginia passed legislation that amended its vehicle code, precluding police from pulling over motorists for

¹ Christoph Schulz, *Aristotle Quotes-36 Inspirational Wisdoms and Sayings of the Greek Philosopher*, CAREELITE (June 1, 2022), <https://www.careelite.de/en/aristotle-quotes-sayings-wisdom/>.

² Grutter v. Bollinger, 539 U.S. 306, 345 (2003) (Ginsburg, J., concurring) (“It is well documented that conscious and unconscious race bias . . . remain alive in our land, impeding realization of our highest values and ideals.”).

³ *Research Shows Black Drivers More Likely to be Stopped by Police*, NYU (May 5, 2020), <https://www.nyu.edu/about/news-publications/news/2020/may/black-drivers-more-likely-to-be-stopped-by-police.html>.

⁴ David D. Kirkpatrick et al., *Cities Try to Turn the Tide on Police Traffic Stops*, N.Y. TIMES (Apr. 15, 2022), <https://www.nytimes.com/2022/04/15/us/police-traffic-stops.html>.

defective tail and brake lights, among other infractions.⁵ In Philadelphia, the City Council passed an ordinance that changed the city's vehicle code, making it impermissible for law enforcement to pull over motorists for strictly "secondary violations."⁶ These infractions include operating a vehicle without a valid inspection, as well as possessing a defective bumper.⁷ Other jurisdictions have taken a more informal approach, such as the city of Seattle, where Seattle's police department simply stated that it would deprioritize the enforcement of minor traffic violations.⁸

There is some disagreement as to whether practices concerning enforcement of minor traffic violations should be reformed in this country. Individuals who support deprioritizing the enforcement of minor traffic violations believe that these measures will remedy racial inequities in traffic stops without jeopardizing public safety.⁹ They argue that these reforms are long overdue.¹⁰ However, those opposed believe that deprioritizing the enforcement of minor traffic violations is "ill-considered and dangerous."¹¹ These individuals think that traffic enforcement is a useful tool that saves lives, furthers criminal investigations, and cuts down on street disorder.¹²

This comment will put forth the argument that jurisdictions should not pass reforms that restrict police from enforcing minor traffic violations as these measures have negative impacts on public safety. Section II will review problematic inconsistencies in traffic enforcement. Section III will describe measures that jurisdictions

⁵ Act of November 9, 2020, ch. 45, §§ 46.2-1013 to -14, 2020 Va. Acts 7, 8.

⁶ PHILA., PA., CODE §12-1703(3) (effective Feb. 24, 2022).

⁷ *Id.* §12-1702(2)(f)-(g).

⁸ Sara Jean Green, *Seattle Police Will No Longer Enforce Some Minor Traffic Violations*, POLICE1 (Jan. 18, 2022, 9:39 AM), <https://www.police1.com/patrol-issues/articles/seattle-police-will-no-longer-enforce-some-minor-traffic-violations-AtJzjC7QPYhEiVdC/>.

⁹ Kim Bellware, *Minneapolis Police to Curb Minor Traffic Stops, Long Cited by Critics as Racial Profiling*, WASH. POST (Aug. 13, 2021, 8:48 PM), <https://www.washingtonpost.com/nation/2021/08/13/minneapolis-police-traffic-stops/>.

¹⁰ *Id.*

¹¹ John Hall, *Why Police Need to Enforce Traffic Laws*, MANHATTAN INST. 1 (Sept. 14, 2021), <https://www.manhattan-institute.org/hall-why-police-need-enforce-traffic-laws>.

¹² *Id.*

have taken to restrict law enforcement from pursuing minor traffic offenses. Section IV will examine arguments in support of continued enforcement of minor violations and will highlight the benefits that accompany enforcement of traffic violations. Section V will suggest alternative reforms that can be implemented to address the racial disparity in traffic enforcement, without having to eliminate or modify the enforcement of minor traffic laws. Finally, section VI of this comment will conclude that while these alternative reforms may take time before they become effective, they are better at combating racism in policing practices than prohibitions on the enforcement of minor traffic laws.

II. THE FOURTH AMENDMENT AND TRAFFIC STOPS

Traffic stops are by far the most prevalent manner in which law enforcement has contact with the general public.¹³ For context, of the 61.5 million people aged sixteen or older who had contact with police in 2018, twenty-five million of those individuals were either drivers or passengers subject to traffic stops.¹⁴ These encounters can prove dangerous for police and civilian motorists. When looking at the danger to law enforcement, one study demonstrated that in the context of routine traffic stops, the rate at which an officer would experience an assault by an occupant of the car was one in every 6,959 stops.¹⁵ Considering that there are about twenty-five million traffic stops a year, this ratio demonstrates a staggering number of assaults on police officers during traffic stops.

Civilians have also been exposed to the dangers inherent in traffic stops. From approximately 2016 to 2021, law enforcement officers have killed over 400 drivers or passengers who were not in

¹³ Bob Harrison, *Stop, Start, or Continue? A National Survey of the Police About Traffic Stops*, RAND BLOG (June 30, 2021), <https://www.rand.org/blog/2021/06/stop-start-or-continue-a-national-survey-of-the-police.html>.

¹⁴ *Id.*

¹⁵ Jordan Blair Woods, *Policing, Danger Narratives, and Routine Traffic Stops*, 117 MICH. L. REV. 635, 683 (2019).

possession of a weapon or under pursuit for a violent offense.¹⁶ Public awareness of the issues surrounding traffic enforcement for minor violations has increased significantly over the past few years, as evidenced by the extensive media coverage surrounding the deaths of Daunte Wright and Philando Castile.¹⁷ Daunte Wright was an individual who was pulled over for having expired registration tags and was eventually killed after an incident with police.¹⁸ Philando Castile's case is dishearteningly similar, as he was pulled over for a defective brake light before a misunderstanding with police resulted in his death.¹⁹ These incidents highlight the extreme outcomes that can occur when officers conduct traffic stops based on minor traffic violations. While these incidents seem to be a relatively modern phenomenon, the legal groundwork that has led to their prevalence has been around for decades.²⁰

A. *The Advent and Progression of Pretextual Traffic Stops*

The Fourth Amendment of United States Constitution provides for the people "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures . . .".²¹ Precedent set by the Supreme Court of the United States established that there is a seizure under the Fourth Amendment when the police pull over a car and detain its occupants.²² When law enforcement officers conduct a traffic stop, the stop must be reasonable.²³ The Court has found that an automobile stop is reasonable when law

¹⁶ David D. Kirkpatrick et al., *Why Many Police Traffic Stops Turn Deadly*, N.Y. TIMES (Oct. 31, 2021), <https://www.nytimes.com/2021/10/31/us/police-traffic-stops-killings.html>.

¹⁷ See *What to Know on the Death of Daunte Wright*, N.Y. TIMES (Feb. 21, 2022), <https://www.nytimes.com/article/daunte-wright-death-minnesota.html>; see also *Philando Castile Death: Police Footage Released*, BBC (June 21, 2017), <https://www.bbc.com/news/world-us-canada-40357355>.

¹⁸ *What to Know on the Death of Daunte Wright*, *supra* note 17.

¹⁹ *Philando Castile Death: Police Footage Released*, *supra* note 17.

