

# National Police Accountability Project

A Project of the National Lawyers Guild

## REDUCING LAW ENFORCEMENT’S FOOTPRINT TO MAXIMIZE COMMUNITY SAFETY: ELIMINATING POLICE-BASED RESPONSE TO LOW-LEVEL TRAFFIC VIOLATIONS AND MENTAL HEALTH CRISES

The years between Michael Brown’s death at the hands of Ferguson, Missouri police in the summer of 2014 and George Floyd’s death at the hands of Minneapolis, Minnesota police in the summer of 2020 saw several different efforts to reform policing tactics and policies. These reforms—ranging from the adoption of body-worn cameras to limits on officers’ power to use deadly force to anti-bias training for officers—were all introduced in attempt to reduce police violence against civilians and to create mechanisms for holding police accountable when they cause unjustified harm. Although these reforms may be important tools for reducing the harm police can cause when they inevitably come into contact with civilians, they have ultimately failed to reduce instances of police violence against civilians, particularly Black and Latinx civilians.<sup>1</sup>

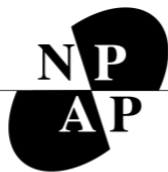
After years of attempted reforms, it is now clear that the best way to protect our communities from police violence is to reduce police interactions with civilians altogether. Reduced police-civilian contact will minimize opportunities for harm. Importantly, minimizing the footprint of law enforcement does not mean eliminating, or even reducing, police response to serious and violent crime. Rather, it means scaling back police involvement in situations where a law enforcement response is unnecessary, or even wholly inappropriate: (1) traffic stops for low-level traffic violations and (2) emergency response to 911 calls for mental health crises.

This white paper provides an overview of the harms that flow from relying on law enforcement for civil traffic violations and crisis intervention. These two arenas account for a significant portion of police-civilian contacts and, in turn, a significant portion of civilian deaths at the hands of police. In 2021 alone, police killed at least 1,140 people.<sup>2</sup> 117 of those people were killed after police stopped them for a traffic

---

<sup>1</sup> See, e.g., Alex S. Vitale, *The answer to police violence is not ‘reform.’ It’s defunding. Here’s why*, THE GUARDIAN (May 31, 2020), available at: <https://www.theguardian.com/commentisfree/2020/may/31/the-answer-to-police-violence-is-not-reform-its-defunding-heres-why> (“Minneapolis, where George Floyd was killed by a police officer who knelt on his neck for over eight minutes, has tried reform already . . . The Minneapolis police implemented trainings on implicit bias, mindfulness, de-escalation, and crisis intervention; diversified the department’s leadership; created tighter use-of-force standards; adopted body cameras; initiated a series of police-community dialogues; and enhanced early-warning systems to identify problem officers.”); Amelia Thomson-DeVeaux and Maggie Koerth, *Is Police Reform A Fundamentally Flawed Idea?* FIVETHIRTYEIGHT (Jun. 22, 2020), available at: <https://fivethirtyeight.com/features/is-police-reform-a-fundamentally-flawed-idea/> (“[Activist Philip] McHarris said it’s time to stop tinkering around the edges of a system that many people in heavily policed communities say is causing more harm than good. ‘These police reforms are implemented over and over again and Black people are still being brutalized and murdered,’ he said.”).

<sup>2</sup> MAPPING POLICE VIOLENCE, 2021 POLICE VIOLENCE REPORT, available at: <https://policeviolencereport.org/>.



# National Police Accountability Project

A Project of the National Lawyers Guild

violation, and 104 were killed after police responded to reports of erratic behavior or mental health crisis.<sup>3</sup> This white paper then discusses the best solution for preventing deaths like this—eliminating law enforcement responses to low-level, civil traffic violations and non-violent mental health emergencies.

## DEFINING THE PROBLEM: OVER-POLICING OF MINOR TRAFFIC VIOLATIONS

The traffic stop is the single most common reason for contact between police officers and civilians.<sup>4</sup> This is so because, in the vast majority of cities across the country, police officers have the authority to stop and arrest drivers for a broad variety of traffic violations, ranging from driving with an air freshener hanging from the rearview mirror<sup>5</sup> to driving dangerously above the posted speed limit. This wide-ranging authority essentially grants law enforcement carte blanche to pull drivers over for any reason.

According to the caselaw of the U.S. Supreme Court, the officer's particular motivation for pulling a driver over—whether it be racial or personal animus towards the driver, or a genuine desire to enforce the vehicular code—does not affect the legality of the traffic stop, so long as the driver committed some traffic violation, however insignificant.<sup>6</sup> As a result, police officers can and do disproportionately stop people of color, and Black drivers in particular, without any legal consequence.<sup>7</sup>

Because the traffic stop is the most common reason for police-civilian contact, it also regularly exposes civilians to police violence. Many of the highly publicized police-civilian encounters that have resulted in the death of the civilian began as traffic stops for minor violations:

---

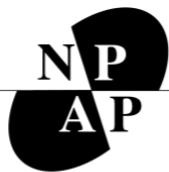
<sup>3</sup> *Id.* at 10.

<sup>4</sup> BUREAU OF JUSTICE STATISTICS, *Traffic Stops*, <https://www.bjs.gov/index.cfm?tid=702&ty=tp>; Erika Harrell and Elizabeth Davis, *Contacts Between Police and the Public, 2018—Statistical Tables*, BUREAU JUST. STAT. 4, available at: <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://bjs.ojp.gov/content/pub/pdf/cbpp18st.pdf>.

<sup>5</sup> Denise Lavoie, *EXPLAINER: Can officers stop drivers for air fresheners?*, ASSOCIATED PRESS (Apr. 15, 2021), available at: <https://apnews.com/article/death-of-daunte-wright-shootings-police-minnesota-laws-830f67a66eee832a87d3642fe8ca50e8>.

