

THE PROBLEM

Police officers in the United States make more than 20 million traffic stops each year. Many of these stops have little to do with traffic safety. Instead, officers often pull people over for minor rule violations—such as hanging an air freshener or graduation tassel on a rearview mirror—as an excuse to go fishing for other crimes. Because there are literally hundreds of equipment and moving violations codified in the law, an officer can stop any driver, any time. Black drivers are disproportionately likely to be stopped—sufficiently so that “driving while Black” is a part of everyday vernacular.

The killing of Daunte Wright in Minneapolis in 2020 renewed calls to end law enforcement’s ability to make these pretextual fishing stops.

Low-level traffic stops—and the fishing expeditions by police that inevitably follow—feel unnecessary, unfair, and biased, and they create flashpoints of confrontation that too often become dangerous for both officers and motorists. These stops erode trust in police, rarely yield any useful crime-solving information, and divert police resources from solving more serious crimes. Limiting them will improve public safety for all.

THE SOLUTION

This model legislation focuses on three main goals: (1) prohibiting traffic stops for low-level infractions, (2) limiting the scope of these stops, and the incentives that lead to them and (3) collecting robust data on officer stops.

WHAT THE STATUTE DOES

Prohibits traffic stops for low-level infractions

The draft statute prohibits officers from stopping individuals for a clear, enumerated list of equipment violations and traffic infractions that are unrelated to public safety (e.g., a broken taillight, window tints, seatbelt violation).

Officers can still mail a citation to the individual or ticket them for it, if they stop the individual for a different, permitted reason.

Why this approach: Multiple courts have ruled that pretext stops violate their state constitutions, but it is difficult for defendants to prove that a stop was pretextual. By taking specified minor reasons for stops off the table, our statute enhances clarity by giving officers a clear list of what they can and can’t stop people for.

Limits searches

The draft statute prohibits officers from asking for consent to search unless they have reasonable suspicion or probable cause to believe that they will find evidence of a non-motor vehicle offense.

It also prohibits searches based solely on the smell of marijuana. Officers must have some other reason to believe that the person has illegal drugs in the car.

Why this approach: This approach reduces the intrusiveness of the stops that do take place—and minimizes the fishing expeditions that disproportionately target people of color. In addition, the smell of marijuana is too often used to justify searches—even in jurisdictions that have decriminalized marijuana.

Limits traffic stops related to low-level warrants

The statute prohibits stops based on warrants issued for low-level offenses—such as failure to pay a fine or fee, or to appear in court to resolve a traffic ticket or other infraction. It also puts limits on when a judge may issue a warrant for a minor offense in the first place.

Why this approach: In some jurisdictions, officers run plate numbers (either manually, or using an Automated License Plate Reader) to look for outstanding warrants—which can then become the basis for a stop. Warrants—even for low-level offenses in which an officer is unlikely to discover evidence of serious crimes—can escalate the intensity and danger of stops once they occur, as officers must take individuals into custody.

Data collection

The draft statute ensures robust data collection on stops, including demographic data.

Why this approach: Good data is essential to make sure that the statute is working as intended—and to help jurisdictions identify any disparities in traffic enforcement that require further attention.

The Policing Project at NYU School of Law partners with communities and policy makers to enhance safety, democratic accountability, and transparency in policing. Our team of attorneys, advocates, and community organizers is ready to help you pass legislation to strengthen police accountability and reduce harm.

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