²⁰ See generally *Whren v. United States*, 517 U.S. 806 (1996).

²¹ U.S. CONST. amend. IV.

²² *Delaware v. Prouse*, 440 U.S. 648, 653 (1979).

²³ *Whren*, 517 U.S. at 810.

enforcement has probable cause to suspect that a traffic infraction has transpired.²⁴

With these principles established, the Court examined the constitutionality of pretextual stops in *Whren v. United States*.²⁵ In *Whren*, police were on patrol in a “high drug area” when they drove past a truck that had temporary license plates and young occupants who were waiting at a stop sign for more than twenty seconds.²⁶ Law enforcement turned around in order to return to the truck, and when they did so, the vehicle took a turn without using its turn signal.²⁷ A traffic stop was conducted and two bags of suspected narcotics were in plain view.²⁸ Petitioners asserted that the stop was illegal, arguing in part that the police used a pretextual ground for stopping the vehicle since both occupants were black.²⁹ The Court held that the actual motivations of the officers who conducted the traffic stop are irrelevant in determining whether the stop was constitutionally reasonable.³⁰ Instead, all the police must establish to demonstrate reasonableness is that they possessed probable cause to suspect that a traffic violation has occurred.³¹

In practice, the Court’s decision in *Whren* “insulates pretextual traffic stops from Fourth Amendment challenges.”³² It is this legal protection afforded to pretextual stops that has caused concern over the enforcement of minor traffic offenses. The Court’s decision in *Whren* is thus a gateway for police to exercise their immense discretion in the realm of traffic enforcement. The Court has previously held that once a law enforcement officer has lawfully detained a motorist pursuant to a traffic stop, they may order that driver out of the vehicle at their discretion.³³ The Court has also found that police officers making a traffic stop have the authority to

²⁴ *Id.*

²⁵ *Id.* at 808.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 808-09.

²⁹ *Whren*, 517 U.S. at 809-10.

³⁰ *Id.* at 813.

³¹ *Id.* at 818-19.

³² Lewis R. Katz, “*Lonesome Road*”: *Driving Without the Fourth Amendment*, 36 SEATTLE UNIV. L. REV. 1413, 1415 (2013).

³³ *Pennsylvania v. Mimms*, 434 U.S. 106, 111 (1977).

require a passenger to exit the automobile until the stop is complete.³⁴

Further, the Court has held that if a police officer has the requisite “probable cause to believe that an individual has committed even a minor criminal offense[,]” such as a violation of a traffic law, that officer may arrest the perpetrator without having violated the Fourth Amendment.³⁵ These decisions demonstrate that it is possible for a law enforcement officer to be able to pull over a driver for a minor traffic violation regardless of their motivation, order them and their passengers out of the vehicle, and then potentially arrest them for that offense, all without violating the United States Constitution.

B. Consequences of Allowing Pretextual Stops

The Court’s decision in *Whren* came with a number of consequences that the Justices were likely unable to predict. The results from a 2011 United States Department of Justice study showed that seventy-four percent of Hispanic drivers and sixty-seven percent of black drivers believed that the reasons for their traffic stops were legitimate.³⁶ When pulled over for an illegal turn or lane change, the numbers fall, with only sixty-five percent of black drivers believing that the police had an appropriate reason for conducting the stop.³⁷ This extreme distrust of police in traffic enforcement among primarily black drivers has severe consequences. The National Institute of Justice has found that public distrust of law enforcement undermines the legitimacy of the police across the country.³⁸ This lack of legitimacy is detrimental to law enforcement’s “ability and authority to function” as an effective unit in our society.³⁹

³⁴ *Maryland v. Wilson*, 519 U.S. 408, 415 (1997).

³⁵ *Atwater v. City of Lago Vista*, 532 U.S. 318, 354 (2001).

³⁶ Lynn Langton & Matthew Durose, *Police Behavior During Traffic and Street Stops*, 2011, U.S. DEP’T JUST. 3-4 (2016).

³⁷ *Id.* at 4.

³⁸ *Race, Trust and Police Legitimacy*, NAT’L INST. JUST. (Jan. 9, 2013), <https://nij.ojp.gov/topics/articles/race-trust-and-police-legitimacy>.

³⁹ *Id.*

While this distrust and negativity surrounding law enforcement hampers law enforcement's ability to operate effectively, it also has a catastrophic impact on the ability of police to recruit and maintain members.⁴⁰ A 2021 survey found that out of the law enforcement agencies surveyed, there was a forty-five percent increase in retirements and an eighteen percent increase in resignations as compared to 2020.⁴¹ One of the key factors that led to this increase was "[n]egativity surrounding law enforcement in general."⁴² Another report found similar issues with police hiring, noting that out of the agencies surveyed, seventy-eight percent admitted to having difficulty hiring eligible officers, and a staggering fifty percent reported to having changed their policies to increase the number of appropriate candidates.⁴³ While on the surface it may appear as if traffic stops have a limited impact on our society, their reach is felt across the country. Traffic stops contribute to the overall attitude that the public has toward law enforcement, and as a result, have a direct impact on the ability of the police to not only operate efficiently, but to hire qualified officers.⁴⁴

III. MEASURES TAKEN TO ELIMINATE TRAFFIC STOPS FOR MINOR VIOLATIONS

With the issues caused by the occurrence of pretextual stops, jurisdictions across the country have instituted reforms that are aimed at prohibiting law enforcement from conducting traffic stops for minor violations.⁴⁵ These reforms are being introduced not only at the city level, at the state level as well.⁴⁶ These jurisdictions

⁴⁰ Columbia S. Univ., *Current Issues in Law Enforcement: What Will Departments Face in 2022?*, THE LINK (Feb. 14, 2022), <https://www.columbiasouthern.edu/blog/blog-articles/2022/february/current-issues-in-law-enforcement/>.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Erin Killeen, *Traffic Stops and Discriminatory Policing in the United States*, GEO. J. ON POVERTY L. & POL'Y (Apr. 26, 2018), <https://www.law.georgetown.edu/poverty-journal/blog/traffic-stops-and-discriminatory-policing-in-the-united-states/>.

⁴⁵ See Kirkpatrick et al., *supra* note 4.

⁴⁶ *Id.*

include the Commonwealth of Virginia, and the cities of Philadelphia, Pittsburgh, Seattle, Los Angeles, Lansing, Berkeley, Minneapolis and Portland.⁴⁷ Each of these entities have passed unique legislation or reforms that have had a direct impact on law enforcement's ability to police minor traffic infractions in their respective jurisdictions.⁴⁸

A. Virginia

Virginia became one of the first states to pass a statewide reform of its vehicle code when it approved H 5058 in November 2020.⁴⁹ The legislation passed revised code sections, precluding law enforcement officers from pulling over drivers for certain infractions.⁵⁰ These infractions include possessing items that obstruct a driver's view, having a defective exhaust system, possessing an expired vehicle inspection sticker unless four months have passed since expiration, and having broken brake lights.⁵¹ Other infractions that are also precluded from enforcement include pulling over a vehicle for marijuana odor, having occupants in the front seats of a vehicle not wearing a seat belt, having darker than permitted window tint, smoking in a car with a minor present, or having an expired registration sticker unless four months have passed since expiration.⁵² The language that was added to these code sections states that “[n]o . . . law-enforcement officer shall stop a motor vehicle for a violation of this section. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.”⁵³

⁴⁷ *Id.*; see generally Bellware, *supra* note 9; see also Jonathan Maus, *Portland Police Will De-emphasize Minor Traffic Violations in Move Toward Racial Justice*, BIKEPORTLAND (June 22, 2021), <https://bikeportland.org/2021/06/22/portland-police-will-de-emphasize-minor-traffic-violations-in-move-toward-racial-justice-334064>.