<sup>6</sup> See *Whren v. United States*, 517 U.S. 806, 814 (1996) (“[T]he Fourth Amendment’s concern with ‘reasonableness’ allows certain actions to be taken in certain circumstances, *whatever* the subjective intent.”) (emphasis in original); *Maryland v. Wilson*, 519 U.S. 408, 423 (1997) (Kennedy, J. dissenting) (The Court’s holding in *Whren* “permit[s] vehicle stops if there is some objective indication that a violation has been committed regardless of the officer’s real motives;” its “practical effect . . . is to allow the police to stop vehicles in almost countless circumstances.”).

<sup>7</sup> See generally David A. Harris, *Driving While Black: Racial Profiling On Our Nation’s Highways*, ACLU (Jun. 1999), available at: <https://www.aclu.org/report/driving-while-black-racial-profiling-our-nations-highways>. See also Jordan Blair Woods, *Traffic Without the Police*, 73 STAN. L. REV. 1471, 1475 (2021) (“Several studies show that Black and Latinx motorists in particular are disproportionately stopped by police for traffic violations and disproportionately questioned, frisked, searched, cited, and arrested during traffic stops.”); Paul Butler, *The System Is Working the Way It Is Supposed to: The Limits of Criminal Justice Reform*, 104 GEO. L.J. 1419, 1424 (2016) (“It is possible for police to selectively invoke their powers against African-American residents, and, at the same time, act consistently with the law.”).



## National Police Accountability Project

A Project of the National Lawyers Guild

- **Daunte Wright:** Daunte Wright was shot and killed by a Brooklyn Center, Minnesota police officer who pulled Wright over for driving with an air freshener hanging from his rearview mirror and expired registration tags.<sup>8</sup>
- **Philando Castile:** In July 2016, Philando Castile, a beloved school cafeteria worker, was pulled over for a broken taillight while driving with his girlfriend and her four-year-old daughter. Castile calmly alerted the officer that he had a gun in his possession, which he was licensed to carry, and explained that he was reaching for his license and registration, not his gun. Nevertheless, the police officer fatally shot him.<sup>9</sup>
- **Sandra Bland:** Sandra Bland was arrested by a Texas state trooper after she changed lanes without using her car's signal. She was found dead in her jail cell three days later.<sup>10</sup>

There are hundreds more people—both those with stories broadly publicized and those whose stories remain unknown—who have been killed by law enforcement officers during or directly following a traffic stop for a low-level, civil traffic violation. And there are countless more individuals who escape traffic stops with their lives but are nevertheless left traumatized and degraded.<sup>11</sup>

### THE SOLUTION: REMOVING CIVIL TRAFFIC ENFORCEMENT FROM THE DUTIES OF THE POLICE

Police enforcement of minor traffic violations is simply not worth the hefty price of unnecessarily exposing civilians to contact with law enforcement. Low-level traffic violations pose no risk to public safety, but the law enforcement response to these violations does. Recognizing this, several cities have introduced legislation restricting law enforcement authority to stop motorists for minor infractions.

As discussed below, the jurisdictions that have decided to limit law enforcement involvement in traffic enforcement have implemented slightly varied solutions. The best solution for each municipality will likely vary depending on the infrastructure and needs of the city. This section discusses the different approaches cities have adopted that can serve as models for similar interventions in your city.

---

<sup>8</sup> The New York Times Staff, *What to Know About the Death of Daunte Wright*, THE NEW YORK TIMES (Feb. 21, 2022), available at: <https://www.nytimes.com/article/daunte-wright-death-minnesota.html>.

<sup>9</sup> Mark Berman, What the police officer who shot Philando Castile said about the shooting, THE WASHINGTON POST (June 21, 2017), available at: <https://www.washingtonpost.com/news/post-nation/wp/2017/06/21/what-the-police-officer-who-shot-philando-castile-said-about-the-shooting/>.

<sup>10</sup> David Montgomery, *Sandra Bland, It Turns Out, Filmed Traffic Stop Confrontation Herself*, THE NEW YORK TIMES (May 7, 2019), available at: <https://www.nytimes.com/2019/05/07/us/sandra-bland-video-brian-encinia.html>.

<sup>11</sup> See FRANK R. BAUMGARTNER, ET AL., SUSPECT CITIZENS: WHAT 20 MILLION TRAFFIC STOPS TELL US ABOUT POLICING AND RACE 13 (2018) (explaining that targeted traffic stops can be “humiliating, frustrating, and unfair”).



# National Police Accountability Project

A Project of the National Lawyers Guild

## ***The Philadelphia Model: Restricting Police Authority to Stop***

After identifying “massive racial disparities in traffic stops performed by the Philadelphia Police Department, which disproportionately impact Black drivers,” advocates and policymakers in Philadelphia, Pennsylvania decided to limit police authority to conduct traffic stops for minor violations.<sup>12</sup>

Philadelphia’s Driving Equality Law, which went into effect on March 3, 2022, prohibits police from initiating traffic stops for “secondary” traffic violations and labels the following 8 traffic violations as “secondary”:

- (1) vehicle registration that has expired within the last 60 days;
- (2) misplacement of temporary registration permit that is nonetheless clearly displayed in the rear window;
- (3) license plates that are improperly fastened but nonetheless visible;
- (4) a single dysfunctional brake light or headlight;
- (5) objects hanging from the rearview mirror;
- (6) bumper damage;
- (7) operation of vehicle without current certificate of inspection;
- (8) operation of vehicle without evidence of emission inspection.<sup>13</sup>

Police can still ticket drivers for these violations, but such tickets will be mailed or left on the vehicle’s windshield rather than issued in-person.<sup>14</sup> And police officers can still initiate traffic stops for these secondary violations so long as there is a “simultaneously-observed primary violation.”<sup>15</sup> But officers cannot initiate traffic stops solely to enforce these secondary violations.

