

To: House Judiciary Committee
From: Indi Schoenherr, Policy Advocate, ACLU-VT
Re: H.176 An act relating to secondary enforcement of certain motor vehicle violations
Date: 3/12/2024

Introduction

The ACLU of Vermont is committed to ensuring that Vermont residents feel secure in their communities. This includes the ability to drive without fear of unnecessary interactions with police. We support H.176 because it mitigates the over-policing we experience in our communities and could decrease disparities in our traffic stop data. We urge this committee to make the necessary changes to move nonpublic safety stops from primary to secondary enforcement. This shift will clarify police responsibilities, directly enhance equitable community safety, and minimize the practice that leads to over policing and disparities on our roadways.

Included in this testimony is the most up to date data available about Vermont's traffic enforcement. Unfortunately, law enforcement in Vermont has a history of failing to provide accurate, timely, and publicly available information about their practices, and so this is the most recent information that we have to work with.

Our traffic stop enforcement practices represent issues of inequity and safety.

Drivers in Vermont are overpoliced. According to research done at the University of Vermont on traffic stops between 2014 and 2019, drivers in Vermont are pulled over at nearly three times the national average. That amounts to [255 drivers stopped per 1,000 residents](#), compared to 86 drivers per 1,000 residents nationally. During that same period, Vermont sheriffs [increased their stops by 86 percent, while Vermont State Police upped theirs](#) by nearly 50 percent.ⁱ

Drivers who are Black and Latinx are disproportionately impacted by over-enforcement on our roadways. From 2015-2019, Black drivers were stopped 80% more often than white drivers and searched at [three and a half times the rate](#), though they were less likely to be found with contraband. Latinx drivers were 26% more likely to be stopped than white drivers, and almost four times more likely to be searched.ⁱⁱ

Traffic stop enforcement practices create an entry point into our criminal legal system.

We still have work to do, especially when it comes to addressing the disparities in our legal system that disproportionately impact people of color, people with mental health conditions, and people substance use disorder. In Vermont, BIPOC are overrepresented in our prison system, and we see that Black people are seven times more likely than a white person to be incarcerated, and people of Hispanic origin are 4 1/2 times more likely to be incarcerated than a white person.ⁱⁱⁱ

We can start addressing these disparities by minimizing unnecessary interactions with law enforcement. H.176 presents a tool that could help address disproportionate enforcement against people of color that can lead to people's involvement in the criminal legal system.

This culture of policing in Vermont has sustained the conscious and unconscious biases that manifest through unfair and at times life-threatening policing practices.

One of the greatest concerns of unnecessary roadside stops are pre-textual or non-public safety stops. These stops are a tool of enforcement that relies on minor infractions as an initiation to search a person for drugs, weapons, or other potential legal violations. These stops are often not related to the public safety of motorists on the road but can be based on preconceived, harmful, and inaccurate stereotypes that assume criminality on part of BIPOC and low-income individuals.

The ability to stop an individual on this basis leads to unnecessary interactions between community members and law enforcement. This should no longer be a practice in policing or a use of police resources in our communities. By transitioning away from the use of pre-textual stops, we can minimize unnecessary interactions between community members and law enforcement officials that can lead to more harm. We can also have safer roads by reducing the number of cars stopped on our roadways, which creates safety hazards for everyone involved, including other motorists.

Traffic stops for non-public safety reasons create unnecessary risks.

Although traffic stops are theoretically intended to enhance public trust and safety, too often, these stops do just the opposite. They make some in our communities feel less safe, especially for those who are more vulnerable by increasing the chances of unfair scrutiny, fines, searches, arrests, and even physical harm. This status quo erodes trust between officials charged with traffic enforcement and the communities they serve and creates unsafe situations on our roadways.

In listening sessions held by the Office of Racial Equity as part of the Act 106 Motor Vehicle Offenses report, every single person who identified as a person of color reported experiences that led them to believe that law enforcement officers racially profiled them or treated them differently than White residents of the same regions.^{iv}

Additionally, roadside traffic stops for non-public safety reasons create unnecessary risks for both law enforcement and motorists. Approximately 566 people are killed and 14,371 injured each year in crashes on all types of roads involving a disabled vehicle in which visibility was likely a factor.^v Traffic related incidents continue to be a leading cause of death among on-duty law enforcement officers. Over the past five years about 100 crashes involved a driver hitting and killing a law enforcement officer, which we can avoid by minimizing the unnecessary instances of traffic stops.^{vi}

Ending unnecessary traffic stops decreases harmful disparities.