⁴⁸ See Kirkpatrick et al., *supra* note 4.

⁴⁹ Act of November 9, 2020, ch. 45, 2020 Va. Acts 1.

⁵⁰ *Id.*

⁵¹ *Id.* at 8-12.

⁵² *Id.* at 1-2, 6-7, 9-11.

⁵³ *Id.* at 3.

Supporters of the legislation argued that those infractions that were the subject of the amendments were historically used by law enforcement to stop drivers for narcotics investigations and disproportionately targeted minorities.⁵⁴ Virginia State Delegate Patrick Hope, the legislator who introduced the bill in the Virginia House, stated that enforcement of minor infractions leads to a disproportionate number of traffic stops involving minorities.⁵⁵ In Hope's opinion, this disparity in traffic stops contributes to the higher incarceration rate among people of color.⁵⁶

B. Philadelphia

The city of Philadelphia became the first major metropolis to prevent law enforcement from pulling over motorists for minor traffic infractions when Mayor Jim Kenney signed the Driving Equity Act in late 2021.⁵⁷ The legislation was spearheaded by Philadelphia councilmember Isaiah Thomas, who found the current system unacceptable based on his own personal experience of being pulled over by the police for an "unjustifiable reason."⁵⁸ The legislative intent section of the Act states that the purpose of the legislation is to "further the just, equitable, and fair enforcement of the law for all people, to provide for the fair and transparent administration of the code with respect to all, to prevent racial disparities, and to protect public safety in a manner consistent with these values."⁵⁹

⁵⁴ Jessica Jewell, *New Law Bans Police from Pulling Over Virginia Drivers Solely for Certain Car Safety Violations*, WSLS (Mar. 1, 2021, 5:21 PM), <https://www.wsls.com/news/local/2021/03/01/new-law-bans-police-from-pulling-over-virginia-drivers-solely-for-certain-car-safety-violations/>.

⁵⁵ Ned Oliver, *Virginia Lawmakers Pass Bill Limiting Pretextual Traffic Stops, Barring Searches Based on Smell of Marijuana*, VA. MERCURY (Oct. 2, 2020, 5:21 PM), <https://www.virginiamercury.com/2020/10/02/virginia-lawmakers-pass-bill-banning-pretextual-traffic-stops-and-searches-based-on-the-smell-of-marijuana/>.

⁵⁶ *Id.*

⁵⁷ Jonaki Mehta, *Why Philadelphia has Banned Low-Level Traffic Stops*, NPR, (Nov. 8, 2021, 3:35 PM), <https://www.npr.org/2021/11/08/1052957246/why-philadelphia-has-banned-low-level-traffic-stops>.

⁵⁸ *Id.*

⁵⁹ PHILA., PA., CODE §12-1701 (effective Feb. 24, 2022).

This new piece of legislation amends the Philadelphia Traffic Code by placing traffic violations into two distinct categories: primary violations and secondary violations.⁶⁰ Under the new ordinance, police are allowed to pull over motorists for a primary violation⁶¹ alone, but are only able to pull someone over for a secondary violation if they also observe a primary violation at the same time.⁶² Secondary violations include operating a vehicle without evidence of an emission inspection, having obstructions present in the vehicle, driving the vehicle without an inspection sticker, or having a single brake or head light burned out.⁶³ Other secondary violations include possessing a defective bumper, having an unsecure registration plate, and having an expired registration if the vehicle has been previously registered within sixty days of the infraction.⁶⁴

C. Pittsburgh

Another Pennsylvania city that passed measures to prevent police from pulling over drivers for minor offenses was the City of Pittsburgh.⁶⁵ In November of 2021, Pittsburgh City Councilman Ricky Burgess introduced legislation that would preclude Pittsburgh law enforcement from being able to pull over drivers within the city for certain minor traffic offenses.⁶⁶ The Pittsburgh city councilmembers who were in support of this legislation asserted that it would remedy the issue concerning how often minorities are pulled over in the city.⁶⁷ Other supporters believe that this legislation has the potential to reduce the chance that traffic stops

⁶⁰ *Id.* §12-1702.

⁶¹ *Id.* §12-1703(2) (A primary violation includes an infraction of the Pennsylvania Vehicle Code, which is observed within the city, but which does not constitute one of the enumerated secondary violations).

⁶² *Id.* §12-1703(3).

⁶³ *Id.* §12-1702(2).

⁶⁴ *Id.*

⁶⁵ Julia Felton, *Pittsburgh Bans Traffic Stops for Minor Violations*, TRIBLIVE (Dec. 28, 2021, 8:01 PM), <https://triblive.com/local/pittsburgh-bans-traffic-stops-for-minor-violations/>.

⁶⁶ *Id.*

⁶⁷ *Id.*

turn into more deadly encounters between civilians and law enforcement.⁶⁸

The legislation mirrors that of the Philadelphia Driving Equity Act by defining violations of the vehicle code as either primary or secondary violations.⁶⁹ This law also carries with it a legislative intent section that is duplicative of the one in the Philadelphia ordinance.⁷⁰ Like the Philadelphia legislation, Pittsburgh police may initiate a traffic stop for a primary violation⁷¹ alone, but may only pursue enforcement of a secondary violation if they simultaneously observe a primary violation.⁷² Under the new Pittsburgh legislation, a secondary violation includes operating an automobile without evidence of a valid inspection or emission inspection if the vehicle had been previously compliant within sixty days of the violation, possessing a defective bumper, having an obstruction present in the vehicle, maintaining an unsecure registration plate, or having a single head or brake light that does not properly illuminate.⁷³ Possessing an expired registration if the vehicle had been previously registered within sixty days of the infraction is another secondary violation under the Pittsburgh ordinance.⁷⁴

D. Seattle

Seattle has taken a more informal approach to limiting the ability of police officers to enforce minor traffic infractions. In January of 2022, Seattle Chief of Police Adrian Z. Diaz sent a letter to the Seattle Inspector General Lisa Judge concerning his department's plans on handling minor traffic violations.⁷⁵ Diaz stated that he believed that there needs to be measures taken in the

⁶⁸ *Id.*

⁶⁹ PITTSBURGH, PA., CODE §503.17(b) (2023).

⁷⁰ *Id.* §503.17(a).

⁷¹ *Id.* §503.17(c)(2) (A primary violation includes an infraction of the Pennsylvania Vehicle Code, which is observed within the city, but which does constitute one of the enumerated secondary violations).

⁷² *Id.* §503.17(c)(3).

⁷³ *Id.* §503.17(b)(2).