A critical component of the Philadelphia model is its companion legislation requiring law enforcement to keep an electronic database of every traffic stop they conduct, the reason for conducting it, and the demographics of the driver stopped.<sup>16</sup> The Philadelphia Police Department is required to publish this aggregate data as it becomes available, and at minimum, on a monthly basis. This data sharing is critical

---

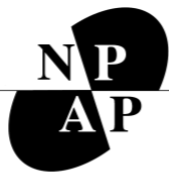
<sup>12</sup> Defender Association of Philadelphia, *Driving Equality Act*, <https://phillydefenders.org/practice-units/police-accountability/#driving-equality>.

<sup>13</sup> PHILADELPHIA, PENN. Bill No. 210636-A (2021).

<sup>14</sup> Jonaki Mehta, *Why Philadelphia has banned low-level traffic stops*, NPR (Nov. 8, 2021), <https://www.npr.org/2021/11/08/1052957246/why-philadelphia-has-banned-low-level-traffic-stops>.

<sup>15</sup> Bill No. 210636-A.

<sup>16</sup> PHILADELPHIA, PENN. Bill No. 210635 (2021).



## National Police Accountability Project

A Project of the National Lawyers Guild

because it will enable community stakeholders to hold police officers accountable to the changes intended by the Driving Equality Bill. With this data, stakeholders can determine if traffic stops are indeed decreasing, or if police officers are increasing traffic stops for certain other violations still within their authority. This data may call for amended legislation prohibiting traffic stops for additional violations. The data will also enable stakeholders to determine if police officers are still disproportionately conducting traffic stops on Black drivers.

### ***The Berkeley Model: Civilian Traffic Enforcement***

In February of 2021, the City Council of Berkeley, California, like Philadelphia, voted to eliminate police stops for low-level traffic offenses.<sup>17</sup> But in addition to eliminating police stops for secondary traffic violations, Berkeley City Council is working to transition its traffic enforcement from armed police officers to unarmed civil servants, who will be housed within the Berkeley Department of Transportation.<sup>18</sup> These civil servants will be tasked solely with issuing citations for traffic violations and will be authorized to detain, search, or arrest drivers.

Berkeley's civil traffic enforcement department is still in the planning stage. With no other models of this type of civil traffic enforcement anywhere else in the country, this project will take time to properly develop and implement.<sup>19</sup> NPAP will continue to follow this project as it progresses and update this white paper accordingly.

### ***The Virginia Model: Prohibiting the Use of Evidence Gathered During Traffic Stops for Secondary Violations and the Smell of Marijuana***

Virginia's HB 5058, passed during the summer special session in 2021, classified a number of minor traffic offenses as "secondary offenses" and prohibited police officers from initiating traffic stops for secondary offenses.<sup>20</sup> These secondary offenses include tinted windows, windshield decals, expired registration stickers, and a broken taillight, among others.<sup>21</sup>

---

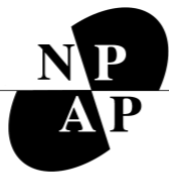
<sup>17</sup> Sarah Ravani, *Berkeley adopts sweeping police reforms including taking cops off routine traffic stops*, SAN FRANCISCO CHRONICLE (Feb. 23, 2021), <https://www.sfchronicle.com/bayarea/article/Berkeley-to-consider-sweeping-police-reforms-15971071.php#:~:text=The%20Berkeley%20City%20Council%20adopted,with%20expired%20license%20plate%20tags>.

<sup>18</sup> Emilie Raguso, *Plans firm up to remove police from traffic stops, but it's a long road ahead*, BERKELEYSIDE (May 25, 2021), <https://www.berkeleyside.org/2021/05/25/berkeley-department-of-transportation-civilian-traffic-enforcement>.

<sup>19</sup> *Id.*

<sup>20</sup> Va. HB 5058 (2020).

<sup>21</sup> *Id.*



# National Police Accountability Project

A Project of the National Lawyers Guild

The state law also prohibits police officers from conducting traffic stops “solely on the basis of the odor of marijuana.”<sup>22</sup> This addition is significant, as police officers regularly justify their searches of cars and individuals during traffic stops through almost “formulaic” claims that they smelled marijuana.<sup>23</sup> These claims have enabled officers to turn already-intrusive traffic stops into even more intrusive searches. And, like traffic stops themselves, these searches based on the odor of marijuana have been disproportionately conducted on Black drivers.<sup>24</sup>

To give teeth to these restrictions on police authority, HB 5058 prohibits the admission of evidence seized during a prohibited traffic stop “in any trial, hearing, or other proceeding.”<sup>25</sup> This rule mirrors the Fourth Amendment’s exclusionary rule, which courts apply to suppress evidence gathered during unconstitutional searches. HB 5058’s exclusionary rule will hopefully disincentivize any law enforcement officers from engaging in prohibited traffic stops as a pretext to search for incriminating evidence.

## *Additional Considerations*

Although a full discussion on traffic fines and fees is beyond the scope of this white paper, it is worth noting that cities should rethink their traffic-ticket revenue along with their traffic enforcement systems. Traffic fines and fees can be very burdensome—“[f]or many people living in poverty, the cost of a single traffic ticket is beyond their living means.”<sup>26</sup> And the cost of unpaid traffic fines is immense, and can even lead to incarceration.<sup>27</sup> Poor people and people of color are disproportionately impacted by these harsh consequences.<sup>28</sup> In order to counteract these inequities, communities reevaluating their methods of traffic enforcement should also rethink their reliance on traffic fines and fees as a source of revenue.

