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# A PATH TO NON-POLICE ENFORCEMENT OF CIVIL TRAFFIC VIOLATIONS

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August 2020

# EXECUTIVE SUMMARY

To reduce police violence and abuses of power, officers' contacts with the public can be limited by transferring some policing functions to non-police agencies that can better promote individual and societal well-being. One proposal to significantly decrease police encounters without compromising public safety is to remove civil traffic law enforcement from the duties of the police. This can be accomplished in two ways:

1. Transfer the enforcement of civil traffic laws to unarmed personnel in another agency dedicated to road safety that is not also tasked with the enforcement of criminal laws and prohibit police officers from enforcing those laws. (Criminal traffic violations, such as reckless driving and driving under the influence, could remain under the police's jurisdiction.) This proposal

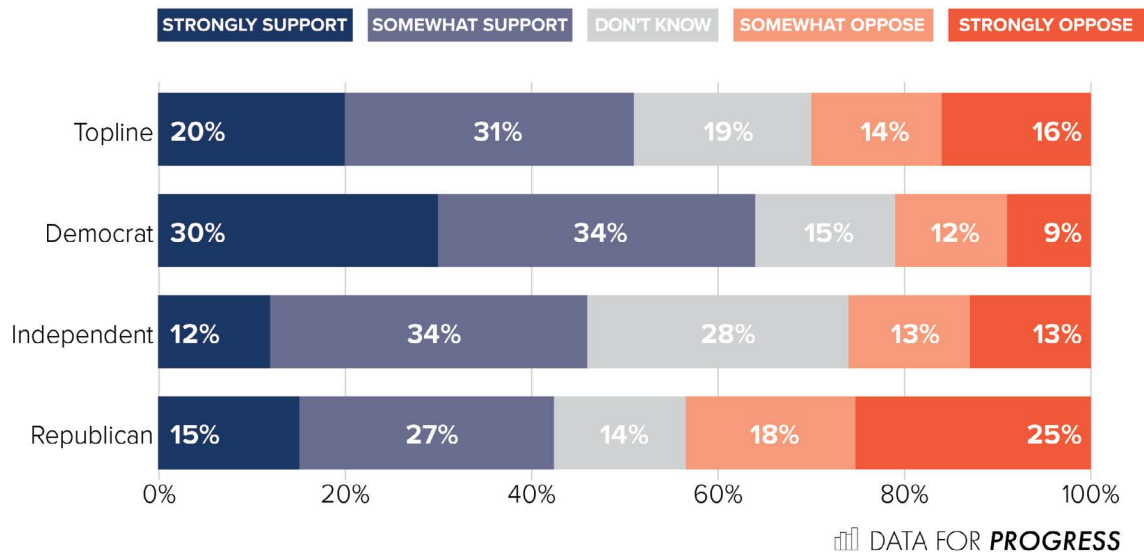
will treat traffic violations as a public safety issue rather than as an excuse for pretextual investigative stops, which have led to many problematic police encounters.

2. Increase automation of traffic enforcement. By replacing traffic stops, automation eliminates police discretion, which can be exercised to enforce traffic laws selectively and discriminatorily.

## POLLING

Polling by Data for Progress and the Justice Collaborative Institute shows that a majority of likely voters are in favor of delegating most traffic enforcement to cameras and non-police agencies.

### Do you support or oppose moving most traffic enforcement to traffic cameras and non-police agencies?



# BACKGROUND

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Sandra Bland. Philando Castile. Maurice Gordon. They and so many others have been mistreated or killed after being pulled over by law enforcement. People of color are over-policed, especially in their cars. The traffic stop is the most common type of police encounter in the United States, according to the Justice Department’s [Bureau of Justice Statistics](#). Because the police enforce both traffic laws and criminal laws, car stops frequently lead to volatile and dangerous situations for police officers and drivers, and too often end in tragedy. According to a [Washington Post database](#), 11% of all fatal shootings by police in 2015 occurred during traffic stops, and Black people accounted for a disproportionate share of those deaths.

The problem with police-led traffic stops for motorists of color isn’t limited to the likelihood of death or injury. They also experience rampant racial profiling on the road. Police [stop them at higher rates](#) than white drivers and use traffic violations as pretext for investigative stops, which not only pose much more danger than routine, non-investigative traffic stops but are also prone to unconstitutionally intrusive and abusive policing. Once pulled over, people of color are [searched more frequently, often with little or no justifiable cause](#).

To reduce police violence and abuse of power and to reinstate the goal of safety, civil traffic law enforcement can be removed from the duties of the police and reassigned to a non-police agency. This can be accomplished in two ways:

1. Transfer the enforcement of civil traffic laws to unarmed personnel in another agency dedicated to road safety that is not also tasked with the enforcement of criminal laws and prohibit police officers from enforcing those laws. (Criminal traffic

violations, such as reckless driving and driving under the influence, could remain under the police’s jurisdiction.)

2. Increase automation of traffic enforcement.

## Reassign Traffic Law Enforcement and Foster Conflict-Free Traffic Stops

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The primary goal of this proposal is to treat traffic violations as a public safety issue rather than an excuse for pretextual investigative stops, which have led to many problematic police encounters. Transferring civil traffic law enforcement to non-police agencies will consequently limit investigative opportunities provided by traffic stops, but it will not undermine police work. Statistical studies conducted in states that collect traffic stop data uniformly indicate that “[hit rates](#)”—the percentage of car searches that lead to the discovery of criminal evidence—are low, and most drugs that are found are in small amounts. Investigative traffic stops are ineffective, especially at pursuing dealers and traffickers, and mostly harass and alienate those who are unjustifiably targeted for inspection.