⁷⁴ *Id.*

⁷⁵ Letter from Adrian Z. Diaz, Seattle Chief of Police, to Lisa Judge, Seattle Inspector Gen. (Jan. 14, 2022).

city to “deprioritize low-risk public safety violations.”⁷⁶ Chief Diaz noted that these “low-risk public safety violations” include having items hanging from a rear-view mirror, possessing a missing or expired automobile registration, or having a bike helmet violation.⁷⁷ Under Diaz’s guidance, these violations no longer serve as sufficient grounds for police officers to conduct traffic stops.⁷⁸

In support of his new position, Diaz reasoned that these infractions are not directly linked to the safety of the community in Seattle.⁷⁹ Diaz also expressed his concern that these violations tend to disproportionately fall on lower income individuals who may be unable to pay certain financial penalties under the law.⁸⁰ While these specific violations in and of themselves are not sufficient grounds for police to be able to initiate a traffic stop, Seattle Police are still able to enforce these infractions if they view another primary violation occurring at the same time as the minor infraction.⁸¹

E. Los Angeles

The city of Los Angeles followed the more informal method of restricting the policing of minor traffic infractions.⁸² On March 1, 2022, the Los Angeles Police Commission passed a new policy that prevents Los Angeles law enforcement from using minor traffic infractions as an investigatory tool to uncover other crimes unless they have knowledge that justifies the interaction.⁸³ If officers engage in these pretextual stops, they are now required to use their body cameras to video-record themselves and explain their

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ Letter from Adrian Z. Diaz, *supra* note 75.

⁸² Kirkpatrick et al., *supra* note 4.

⁸³ Kevin Rector, *New Limits on ‘Pretextual Stops’ by LAPD Officers Approved, Riling Police Union*, L.A. TIMES (Mar. 1, 2022, 7:32 PM), <https://www.latimes.com/california/story/2022-03-01/new-limits-on-pretextual-stops-by-lapd-to-take-effect-this-summer-after-training#:~:text=Under%20a%20new%20policy%20adopted,information%20that%20justifies%20the%20intrusion.>

reasoning for believing that more serious criminal activity is afoot.⁸⁴ Any officer that fails to follow this new policy must complete additional training, and if further violations occur, they may be subject to progressively harsher disciplinary actions.⁸⁵

These commissioners believe that the new policy is an appropriate middle ground that addresses concerns from those who believe that this type of practice should be eliminated, as opposed to those that argue that pretextual stops are central to protecting public safety in Los Angeles.⁸⁶ In the Commissioner's eyes, this policy will limit the number of these stops that occur within the city "without eliminating them entirely."⁸⁷ The Commission's President, William Briggs, believes that pretextual stops undermine public confidence in law enforcement, particularly amongst minorities.⁸⁸ Briggs noted that while Los Angeles may have noticed a recent uptick in violent crime, enforcement of minor traffic violations has no impact on this development.⁸⁹

F. Minneapolis

In August of 2021, the city of Minneapolis approved a new policy aimed at reducing the number of traffic stops that occurred because of the enforcement of minor traffic infractions.⁹⁰ Minneapolis Mayor Jacob Frey announced that having an expired registration or hanging an air freshener on a rearview mirror will no longer serve as a sufficient reason for Minneapolis Police to pull over a motorist.⁹¹ The new policy also outlined that the city attorney's office will not pursue enforcement of tickets against drivers for operating a vehicle with an expired license if the only reason for their suspension was failure to pay associated fees and

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ Rector, *supra* note 83.

⁹⁰ Tom Crann et al., *Minneapolis Police Cut Back on Pretextual Stops in Effort to Reduce Racial Profiling*, MPR NEWS (Aug. 17, 2021, 6:23 PM), <https://www.mprnews.org/story/2021/08/17/minneapolis-police-ending-pretextual-traffic-stops-in-effort-to-reduce-racial-profiling>.

⁹¹ Bellware, *supra* note 9.

not “egregious driving behavior[.]”⁹² Mayor Frey stated that the new policy would not impact law enforcement’s ability to initiate traffic stops for traffic violations such as speeding or reckless driving.⁹³

Supporters of the new policy believe that it will address racial disparity in traffic stops “while not compromising public safety.”⁹⁴ Minneapolis Police Chief Medaria Arradondo addressed the new policy by recognizing in an internal department memo that it is important for city leadership to examine how to better utilize resources and time when it comes to policing.⁹⁵ These new policy changes came about after Chief Arradondo promised that policing reforms would be ushered in after the death of George Floyd⁹⁶ in May 2020.⁹⁷

G. Lansing

New guidelines were approved in July 2020 in the city of Lansing, Michigan, that would have a direct impact on the ability of law enforcement to conduct traffic stops for minor violations.⁹⁸

92 *Id.*

⁹³ The Associated Press, *Minneapolis Police Abandon Stops for Minor Traffic Violations*, TWINCITIES.COM PIONEER PRESS, <https://www.twincities.com/2021/08/13/minneapolis-police-abandon-stops-for-minor-traffic-violations/> (Aug. 14, 2021, 10:06 PM).

⁹⁴ Bellware, *supra* note 9.

95 *Id.*

⁹⁶ George Floyd's death was not specifically linked to a minor traffic violation. Rather, Floyd was arrested on suspicion of attempting to use counterfeit currency at a convenience store. See Nora G. Hertzel, *'All from a Counterfeit Bill': What We Know About Fake Currency and George Floyd's Death*, SC TIMES, <https://www.sctimes.com/story/news/2020/06/03/what-we-know-fake-currency-and-george-floyds-death-minneapolis-counterfeit-police/5310999002/#:~:text>All%20from%20a%20counterfeit%20bill,currency%20and%20George%20Floyd's%20death&text=MINNEAPOLIS%20E2%80%94%20Counterfeit%20bills%20circulated%20in,police%20custody%20on%20Memorial%20Day> (Mar. 31, 2021, 10:44 AM).

⁹⁷ Associated Press, *Minneapolis Police to Curb Stops for Minor Traffic Violators*, PBS NEWS HOUR (Aug. 13, 2021, 4:01 PM), <https://www.pbs.org/newshour/nation/minneapolis-police-to-curb-stops-for-minor-traffic-violators>.

⁹⁸ Ken Palmer, *New Guidelines: Lansing Police Won't Stop Drivers Solely for Minor Violations*, LANSING STATE J.,

Lansing Police Chief Daryl Green announced that his department would be altering their policing practices when it comes to traffic stops.⁹⁹ Green announced that minor traffic infractions, which include having a broken tail light, a busted windshield, a burnt out license plate lamp, or an item that hangs from a rearview mirror, will receive a “reduced interest” from police.¹⁰⁰ Under the new guidelines, these infractions will no longer serve as an appropriate basis for Lansing police to initiate a traffic stop, and they will only be enforced if a driver is first pulled over for a more serious violation.¹⁰¹ Even when minor offenses are enforced, Green stated that they will usually be taken care of via a written or verbal warning.¹⁰² The only exception to this rule is if the infraction is so severe as to pose a safety risk to the community.¹⁰³ Chief Green maintained that even with these new reforms, his department will still focus on “primary” infractions, which include speeding, seat belt or child restraint violations, careless driving, expired license plate violations, driving while impaired, and other dangerous driving offenses.¹⁰⁴

Green believes that these updated guidelines align with his department’s mission of safeguarding motorist’s rights “while eliminating any aspect, inferred or otherwise, of bias-based traffic policing practices[.]”¹⁰⁵ Lansing Mayor Andy Schor has also expressed his support for these guidelines by stating that Lansing Police should not be focusing on minor violations such as “an air freshener hanging form *[sic]* [a] rear-view mirror[.]”¹⁰⁶ Mayor Schor asserted that, instead, the Lansing Police Department’s

<https://www.lansingstatejournal.com/story/news/local/2020/07/01/new-guidelines-lansing-police-wont-stop-drivers-solely-minor-violations/5357206002/> (July 2, 2020, 12:59 PM).