## DEFINING THE PROBLEM: LAW ENFORCEMENT RESPONSE TO MENTAL HEALTH CRISIS

In most cities across the United States, police officers are the default first-responders to 911 calls reporting mental health crises and seeking emergency aid. But people in crisis need medical and

---

<sup>22</sup> *Id.*

<sup>23</sup> Joseph Goldstein, *Officers Said They Smelled Pot. The Judge Called Them Liars*, THE NEW YORK TIMES (Sep. 12, 2019), <https://www.nytimes.com/2019/09/12/nyregion/police-searches-smelling-marijuana.html>. See also Caren Chesler, *A whiff of pot alone no longer airtight probable cause for police to search cars in several states*, THE WASHINGTON POST (Jun. 26, 2021), [https://www.washingtonpost.com/national-security/marijuana-police-probable-cause/2021/06/26/9d984f8e-d36c-11eb-a53a-3b5450fdca7a\\_story.html](https://www.washingtonpost.com/national-security/marijuana-police-probable-cause/2021/06/26/9d984f8e-d36c-11eb-a53a-3b5450fdca7a_story.html) (“For decades, police officers have used motor vehicle stops and searches, which relied on officers saying they could smell marijuana, as part of their drug interdiction efforts.”).

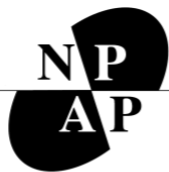
<sup>24</sup> Chesler, *supra* note 23.

<sup>25</sup> Va. HB 5058, *supra* note 20.

<sup>26</sup> Woods, *Traffic Without the Police*, *supra* note 7 at 1512.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*



## National Police Accountability Project

A Project of the National Lawyers Guild

psychiatric care, which law enforcement officers do not and cannot provide. In fact, law enforcement's presence routinely escalates medical and mental health crises into hectic and dangerous situations. With police involved, individuals in need of emergency aid are arrested, incarcerated, or, all too often—seriously injured or killed.

People living with serious mental illness are 16 times more likely to be killed during interactions with law enforcement than civilians without mental illness who are approached or stopped by the police.<sup>29</sup> Nationwide, more than 1 in 4 of the people shot and killed by police officers between 2015 and 2020 had a known mental illness.<sup>30</sup> The risk of death is even greater for Black men experiencing mental health crises—“when compared to white men, Black men showing signs of mental illness are almost twice as likely” to be killed by police.<sup>31</sup>

A significant portion of these lethal encounters begin as 911 calls from people concerned about the well-being of a loved one or neighbor living with a mental illness.<sup>32</sup> An analysis of police-involved shooting deaths in 2015 showed that “in most cases, the police officers who shot [civilians with mental illness] were not responding to reports of a crime. More often, the police officers were called by relatives, neighbors, or other bystanders worried that a mentally fragile person was behaving erratically.”<sup>33</sup> But when armed officers respond to these calls for help, these medical crises regularly escalate into deathly tragedies.

This tragic, avoidable dynamic plays out in far too many instances to name them all. A selection of just a few of these instances demonstrates the pervasiveness of the problem:

- **Daniel Prude:** In March of 2020, Joe Prude called the Rochester police for help locating his brother, Daniel Prude, who had wandered from his home in sub-freezing weather wearing only a tank top. Daniel had just been released from a local hospital where he was receiving in-patient

---

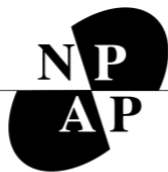
<sup>29</sup> Treatment Advocacy Center, *Overlooked in the Undercounted: The Role of Mental Illness in Fatal Law Enforcement Encounters* 1 (Dec. 2015), <https://www.treatmentadvocacycenter.org/overlooked-in-the-undercounted>.

<sup>30</sup> National Alliance on Mental Illness, 988: *Reimagining Crisis Response*, <https://www.nami.org/Advocacy/Crisis-Intervention/988-Reimagining-Crisis-Response>.

<sup>31</sup> Amudha Sairam, *Study of fatal police shootings reveals high risk for unarmed Black men*, THE DAILY CALIFORNIAN (Oct. 7, 2020), <https://www.dailycal.org/2020/10/07/study-of-fatal-police-shootings-reveals-high-risk-for-unarmed-black-men/>.

<sup>32</sup> Emma Frankham, *Mental Illness Affects Police Fatal Shootings*, 17 CONTEXTS 70, 71 (2018).

<sup>33</sup> Wesley Lowery, Kimberly Kindy, Keith L. Alexander, Julie Tate, Jennifer Jenkins, and Steven Rich, *Distraught People, Deadly Results*, THE WASHINGTON POST (Jun. 30, 2015), <https://www.washingtonpost.com/sf/investigative/2015/06/30/distraught-people-deadly-results/>. Even when police officers are responding to reports of a crime when they encounter a mentally ill individual, these reports typically concern non-dangerous, “low-level misdemeanor crimes, or . . . nuisance behavior.” MELISSA REULAND, MATTHEW SCHWARZFELD & LAURA DRAPER, LAW ENFORCEMENT RESPONSES TO PEOPLE WITH MENTAL ILLNESSES: A GUIDE TO RESEARCH-INFORMED POLICY AND PRACTICE 5 (2009), <https://csgjusticecenter.org/wp-content/uploads/2020/02/le-research.pdf> [<https://perma.cc/L228-DMVG>].