Our laws should only allow traffic stops for serious safety violations not for minor infractions. There is an obvious solution, one that a growing number of jurisdictions are successfully adopting.

In 2021, a county prosecutor in Minneapolis stopped prosecuting felony cases that arose from traffic stops for minor equipment and registration violations. As a result, traffic stops fell by 86 percent among police departments that worked with the prosecutor's office. Black drivers experienced the largest decrease in these kinds of traffic stops, seeing a [66 percent drop in the number of stops per capita](#).^{vii}

The Minneapolis policy also reduced the amount of time police spent making stops that had nothing to do with traffic safety. Those interactions represented 25 percent of all traffic stops prior to this policy change but fell to just 5 percent after September 2021.^{viii}

In 2022, Philadelphia became the first major city to ban low-level traffic stops, in response to studies showing that Black drivers are disproportionately pulled over for minor infractions. In the first year the law was enacted, stops associated with low-level violations [dropped by 54%, eliminating nearly 16,000 interactions](#) between civilians and law enforcement.^{ix}

Additionally, in 2022, Virginia saw an overall drop in the number of traffic stops due to a similar policy. However, what we saw with this data is that racial disparities remained steady reflecting that Black and Brown drivers were still being pulled over disproportionately to that of their white counterparts. Although the racial disparities for stops did not decrease there was an overall reduction in stops which impacted the number of times that Black drivers were being searched and therefore arrested.^x

What Virginia's data highlights for us is that there is work to be done to lower racial disparities that require us to do work outside of changing traffic stop enforcement law, but that this is a good place to start.

Finally, here in Vermont, Chittenden County State's Attorney Sarah George implemented a similar [policy to decline to prosecute cases](#) that arise from low-level stops, and the results have been significant. In Burlington, annual traffic stop data showed that there were 3000 less stops conducted in 2022 and 2023 than that of five years ago. Police Chief Jon Murad said approvingly of the sizable reduction, "[Traffic stops that are done for anything other than a public safety reason are not something we want to prioritize our time doing.](#)"

Conclusion

The ACLU of Vermont strongly supports H.176 as an essential step to disrupt the harmful impacts of over policing in our communities, especially for BIPOC. We have an opportunity to change the way our roadways are policed, to enhance equitable community safety, advance racial and economic justice in our state, and clarify police responsibility. By making smarter stops, Vermont can protect the safety and liberty of everyone on the road. We urge the legislature to pass H.176 that would minimize non-public safety related traffic stops.

ⁱ Seguino, Brooks, Autilio, Trends in Racial Disparities in Vermont Traffic Stops, 2014-2019 https://www.uvm.edu/sites/default/files/Department-of-Economics/seguino%20studies/Seguino_Brooks_Autilio_Final_Merged_01.15.21_-_with_All_Vermont_A4_Table.pdf

ⁱⁱ Id.

ⁱⁱⁱ <https://www.census.gov/quickfacts/fact/table/VT/PST045223>

^{iv} <https://legislature.vermont.gov/assets/Legislative-Reports/12222023-H.635-No.-106.-An-act-relating-to-secondary-enforcement-of-minor-traffic-offenses-FINAL-Report.pdf>

^v <https://www.iihs.org/news/detail/stopped-vehicle-crashes-result-in-hundreds-of-fatalities-per-year>

^{vi} <https://www.nhtsa.gov/move-over-its-law>

^{vii} <https://www.vera.org/news/black-drivers-were-pulled-over-less-often-after-a-minnesota-county-changed-its->

[policies#:~:text=Black%20drivers%20experienced%20the%20largest,to%20do%20with%20traffic%20safety.](#)

viii **Id.**

ix <https://www.inquirer.com/news/philadelphia-driving-equality-legislation-one-year-results-20230303.html>

x <https://www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/research/report-analysis-traffic-stop-data-fiscal-year-2022.pdf>