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Palmer, *supra* note 98.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

resources should be focused on criminal activity and moving infractions.¹⁰⁷

H. Berkeley

The city of Berkeley, California, was another jurisdiction to introduce measures that limit the ability of police to conduct traffic stops for minor violations.¹⁰⁸ In February 2021, the Berkeley City Council approved reforms that shifted the Berkeley Police Department's policing practice to revolve mainly around investigative stops and hazardous motorists.¹⁰⁹ Under these new reforms, law enforcement within the city will be precluded from pulling over motorists for minor traffic violations including operating a vehicle with an expired registration, not wearing a seatbelt, or driving while an equipment infraction is present.¹¹⁰ Berkeley police may still cite drivers for these offenses, but they can only do so if they first pull over the motorist for a public safety reason, which includes excessive speeding, operating a vehicle under the influence, or running through a stop sign or red light.¹¹¹

Berkeley Mayor Jesse Arreguín was in full support of these reforms, stating that these measures came about due to the city's concern with "addressing racial disparities in stops . . ."¹¹² Mayor Arreguín believes that biased enforcement of the law has a direct impact on public trust of law enforcement, which in turn makes communities more dangerous because they refuse to report criminal

¹⁰⁷ Ted Roelofs, *Lansing and Other Police Agencies Rethink Value of 'Minor' Traffic Stops*, BRIDGE MICH. (Apr. 19, 2022), <https://www.bridgegemi.com/michigan-government/lansing-and-other-police-agencies-rethink-value-minor-traffic-stops>.

¹⁰⁸ Angela Ruggiero, *Berkeley Passes Major Police Reforms: No More Minor Traffic Stops*, MERCURY NEWS, <https://www.mercurynews.com/2021/02/23/berkeley-council-passes-significant-police-reform/> (Feb. 24, 2021, 3:53 PM).

¹⁰⁹ Dan Thorn, *Berkeley Works to Reform Police Traffic Enforcement*, KRON4 NEWS (Apr. 12, 2021, 10:48 PM), <https://www.kron4.com/news/bay-area/berkeley-works-to-reform-police-traffic-enforcement/>.

¹¹⁰ Joshua Vaughn, *Berkeley City Council Passes Sweeping Reforms to Limit Police Traffic Stops*, THE APPEAL (Feb. 23, 2021), <https://theappeal.org/berkeley-city-council-passes-sweeping-reforms-to-limit-police-traffic-stops/>.

¹¹¹ *Id.*

¹¹² *Id.*

activity.¹¹³ Arreguín asserts that these new reforms “will enhance the long-term health, safety and equity of the Berkeley community[.]”¹¹⁴ Berkeley Councilmember Rigel Robinson also expressed his support of the new reforms by stating that they are the “heart of reimagining policing.”¹¹⁵

I. Portland

Portland, Oregon is another city that has updated its policies to confront the issue of racial disparity in traffic stops.¹¹⁶ Chuck Lovell, the Portland City Police Chief, announced in June 2021, that he would be directing his officers to focus only on enforcing traffic infractions that impact public safety.¹¹⁷ These public safety infractions include dangerous driving, not using headlights at night, and speeding.¹¹⁸ Portland’s new instructions shift the law enforcements focus away from initiating traffic stops for minor traffic violations.¹¹⁹ Unlike the reforms passed in cities like Philadelphia and Pittsburgh, police officers in Portland still have the ability to conduct traffic stops for minor violations alone.¹²⁰ Chief Lovell stated that the policy change is primarily meant to serve as a reemphasis of the department’s focus on moving violations, as opposed to the enforcement of minor infractions.¹²¹ Lovell argues that this new prioritization will allow for officers to use their resources and time for more immediate safety threats.¹²²

¹¹³ Ruggiero, *supra* note 108.

¹¹⁴ *Id.*

¹¹⁵ Emilie Raguso, *Berkeley Votes to Limit Low-Level Traffic Stops to Reduce Policing Disparities*, BERKELEYSIDE (Feb. 24, 2021, 1:29 PM), <https://www.berkeleyside.org/2021/02/24/berkeley-police-reform-traffic-stops-racial-disparities>.

¹¹⁶ Alex Zielinski, *New Police Policies Will Limit Traffic Stops and Searches*, PORTLAND MERCURY (June 22, 2021, 1:36 PM), <https://www.portlandmercury.com/news/2021/06/22/34360086/new-police-policies-will-limit-traffic-stops-and-searches>.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ Maus, *supra* note 47.

¹²¹ *Id.*

¹²² *Id.*

In support of these new instructions, Portland Mayor Ted Wheeler cited improving equity and racial justice as the rationale for pushing these measures forward.¹²³ Mayor Wheeler stated that he believes the reforms will make the city a safer place while also reducing the disproportionate number of traffic stops that impact people of color in the city.¹²⁴ Police Chief Lovell stated that he supports the change due to racial justice protests and the budget cuts his department has faced.¹²⁵ Lovell believes that, in light of his department's limited resources, shifting officer focus away from minor infractions and towards safety violations is a better use of available assets.¹²⁶

IV. OPPOSITION TO MODERN REFORMS AND NEGATIVE SIDE EFFECTS

In light of these modern day reforms, individuals and organizations are speaking out about these new measures.¹²⁷ These entities are attempting to fight against these measures by running advertisements, by politically campaigning against the reforms in particular, and by highlighting negative side effects that may serve as a byproduct of these initiatives.¹²⁸ Other opposition members have gone so far as to write personal letters explaining why the new policies should not be adopted, and why it is vital to continue to enforce minor traffic infractions.¹²⁹ These figures have made it a

¹²³ Maggie Vespa, *Portland Police Officers Will No Longer Stop Drivers for Low-Level Traffic Violations*, KGW8 (June 22, 2021, 10:26 AM), <https://www.kgw.com/article/news/local/portland-mayor-police-chief-news-conference-policing-changes/283-7c4e2427-d844-440e-acad-ed0e46e68a8d#:~:text=Police%20Chief%20Chuck%20Lovell%20and,the%20ay%20or%20expired%20tags>.

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ See generally Kirkpatrick et al., *supra* note 4.

¹²⁸ *Id.*

¹²⁹ Michael Haigler, *Why Should We Enforce Traffic Laws?*, N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM, <https://connect.ncdot.gov/municipalities/Law-Enforcement/GHSP%20Grant%20and%20Law%20Enforcement%20Info/MichaelHaiglersLetter1.pdf> (last visited Jan. 13, 2023).

point to outline their reasoning for the continued enforcement of minor traffic violations by law enforcement agencies.