## National Police Accountability Project

A Project of the National Lawyers Guild

psychiatric care. The police discovered Daniel, who was allegedly smashing storefront windows and shouting that he had coronavirus, and arrested him. When Daniel became agitated, the officers placed a hood over his head and pinned him to the ground, kneeling on his back. Daniel stopped breathing and died of asphyxiation.<sup>34</sup>

- **Alfred Olango:** Police in El Cajon, California received a call about a man, later identified as Alfred Olango, who was behaving “erratically” and walking into oncoming traffic. When police arrived at the scene, Alfred pulled a vaping device from his pocket and pointed it at the officers, one of whom fatally shot him.<sup>35</sup>
- **Keith Vidal:** Police officers in North Carolina responded to a 911 call from a man seeking help calming his teenage stepson, Keith Vidal, who was experiencing a schizophrenic episode. The officers shot at Keith, who died from his wounds. In the aftermath of this tragedy, Keith’s stepfather lamented: “We called for help, and they killed my son.”<sup>36</sup>

These tragic deaths would have easily been avoided, had the calls seeking emergency aid been answered by mental health professionals and crisis intervention specialists instead of armed police officers.

### *Police Officers are not Crisis Intervention Specialists or Emergency Medical Workers*

Police officers are the first responders to mental health crises not because they have expertise qualifying them to do so but because of their institutional ties to 911 and their robust emergency response capacities. In fact, law enforcement officers are ill-equipped and ill-suited to respond to mental health crises. Bloomington, Minnesota’s Chief of Police, Booker T. Hodges, has explained this incompatibility at length:

*There are two reasons why I believe society should stop having police officers respond to non-violent mental health calls:*

#### *1. COPS LACK ADEQUATE MENTAL HEALTH CARE RESPONSE TRAINING*

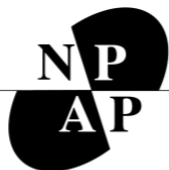
---

<sup>34</sup> Christianna Silva, *Joe Prude Remembers His Brother Daniel Following His Death in Police Custody*, NPR (Sep. 4, 2020), available at: <https://www.npr.org/2020/09/04/909563984/joe-prude-remembers-his-brother-daniel-following-his-death-in-police-custody>.

<sup>35</sup> Elliot C. McLaughlin, *Police: Man Killed by Officer Pointed Vaping Device, Not Gun*, CNN (Sep. 30, 2016), available at: <https://www.cnn.com/2016/09/28/us/california-police-shooting/index.html>.

<sup>36</sup> Michael Pearson, Christina Zdanowicz, and David Mattingly, *‘We called for help, and they killed my son,’ North Carolina Man Says*, CNN (Jan. 7 2014), available at: <https://www.cnn.com/2014/01/07/justice/north-carolina-teen-killed/index.html>.





## National Police Accountability Project

A Project of the National Lawyers Guild

*The average psychologist has between 10-12 years of college education in addition to 3,000 hours of supervised training. A licensed mental health care professional has between 7-8 years of college education in addition to hundreds of hours of supervised training.*

*By comparison, a police officer who attends a [Crisis Intervention Team] CIT course receives 40 hours of formalized training. Most police officers receive far less than 40 hours training afforded to those who attend CIT training.*

*Yet despite this gap in training, society expects police officers to show up and handle mental health calls with the same precision and expertise of a mental health care professional. This is an unrealistic expectation.*

*We are setting police officers up for failure by continuing to send them on calls that, in spite of our best efforts, we can never train them well enough to handle.*

### *2. LAW ENFORCEMENT BRINGS THE TAIL OF THE CRIMINAL JUSTICE SYSTEM*

*There is a consensus within society that the criminal justice system is not the appropriate place to handle those who suffer from mental illness.*

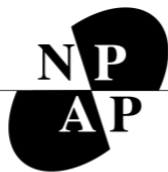
*In light of this, it makes no sense to send police officers – who bring the tail of the criminal justice system with them – on calls involving non-violent mentally ill individuals.*

*The chance of a non-violent mentally ill person being interjected into the criminal justice system increases when they come into contact with police. Our jails are full of people suffering from mental illness who have no business being there, yet society keeps sending them because there is no other place for them to go.*

*We have taken away the places where those who suffer from mental illness can get access to the mental health care they need. Instead, they have been fast-tracked into the criminal justice system. We are not serving the best interest of those who consume mental health services or society by continuing to have police officers handle calls involving non-violent mentally ill people.<sup>37</sup>*

---

<sup>37</sup> Chief Booker Hodges, *2 reasons cops should not respond to non-violent mental health calls*, POLICE1 (Sep. 22, 2017), <https://www.police1.com/crisis-intervention-training/articles/2-reasons-cops-should-not-respond-to-non-violent-mental-health-calls-8QFR8LdhneV9d6nS/>.



## National Police Accountability Project

A Project of the National Lawyers Guild

Police officers are trained to identify and defuse threats. This training can condition officers to misperceive erratic behavior in individuals as a threat to immediately subdue rather than a non-violent symptom of a mental health crisis. This threat mindset, in turn, has catastrophic consequences. Moreover, as Chief Hodges explained, police officers are tied to jails and prisons—not hospitals and treatment centers. Accordingly, when police respond to 911 calls of mental health crisis, individuals in need of emergency treatment end up incarcerated, where their health and symptoms rapidly deteriorate.<sup>38</sup>

### THE SOLUTION: NON-POLICE RESPONSE TO MENTAL HEALTH CRISIS

Because a law enforcement response is fundamentally incompatible with the safety needs of individuals experiencing mental health crises, the problem of police use of lethal force against individuals in crisis cannot be solved by additional training for police officers. Instead, the only viable solution is to remove law enforcement altogether from mental health emergency response.

Several cities are already working to implement non-law enforcement crisis response teams. These cities include Olympia, Washington; Amherst, Massachusetts; Denver, Colorado; Portland, Oregon; Oakland, California; and New York, New York.