Moreover, armed officers are not necessary to enforce traffic laws. Narratives depicting routine traffic stops as fraught with unpredictable danger—which inform police training as well as constitutional laws that give police far-ranging search and seizure powers—do not accurately reflect reality. According to available data from law enforcement agencies in Florida, which has one of the most comprehensive public records laws, from 2005 to 2014, officers were seriously injured or killed in just [0.31% of routine traffic stops](#), a category that did not include investigatory stops based on minor violations. Furthermore, the most commonly used “weapon” in these incidents was

not a gun or knife, but the aggressor’s hands, fists, or feet (approximately three in every five assaults).

Given the small fraction of traffic stops that endanger police, relying on armed officers who are trained to act with a “warrior mentality” creates unnecessary risks during what should be a routine process. Transferring traffic law enforcement to administrative officials will not only reduce conflict between enforcer and driver, but it may also mitigate the worst-case scenario: An individual trying to avoid criminal prosecution might be less likely to engage in dangerous behavior during a traffic stop conducted by an official who hands out only civil penalties than by a police officer.

Even so, the experience of history suggests that any effort to separate traffic law enforcement from police work must address the problem of uncooperative traffic violators. In the 1920s and 30s, shortly after the mass production of the automobile, police gained tremendous discretionary power in response to the difficulties of enforcing traffic laws. Too many ordinarily law-abiding citizens became recalcitrant when stopped for a traffic infraction, or worse, they refused to comply with orders from police directing traffic. Local governments throughout the country increased the power of the police, for example, by making it a crime to disobey the commands of a traffic officer.<sup>1</sup>

- ▶ No matter which agency handles the task, there may be pressure to increase enforcers’ authority to deal with the motoring public. The following proposals can help to avoid falling into the same cycle:

1. This history repeated itself in New York City in the 1990s. Traffic enforcement agents, informally called “meter maids,” who were under the transportation department, directed traffic and issued citations for minor violations, like parking infractions. But they experienced frequent abuse by the public—over 600 assaults per year—and so they lobbied for the authority and status of police officers. Although they never became police officers, in 1995, they were transferred to the police department and traded their brown uniforms for blue ones to look more like the police. In 2008, New York changed the law to treat assault on traffic agents like assault on police officers, as a felony. Since then, the number of assaults has decreased to about 100 a year. This history explains why agents have recently criticized calls to transfer traffic enforcement back to the transportation department as part of efforts to defund the police in New York City.

- ▶ Prioritize the safety of traffic law enforcers, drivers, and the public over enforcement. After all, the primary purpose of traffic laws is to promote road safety, not to attain perfect enforcement, which, in any case, is impossible.
- ▶ Train enforcers in de-escalation tactics, which will equip them to handle both the general public and individuals with mental health and/or substance use issues. In most states, driving while under the influence is a criminal offense and thus would be enforced by police. Still, de-escalation training will be helpful when enforcers observe signs of driver impairment during a traffic stop. Such training should also include protocols for contacting the police.
- ▶ Launch a public education campaign explaining how lack of cooperation with traffic enforcers results in greater policing, which harms people of color. Framing individual cooperation as part of a larger response to systematic racism may be effective in changing behavior, especially at a time when most Americans believe that race relations and racism are problems in the United States.

## Promote and Secure Automated Enforcement

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By replacing traffic stops, automation eliminates police discretion, which can be exercised to enforce traffic laws selectively and discriminatorily. Automating speeding violations

alone could significantly reduce police encounters; in New York State, for example, speeding accounts for nearly 20 percent of all traffic citations. Moreover, automated traffic enforcement offers a significant improvement over police enforcement in promoting road safety. One reason why traffic cameras are effective in decreasing traffic accidents, injuries, and fatalities is that they cite violations more consistently and far more frequently than human enforcers, which encourages motorists to more regularly abide by traffic laws. Numerous jurisdictions already use traffic cameras to issue citations for speeding and running red lights, two of the most common traffic violations.

However, the public is divided in their views about automated enforcement, and those opposed have been increasingly successful in persuading several state legislatures to ban traffic cameras. Rather than scrapping automated enforcement technologies altogether, opponents' concerns can be addressed by putting procedures in place to make it easier to contest tickets, setting fines at a reasonable rate, and earmarking fine-generated revenue for traffic safety measures.

One point that has not been adequately raised in this debate, but which may persuade more people to support traffic cameras, is that automation minimizes the need for discretionary policing. A 2016 poll indicated overwhelming support for more speed enforcement cameras among New York City residents who identified as Black (78%), Hispanic (79%), and lower-income (80%). A public education campaign that frames automated enforcement as one solution to racialized policing may help to soften resistance to automation.

Privacy advocates have also raised concerns about the implications of technology-aided law enforcement on privacy rights, especially the

rights of people of color. Police are able to obtain large amounts of data culled from traffic cameras, automated license plate scanners, drone-enabled “persistent surveillance systems,” and more. To address these concerns, automated enforcement must be accompanied by privacy-protection legislation regulating law enforcement’s use and retention of data.

## CONCLUSION

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Americans across the political spectrum are demanding concrete actions not only to eradicate systemic racism in law enforcement but, even more, to reduce the police’s role in safeguarding public safety and welfare. Removing civil traffic law enforcement from the duties of police officers is a safe and effective way to decrease American society’s reliance on policing. It will still protect drivers and pedestrians on the road while cultivating non-combative traffic stops. Traffic violations should not lead to harrowing police encounters or death sentences at the hands of police.

## POLLING METHODOLOGY

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From 7/2/2020 to 7/3/2020 Data for Progress conducted a survey of 1,303 likely voters nationally using web panel respondents. The sample was weighted to be representative of likely voters by age, gender, education, race, and voting history. The survey was conducted in English. The margin of error is +/- 2.7 percent