A. *Supporting Enforcement of Minor Violations*

In response to the reforms being introduced in the United States to limit enforcement of minor traffic infractions, supporters of enforcement outline a variety of reasons why police practice should not be limited. One such supporter is Police Chief Michael Haigler of the Locust Police Department in Locust, North Carolina. In a letter to the public, Haigler explained that enforcement of minor traffic violations has led to the capture of numerous high profile criminals such as Ted Bundy, who was ultimately arrested on August 16, 1975, for “driving without headlights and trying to elude police.”¹³⁰ Other infamous criminals that were apprehended as a result of a minor traffic violation enforcement include Wayne Williams, William Lester Suff, and Joel Rifkin.¹³¹ Chief Haigler believes that these traffic stops have the ability to solve other crimes such as break-ins, assaults, and drug related offenses.¹³²

Other opposition members echo Chief Haigler’s opinions, asserting that reforms that prohibit law enforcement from enforcing minor traffic infractions will turn police into “filing clerks, gutting their much-needed time on the streets within our community.”¹³³ One such active supporter of minor traffic violation enforcement is Robert Stevenson, who serves as the director of the Michigan Association of Chiefs of Police.¹³⁴ Stevenson asserts that a plethora of police chiefs oppose such reforms because they believe it strikes against their mission of keeping communities safe.¹³⁵ In talking about minor traffic laws, Stevenson stated that these rules have a

¹³⁰ *Id.*

¹³¹ *Id.* (Wayne Williams was a suspect in over thirty murders in the Atlanta area who was ultimately convicted of the murder of two individuals; William Lester Suff is a serial killer who was arrested in Riverside, California and convicted of twelve counts of murder which spanned a seven-year period; Joel Rifkin is a serial killer who was convicted of seven counts of murder and given a 183-year sentence).

¹³² *Id.*

¹³³ Vaughn, *supra* note 110.

¹³⁴ Roelofs, *supra* note 107.

¹³⁵ *Id.*

direct impact on driver safety and on combating criminal activity that may otherwise get covered up.¹³⁶ In addition to Stevenson's comments, Matt Saxton, who is the director of the Michigan Sheriffs Association, pointed out that "[i]f communities don't want to enforce laws, they should approach the Legislature and ask them to change the laws[.]"¹³⁷

Additional opposition members assert that law enforcement officials take no enjoyment in pulling motorists over, but they enforce minor traffic rules to keep the general public protected from dangerous conditions.¹³⁸ When examining police officer's opinions on traffic enforcement, one survey indicated that eighty-seven percent of officers did not support reforms that would reduce the role of police when it came to enforcing traffic laws.¹³⁹

Law enforcement officials are not the only opposition members fighting back against these reforms. In Pittsburgh, city Councilman Anthony Coghill argued against these types of reforms when the city passed legislation limiting the ability of law enforcement to pursue minor traffic violations.¹⁴⁰ Councilman Coghill asserted that reducing the number of traffic stops conducted in the city would only result in an increase of the amount of dangerous vehicles being operated on city roadways.¹⁴¹ Coghill pushed back on claims that limiting traffic stops will result in fewer violent interactions between police and civilians.¹⁴² In support of his position, Councilman Coghill referenced statistics showing that between 2018 and 2020, Pittsburgh police initiated 52,000 traffic stops, and only eleven of those stops involved physical force or required officers to pull out a gun or taser.¹⁴³

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ Peter Dujardin, *Police in Virginia Were Barred in 2020 from Stopping Cars for a Range of Violations. Now Lawmakers Look to Undo Those Changes*, VIRGINIAN-PILOT, <https://www.pilotonline.com/government/virginia/dp-nw-motorist-legislation-senate-20220226-e6p7eag4xzco7hsvy3f3ymisuu-story.html> (Feb. 27, 2022, 12:49 AM).

¹³⁹ Harrison, *supra* note 13.

¹⁴⁰ Felton, *supra* note 65.

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

Councilman Coghill is not the only elected official to speak out about his jurisdiction's new reforms. In Virginia, Delegate Ronnie Campbell introduced legislation that would reverse the reforms his state passed in late 2020.¹⁴⁴ Delegate Campbell that he believes it is "very important that we bring these [violations] back as primary offenses for law enforcement[.]"¹⁴⁵ The violations Campbell referenced include pulling over a vehicle for having an odor of marijuana, possessing items that obstruct a driver's view, having a defective exhaust system, possessing an expired vehicle inspection sticker unless four months have passed since expiration, and having broken brake lights.¹⁴⁶ Campbell noted that he had been hearing from law enforcement officials in the state that feel as if their hands have been tied since the 2020 reforms were passed.¹⁴⁷ Representatives like Ronnie Campbell and other organizations across the nation believe that these traffic stops play an important role in keeping streets safe for everyday individuals.¹⁴⁸

B. The Positive Impacts of Traffic Enforcement

Those in support of enforcing traffic violations base their opinion on the life-changing results that accompany this type of enforcement.¹⁴⁹ One group that has gone about highlighting the positive impacts of traffic enforcement is the Manhattan Institute (Institute).¹⁵⁰ This organization compiled data from a variety of jurisdictions across the United States to make the argument for continued enforcement of traffic laws.¹⁵¹ The Institute asserts that enforcement of traffic laws leads to illegal guns being removed from communities.¹⁵² In support of this position, the Institute examined data from the New York City Police Department (NYPD), which showed that in 2020 the NYPD made approximately 1,791 illegal

¹⁴⁴ Dujardin, *supra* note 138.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ Rector, *supra* note 83.

¹⁴⁹ Hall, *supra* note 11, at 1-2.

¹⁵⁰ See generally, *id.*

¹⁵¹ See *id.* at 2.

¹⁵² *Id.* at 3-5.

gun arrests during traffic stops.¹⁵³ These arrests accounted for 42.3 percent of all gun arrests made in the city that year.¹⁵⁴ New York is not the only city that has removed guns from their streets and thereby made their city safer through traffic enforcement.

Los Angeles was another city that saw guns removed from their streets through traffic enforcement.¹⁵⁵ Union leaders from the Los Angeles Police Protective League cited to data showing that in 2021 the Newton Division saw 726 traffic stops result in 817 guns being seized.¹⁵⁶ While these figures demonstrate how traffic stops can remove guns from different communities, there are other benefits associated with greater police enforcement of traffic laws. For example, in 2003, the City of Fresno Police Department increased the number of officers in their traffic division from twenty to eighty-four.¹⁵⁷ These “officers wrote 229% more [general] traffic citations between 2002 and 2004.”¹⁵⁸ Based on this increase, data showed that there was a 9.3 percent drop in injuries from collisions and an overall forty-two percent decline in fatal collisions.¹⁵⁹ In contrast to these positive results, one study showed that after the Oregon State Police laid off thirty-five percent of its officers in 2003, the drop in traffic enforcement resulted in a seventeen percent increase in fatality crashes and an eleven percent increase in injuries.¹⁶⁰ These stark contrasts evidence the meaningful impact that traffic enforcement can have on saving lives across the United States.

One report that focused on the benefits of police traffic enforcement came from the New York University Wagner School of Public Service.¹⁶¹ That report examined eight different studies that centered around police related traffic enforcement.¹⁶² The report yielded a variety of different findings, with the authors

¹⁵³ *Id.* at 4.