The CAHOOTS (Crisis Assistance Helping Out On The Streets) program in Eugene, Oregon is the leading example of a successful non-police response to mental health crises. Launched in 1989 and serving the Eugene-Springfield Metropolitan area, the CAHOOTS program “mobilizes two-person teams consisting of a medic (a nurse, paramedic, or EMT) and a crisis worker who has substantial training and experience in the mental health field.”<sup>39</sup> These responders utilize “trauma-informed de-escalation and harm reduction techniques” and do not carry weapons.<sup>40</sup> The CAHOOTS responders call for backup from law enforcement if an encounter becomes violent, but such calls are rarely necessary. Out of “roughly 24,000 CAHOOTS calls” in 2019, “police backup was requested only 150 times.”<sup>41</sup>

### *Core Components of Effective Crisis Intervention Legislation*

Crisis intervention models that do not rely on law enforcement personnel vary somewhat from city to city. But to best ensure the crisis intervention reform achieves its intended goals—connecting individuals in

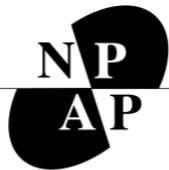
---

<sup>38</sup> Katie Rose Quandt and Alexi Jones, *Research Roundup: Incarceration can cause lasting damage to mental health*, PRISON POLICY INITIATIVE (May 13, 2021), <https://www.prisonpolicy.org/blog/2021/05/13/mentalhealthimpacts/>.

<sup>39</sup> White Bird Clinic, *What is CAHOOTS?* (Oct. 29, 2020), <https://whitebirdclinic.org/what-is-cahoots/>.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*



## National Police Accountability Project

A Project of the National Lawyers Guild

crisis with the care they need and preventing law enforcement escalation—NPAP recommends the reform contain the following critical elements:

*Teams consisting of a medic (nurse, paramedic, or EMT) and a crisis intervention specialist with expertise in mediation and conflict de-escalation responding to all mental health emergency calls.*

Medics and crisis intervention specialists have the expertise and resources needed to safely and swiftly respond to mental health crises. This is the team makeup used by CAHOOTS in Eugene, Oregon with demonstrated success.

*These teams should not include law enforcement personnel, nor should law enforcement provide “co-response” alongside these teams.*

When law enforcement is involved, even as part of a larger crisis response team, they tend to dominate decision-making and escalate the situation.<sup>42</sup> If a co-responder model is necessary considering political constraints, the co-response model must provide that civilian responders, rather than law enforcement officers, are the first on the scene. The co-responder model is also only appropriate where the proposal has garnered majority community support.

*A call line dedicated to calls for service reporting mental health crises that is distinct from 911.*

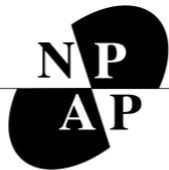
If the 911 dispatch is fielding the calls, it has the power to determine whether to refer the call to the crisis line, and/or whether to send armed officers along with the crisis intervention team. In some jurisdictions relying on 911 dispatch, mental health professionals have only been called in “once police have already ha[d] first engagement,” leading to some fatal encounters at the hands of police.<sup>43</sup> Some community members who use crisis lines in cities that have already implemented non-police crisis responses have expressed concern with police ability to intercept crisis calls.<sup>44</sup>

---

<sup>42</sup> See e.g. Mimi E. Kim, et. al., *Defund the Police—Invest in Community Care: A Guide to Alternative Mental Health Responses*, INTERRUPTING CRIMINALIZATION 12 (May 2021), <https://static1.squarespace.com/static/5ee39ec764dbd7179cf1243c/t/60ca7e7399f1b5306c8226c3/1623883385572/Crisis+Response+Guide.pdf> (describing how under co-response models, “[h]ealth care providers and first responders report that officers on the scene will often forcefully advocate for or order use of chemical or physical restraints over time and de-escalation techniques.”); Christie Thompson, *This City Stopped Sending Police to Every 911 Call*, THE MARSHALL PROJECT (Jul. 24, 2020), available at: <https://www.themarshallproject.org/2020/07/24/crisisresponders> (explaining that “[s]ome cities have paired police with social workers for certain calls. But advocates of alternatives say even a well-trained, armed officer can escalate a situation or land someone in jail.”).

<sup>43</sup> Kim, et. al., *supra* note 42 at 12.

<sup>44</sup> Thompson, *supra* note 42 (explaining that, to the disappointment of many crisis line callers, the crisis line in Olympia, Washington is frequently intercepted by local law enforcement: “I called 911 to get a hold of you guys, but it got intercepted



## National Police Accountability Project

A Project of the National Lawyers Guild

*A system for diverting calls made to 911 reporting mental health crises to the dedicated crisis line.*

Until civilians become familiar with the crisis line, 911 dispatch will likely receive many of these calls.<sup>45</sup> The 911 dispatch will need to transfer these calls to the crisis line. At the same time, local community leaders and 911 dispatch should publicize the alternate line so that community members learn to use it.

*The crisis intervention specialists should be members of the communities served by the crisis line. There should not be requirement, nor a preference for, licensed professionals such as psychiatrists or licensed social workers.*

Replacing police officers with crisis workers or trained social workers does not necessarily prevent oppressive practices that criminalize and harm people in crisis.<sup>46</sup> To ensure that the crisis team replacing police officers do not replicate the harmful practices of law enforcement, and to ensure trust between crisis responders and the people served, crisis responders should be racially diverse and representative of the communities served.<sup>47</sup> The CAHOOTS teams, for example, have “central roles for people who do not necessarily have a college degree . . . [and] people who have been and/or worked with homeless/houseless individuals, baristas, and bartenders.”<sup>48</sup> Licensed staffers like psychologists or psychiatrists should also be avoided because they have ability to perform involuntary hospitalizations.<sup>49</sup> Licensed staffers can also significantly raise the cost of non-police responses.<sup>50</sup>

*An institutional framework for ensuring accountability to the communities served.*

---

by the football team,’ said Michael Stone, referring to Olympia police officers. He had recently called to try and get medical care for friend in a nearby tent [in a homeless encampment]. ‘They were talking down to us. I don’t like that cops can intercept if they want. We need people that aren’t so combat-oriented to deal with the homeless.’”)

<sup>45</sup> See Tom Thompson et. al., *Amherst Community Responder Report*, Law Enforcement Action Partnership 9 (Nov. 2021) (describing Baltimore’s need to divert mental health calls made to 911 dispatch because “[m]ost people are not familiar with the crisis line, so they call 911 instead”).

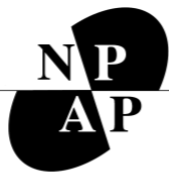
<sup>46</sup> Jemel P. Aguilar and Elisabeth Counselman-Carpenter, ‘*The Mirage of Action*’: *Exploring the Social Work Professions’ Perpetuation of White Supremacy Through ‘Well-Intentioned’ Actions*, 21 *ADVANCES IN SOCIAL WORK* 1020, 1020-21 (2021), <https://journals.iupui.edu/index.php/advancesinsocialwork/article/view/24400/23886>.

<sup>47</sup> The Law Enforcement Action Partnership also makes this recommendation. See Thompson, *supra* note 45 at 25-26 (“We also recommend that, in selecting these individuals [to serve as crisis responders], [cities] look[] for responders who reflect racial diversity and who have lived experience with the types of situations they would be asked to handle, rather than requiring higher education and hiring an individual with the most advanced credentials.”).

<sup>48</sup> Kim, *supra* note 42 at 14.

<sup>49</sup> See *id.* at 22.

<sup>50</sup> See *id.* at 23.



## National Police Accountability Project

A Project of the National Lawyers Guild

It will be important to ensure that communities served are meaningfully involved, and not just included in name. Members of the communities served should be active decision-makers. Without a mechanism for including community members as decision-makers, cities might not actually include them once the crisis response program is implemented.<sup>51</sup> This institutional framework should include resources to support members of affected communities in developing a curriculum and protocol for training crisis intervention specialists, and resources to train members of affected communities in the designed curriculum.

*Sufficient resources to run 24 hours a day, 7 days a week.*

This is necessary to make the crisis response program a true alternative to law enforcement response. If the crisis response team isn't consistently and constantly available, communities cannot and will not rely on it.

### ADDRESSING MISCONCEPTIONS ABOUT RESTRICTING LAW ENFORCEMENT'S FOOTPRINT

Efforts to reduce the footprint of law enforcement—by restricting police enforcement of low-level traffic violations and/or eliminating police response to mental health crisis—are commonly met by the following concerns: (1) the unarmed civilians taking on tasks previously assigned to armed police officers will be placed in harm's way; (2) reducing law enforcement's responsibilities will make our communities unsafe; (3) alternatives to police are too expensive and complex to pursue. The following section demonstrates that these concerns stem from misconceptions that are readily disproved.

*Unarmed civilians responding to non-violent mental health crises and low-level traffic infractions do not face any danger.*

The aggressive police response to people in mental health crisis and drivers during traffic stops might suggest that such encounters are dangerous and call for police use of force. In reality, these interactions very rarely pose any threat to the responding officer or other bystanders. Rather, it is the unnecessary police use of force that renders these encounters dangerous.

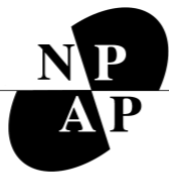
Law enforcement agencies routinely mischaracterize traffic stops as “not just highly dangerous but also potentially fatal.”<sup>52</sup> This narrative is unsupported by data.<sup>53</sup> In fact, according to “conservative estimate[s]” of traffic stop data from the state of Florida over a 10-year period, “the rate for a felonious

---

<sup>51</sup> In Denver, for example, a proposal to adopt an advisory committee “includ[ing] and prioritiz[ing] BIPOC membership and members of the LGBTQ and disability community” never passed. *See id.* at 27.

<sup>52</sup> Jordan Blair Woods, *Policing, Danger Narratives, and Routine Traffic Stops*, 117 MICH. L. REV. 635, 637 (2019).

<sup>53</sup> *See id.* at 668 (“In short, the findings do not support the dominant danger narrative surrounding the routine traffic stops.”).



## National Police Accountability Project

A Project of the National Lawyers Guild

killing of an officer during a routine traffic stop for a traffic violation was only 1 in ever 6.5 million stops.”<sup>54</sup> According to the same data, “[t]he rate for an assault that results in serious injury to an officer was only 1 in every 361,111 stops” and “the rate for an assault (whether it results in officer injury or not) was only 1 in every 6,959 stops.”<sup>55</sup> Additionally, the most common “weapon” used by drivers in these very rare assaults were the drivers’ own hands, fists, or feet—not a gun, knife, or the car itself.<sup>56</sup> These data suggest that the routine traffic stop for a minor traffic violation does not pose any serious danger to the personnel conducting the stop.

Similarly, civilians responding to people in mental health crisis are not placed in any real danger. As a preliminary matter, the crisis intervention teams will only be dispatched to those calls for service that are already characterized as “non-violent.” And if a civilian responder does perceive danger, they can call for police backup. The CAHOOTS program in Eugene, Oregon demonstrates the safety of this model. Out of “roughly 24,000 CAHOOTS calls” in 2019, “police backup was requested only 150 times.”<sup>57</sup> And in the 33 years CAHOOTS has been operative, CAHOOTS personnel have not been harmed on the job.