¹⁵⁴ *Id.*

¹⁵⁵ Rector, *supra* note 83.

¹⁵⁶ *Id.*

¹⁵⁷ Hall, *supra* note 11, at 2.

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ STUART GREER & ERIC BARENDS, DOES POLICE TRAFFIC ENFORCEMENT RESULT IN SAFER ROADS? A CRITICALLY APPRAISED TOPIC. 2, 8-9 (2017).

¹⁶² *Id.* at 4.

pointing out, that based on their research, police-based traffic enforcement “has an effect on reducing the number of accidents with injuries” on roadways.¹⁶³ In addition to this finding, the report noted that when officers issue more traffic tickets there is a decrease in motor vehicle accidents and injuries related to those accidents.¹⁶⁴

Enforcement of traffic laws also provides certain benefits to the community that may not be immediately apparent. For example, evidence has shown that enforcement of traffic laws has made general police activity more visible in American communities.¹⁶⁵ This increased visibility serves as a “general deterrent to crime.”¹⁶⁶ Evidence has also indicated that strong traffic enforcement has been able to reduce crime by making it harder for offenders to use automobiles.¹⁶⁷ When officers conduct traffic stops and find incriminating material or other evidence of a crime in the car, it thereby causes other potential criminal offenders to become apprehensive when using their car as an avenue for criminal activity.¹⁶⁸

While the enforcement of overall traffic laws yields positive results to communities across the country, the enforcement of minor traffic violations plays an integral role in keeping citizens safe. One particular area in which minor violations are used by law enforcement to benefit communities is found in the area of drug related policing.¹⁶⁹ Certain law enforcement agencies focus on identifying drug traffickers on highways and other throughways.¹⁷⁰ These agencies look for certain signs such as driver and passenger body language, use of a rental car, or other suspicious actions that

¹⁶³ *Id.* at 6-8.

¹⁶⁴ *Id.* at 7.

¹⁶⁵ Alexander Weiss, *Data-Driven Approaches to Crime and Traffic Safety (DDACTS): A Historical Overview*, NAT’L HIGHWAY TRAFFIC SAFETY ADMIN. 3 (July 2013), <http://docplayer.net/4204586-Data-driven-approaches-to-crime-and-traffic-safety-ddacts.html>.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ Paul Cuno-Booth, ‘*Why Did I Get Stopped?*’ *State Police Use Minor Traffic Violations to Search for Drugs*, NH BUS. REV. (May 12, 2022), <https://www.nhbr.com/why-did-i-get-stopped-state-police-use-minor-traffic-violations-to-search-for-drugs/>.

¹⁷⁰ *Id.*

may alert them to behavior associated with drug traffickers.¹⁷¹ Once they identify these characteristics, officers wait until the driver has committed a minor traffic violation, which then allows the officers to lawfully pull the vehicle over.¹⁷² One such agency that utilizes this type of practice is the New Hampshire State Police Mobile Enforcement Team (MET).¹⁷³

According to the New Hampshire Department of Safety, between the end of 2015 and mid-April 2022, the MET arrested over 1,500 individuals.¹⁷⁴ Of these arrests, 1,000 were for drug related crimes, with a staggering forty percent of the arrests being for possession of drugs with intent to distribute.¹⁷⁵ These arrests allowed MET to seize 15 kilograms of cocaine, 75 kilograms of marijuana, 28 kilograms of meth, 46 kilograms of fentanyl or heroin, and 158 firearms.¹⁷⁶ Reports have indicated that drug trafficking “threatens the civility of city life . . .”¹⁷⁷ It has been demonstrated however, that when police have a firm control on drug use in our communities, it opens an avenue for “reducing the robberies, burglaries, and petty thefts that have long been the focus of the police.”¹⁷⁸ Therefore, it is evident that MET’s efforts have prevented drugs and guns from reaching communities across New Hampshire, making the state a safer place for all citizens.

C. *The Negative Drawbacks to Nonenforcement*

While the benefits of traffic enforcement can be felt across communities, the negative side effects associated with nonenforcement of traffic laws can also be felt by everyday citizens. Between March 12 and December 31, 2020, New York City police officers wrote 52.9 percent less tickets than they had during that same months in 2019 due to shifting department resources because of the COVID-19 pandemic, and redeploying of officers in the wake

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ Cuno-Booth, *supra* note 169.

¹⁷⁶ *Id.*

¹⁷⁷ Mark H. Moore & Mark A.R. Kleiman, *The Police and Drugs*, NAT’L INST. OF JUST. 2 (Sept. 1989), <https://www.ojp.gov/pdffiles1/nij/117447.pdf>.

¹⁷⁸ *Id.*

of the George Floyd protests.¹⁷⁹ During this period, the city saw fatal crashes increase by sixteen percent, which resulted in thirty-one more traffic deaths when compared with the previous year.¹⁸⁰ When looking at New York City's first quarter of 2021, New York City's overall traffic enforcement was down 37.2 percent compared to the first quarter of 2020.¹⁸¹ As a result of this decrease in enforcement, "fatal crashes were up 9.7%[.]"¹⁸²

Fatalities resulting from an increase in traffic crashes are not the only harmful byproduct associated with a lack of traffic enforcement. In New York City there was a reported increase in road incivilities and other dangerous traffic offenses during the same period that the city saw a decrease in traffic enforcement.¹⁸³ These issues may cause problems for the citizens of New York City and could potentially lead to dangerous or even deadly interactions.

V. SOLUTIONS TO THE PROBLEM WITHOUT STOPPING ENFORCEMENT

The best solution to solve issues related to minor traffic enforcement is not to simply stop enforcement altogether. Instead, there are a variety of other methods in which our society can reform current police practices to ensure that not only does racial disparity in traffic enforcement decrease, but that safety for drivers on roadways is not jeopardized. One area where reforms may be targeted, besides the removal of minor traffic laws, is in the training law enforcement receive. When looking at police departments across the nation, officers receive about fifty hours of firearms training and, on average, "receive less than 10 hours of de-escalation training."¹⁸⁴ One survey of over 1,000 police officers from across

¹⁷⁹ Hall, *supra* note 11, at 2.

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ Rashawn Ray & Clark Neily, *Police Reform, in A BETTER PATH FORWARD FOR CRIMINAL JUSTICE: A REPORT BY THE BROOKINGS-AEI WORKING GROUP ON CRIMINAL JUSTICE REFORM* 6, 9 (Rashawn Ray & Brent Orrell eds., 2021), https://www.brookings.edu/wp-content/uploads/2021/04/Better-Path-Forward_Brookings-AEI-report.pdf.

the country found that a staggering forty-two percent of them reported having never been provided with traffic stop training.¹⁸⁵ Out of all officers surveyed, only eight percent reported having weekly or more frequent training sessions on traffic enforcement.¹⁸⁶ Even more stunning, in that same survey, officers reported that since January 2019, seventy-five percent of them had “not received any hands-on training about removing a noncompliant driver from a vehicle[.]”¹⁸⁷

This lack of training can result in ill-thought decisions that have tragic consequences, such as the killing of Daunte Wright.¹⁸⁸ With over 18,000 law enforcement agencies in the United States, training varies from agency to agency.¹⁸⁹ This lack of uniform training may put police officers in positions to make bad decisions.¹⁹⁰ Instituting federal training standards may address the lack of uniformity amongst law enforcement departments across the country. In particular, providing funding for “federally certified trainers” would implement uniform knowledge and training across various cities and states.¹⁹¹ Therefore, these trainers may be able to influence police culture in departments that have shown problematic inconsistencies with minor traffic enforcement.

This focus on influencing police culture is imperative if change is to come to reform policing practices. Research has shown that law enforcement officers often manifest an “us versus them” perspective when it comes to policing.¹⁹² Many officers view themselves as being at war with the individuals within their very own communities.¹⁹³ This type of mentality may contribute to the issues surrounding minor traffic enforcement. It has been demonstrated that police officers must issue citations, write tickets, and conduct arrests in order to illustrate their “leadership and

¹⁸⁵ Harrison, *supra* note 13.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ Ray & Neily, *supra* note 184, at 6.

¹⁸⁹ *Id.* at 9.

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

¹⁹² *Id.* at 12.

¹⁹³ *Id.*

productivity.”¹⁹⁴ In order to change this type of culture, departments could accomplish this mission by allowing their community members to have a voice in the department’s policies, as well as by adopting bias-free policies.¹⁹⁵ Changing this current culture into one that rewards positive outcomes as opposed to celebrating the number of traffic citations that one writes may address the underlying issues surrounding minor traffic enforcement without having to change policies or rewrite laws.

Another type of reform related to training that may aid in the issues surrounding minor traffic enforcement is the implementation of “implicit bias training.”¹⁹⁶ Implicit biases have been defined as “hidden biases operating largely under the scope of human consciousness [that] influence the way that we see and treat others, even when we are determined to be fair and objective.”¹⁹⁷ These implicit biases may help explain why people of color are disproportionately impacted by the criminal justice system.¹⁹⁸ Implementation of implicit bias training may not eliminate hidden biases, but has the ability to raise consciousness about them.¹⁹⁹ Research has demonstrated that when individuals become more aware of unconscious biases, these biases “may be reduced.”²⁰⁰ If the federal government were to require implicit bias training for law enforcement agencies that sought federal grants, more departments could become exposed to this type of training.²⁰¹ As a result of these trainings, officers would be more educated on how their implicit

¹⁹⁴ Ray & Neily, *supra* note 184, at 12.

¹⁹⁵ Terrence M. Cunningham, *How Police and Communities Can Move Forward Together*, A.B.A. (Jan. 11, 2021), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/civil-rights-reimagining-policing/how-police-and-communities-can-move-forward-together/.

¹⁹⁶ Michele L. Jawando & Chelsea Parsons, *4 Ideas That Could Begin to Reform the Criminal Justice System and Improve Police-Community Relations*, CAP 20 (Dec. 18, 2014), <https://www.americanprogress.org/article/4-ideas-that-could-begin-to-reform-the-criminal-justice-system-and-improve-police-community-relations/>.

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ *Id.*

biases impact different aspects of their everyday policing efforts, such as the manner in which they go about initiating traffic stops.²⁰² This training could help reduce the amount of issues surrounding minor traffic enforcement without having to eliminate the laws altogether.

The hiring practices among law enforcement agencies are another area that could have a major impact on the issues surrounding minor enforcement. Reforms that could be instituted to improve the quality of law enforcement officers that are entering different departments include raising educational standards, revising departmental hiring practices and standards, implementing background investigations, as well as pursuing targeted recruitment efforts.²⁰³ These reforms have the ability to preclude problematic officers from joining different law enforcement agencies, preventing them from even having the chance to cause problems.²⁰⁴ Departments could also reform their current hiring practices by making it a priority to increase diversity amongst their current officer base.²⁰⁵

This type of practice could even be encouraged by the federal government.²⁰⁶ Similar to how the government may be able to encourage implicit bias training, receipt of federal grants may be conditioned on law enforcement agencies implementing certain hiring and retention policies formulated to increase diversity in their departments.²⁰⁷ These revised hiring and retention practices could ensure that good officers are brought in and stay within the various law enforcement agencies. Policies such as these may have a positive impact on resolving issues associated with minor traffic enforcement as they would prevent problematic officers from ever being in the position to cause problems.

One final area where reforms could be targeted to improve issues surrounding minor traffic enforcement is in police union contracts.²⁰⁸ The Fraternal Order of Police Union is an organization

²⁰² Jawando & Parsons, *supra* note 196.

²⁰³ Cunningham, *supra* note 195.

²⁰⁴ *Id.*

²⁰⁵ Jawando & Parsons, *supra* note 196.

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ Ray & Neily, *supra* note 184, at 12.

that has become deeply entrenched in law enforcement and has the tendency to “obstruct[] the ability for equitable and transparent policing[.]”²⁰⁹ Certain police union contracts may provide barriers from allowing law enforcement officers to be held accountable whenever they engage in problematic behaviors.²¹⁰ Reforming these contracts could pave the way for greater accountability among officers across the United States. In turn, this could have a direct impact on police officers who consistently engage in problematic enforcement of minor traffic violations, as they may no longer have certain protections provided for them in their police union contracts.

VI. CONCLUSION

With traffic stops being the most common interaction between law enforcement and the general public in the United States, their impact should not be understated.²¹¹ Issues surrounding pretextual traffic violations can have severe consequences in our society, such as fostering distrust between everyday civilians and law enforcement officers.²¹² This distrust is problematic as it leads to people throughout the country viewing our law enforcement agencies as illegitimate.²¹³ In response to these issues, cities across the United States have enacted reforms that either eliminate or severely limit the ability of police officers to enforce minor traffic violations.²¹⁴ However, these policies are not the best solution to address the issues centered around minor traffic enforcement. The enforcement of minor traffic laws enables police departments to seize guns, drugs, and prevent crime before it ever has a chance to rear its ugly head in our communities.²¹⁵ Precluding police from being able to enforce these laws will have a direct impact on safety across America. Instead, focusing on other reforms such as instituting national standards for law enforcement training, changing the police culture in different departments, and revising hiring

²⁰⁹ *Id.*

²¹⁰ *Id.*

²¹¹ Harrison, *supra* note 13.

²¹² Langton & Durose, *supra* note 36, at 1, 4-6.

²¹³ National Institute of Justice, *supra* note 38.

²¹⁴ Kirkpatrick et al., *supra* note 4.

²¹⁵ Cuno-Booth, *supra* note 169.

practices will all have a positive impact on fixing the issues involved with minor traffic enforcement.

These solutions can all be introduced without having to remove or amend traffic laws that are an integral part of our society. While these solutions are not a quick fix to the problems associated with minor traffic enforcement, they provide a steady framework from which police departments may be able to enact real change in their communities. Even though it may take time and we may still encounter problems with our system in the short-term, these reforms will prove to be invaluable for decades to come. As a great John Wooden once said, “[g]ood things take time, as they should. We shouldn’t expect good things to happen overnight. Actually, getting something too easily or too soon can cheapen the outcome.”²¹⁶

²¹⁶ FELLOWSHIP OF CHRISTIAN ATHLETES, THE GREATEST COACH EVER: THE TIMELESS WISDOM AND INSIGHTS OF JOHN WOODEN 178 (Dan Britton et al. eds., 2010).