*Reducing law enforcement’s responsibilities will not jeopardize community safety.*

Police officers typically spend only a minor fraction of their time responding to violent crime.<sup>58</sup> Records of “calls for service” in 2020, which include incidents initiated by police officers in addition to calls made by citizens, from various cities across the country show that roughly one percent of these calls concerned serious violent crimes.<sup>59</sup> And according to 2020 data from the police departments in New Orleans, Montgomery County (Maryland), and Sacramento, officers in all three departments spent only four percent of their time addressing serious violent crime.<sup>60</sup> By contrast, officers in these three departments spent much more time responding to traffic violations and medical emergencies, and spent the most amount of time responding to non-criminal calls.<sup>61</sup>

---

<sup>54</sup> *Id.* at 640.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.* at 673-74.

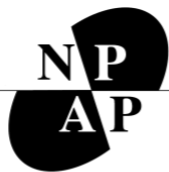
<sup>57</sup> White Bird Clinic, *What is CAHOOTS?*, supra note 39.

<sup>58</sup> Defined as homicide, robbery, rape, and aggravated assault. Jeff Asher and Ben Horwitz, *How Do the Police Actually Spend Their Time?*, THE NEW YORK TIMES (Nov. 8, 2021), <https://www.nytimes.com/2020/06/19/upshot/unrest-police-time-violent-crime.html>.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* See also Roge Karma, *We train police to be warriors—and then send them out to be social workers*, VOX (Jul. 31, 2020), <https://www.vox.com/2020/7/31/21334190/what-police-do-defund-abolish-police-reform-training> (citing additional studies confirming that police spend very little time investigating serious crime).



## National Police Accountability Project

A Project of the National Lawyers Guild

Reducing the footprint of law enforcement by removing police officers from traffic enforcement and mental health crisis response does not amount to eliminating police response from dangerous crime. Quite the opposite—it means narrowing the focus of law enforcement to specifically prioritize the investigation and prevention of serious crime.<sup>62</sup> Removing police from traffic enforcement and mental health response enables them to focus their time addressing the issues they have specifically been trained to address—serious and violent crimes—rather than the issues for which they are ill-suited and ill-prepared.<sup>63</sup>

Moreover, police involvement in low-level traffic enforcement and mental health calls actually *jeopardizes* public safety. As discussed above, increased interaction between police officers and civilians increases opportunities for officers to cause harm. By limiting police interaction with the public and reimagining the ways we enforce traffic safety and provide mental health care, we can make our communities that much safer.

*Implementing alternatives to policing can save cities millions of dollars.*

Alternatives to police in traffic enforcement and crisis response are far more cost-effective than reliance on law enforcement.<sup>64</sup> Police-only responses to mental health crisis waste municipal money. Any funding invested in sporadic crisis training for police officers who ultimately cannot provide the services of a specialized crisis intervention team is a waste of resources. And when individuals in need of mental healthcare are incarcerated rather than provided treatment, their incarceration costs the municipality significant money.<sup>65</sup> The savings that the CAHOOTS program provides to Eugene and Springfield, Oregon are significant. The CAHOOTS program saves the city of Eugene roughly \$8.5 million annually by diverting mental-health related calls from the police department to the CAHOOTS teams.

Removing police from traffic enforcement similarly has the potential to save cities millions of dollars. Cities like Berkeley, California can opt to invest money in civil traffic enforcement personnel rather than increasing police budgets to boost police staffing. Alternatively, cities may choose to use automated

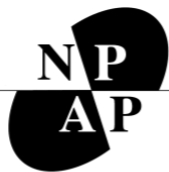
---

<sup>62</sup> See Haaziq Madyun, *Oakland police change tactics to reduce number of traffic stops*, KRON 4 (Nov. 18, 2019), <https://www.kron4.com/news/bay-area/oakland-police-change-tactics-to-reduce-number-of-traffic-stops/> (interviewing Oakland police, who are still authorized to conduct traffic stops for secondary violations but have elected not to, explaining that this decision enables them to focus their time on serious crime).

<sup>63</sup> Karma, *supra* note 61.

<sup>64</sup> For example, the combined budget of the Eugene, Oregon and Springfield, Oregon police departments is \$90 million, but the CAHOOTS annual budget, operating in both Eugene and Springfield, is only \$2.1 million. White Bird Clinic, *What is CAHOOTS?*, *supra* note 39.

<sup>65</sup> Communities United Against Police Brutality, *Ending Police-Only Responses to Mental Health Crisis Calls* 105 (Aug. 2020), <https://www.dropbox.com/s/su22tlul1wf41bn/Mental%20Health%20Working%20Group%20Paper%20Final%2020200901.pdf?dl=0>.



# National Police Accountability Project

A Project of the National Lawyers Guild

traffic enforcement systems that function like speeding cameras, red-light cameras, or tool booth cameras. Salaried civil servants not housed within the police department can be responsible for reviewing the footage and mailing citations.<sup>66</sup> There are potential issues with automated traffic enforcement that cities will need to address,<sup>67</sup> but this alternative will likely save cities millions of dollars.<sup>68</sup>

Communities should work to secure a steady stream of funding for these interventions so the programs are not forced to seek new funding each year. Such reliable sources of funding are readily available—municipalities have funded comparable interventions through special sales taxes,<sup>69</sup> state government funding,<sup>70</sup> and federal grants.<sup>71</sup>

## CONCLUSION

The responsibilities of law enforcement officers have ballooned significantly from investigating and preventing serious and violent crime to monitoring minor traffic violations and providing social services. But police officers are ill-suited and ill-prepared to take on such a wide range of responsibilities. And the greater the amount of contact there is between law enforcement and civilians, the greater the opportunity that civilians will be harmed by police use of force. Several jurisdictions have recognized this and have resolved to reimagine public safety—to restrict police authority to conduct traffic stops for minor violations and to replace armed law enforcement officers with unarmed crisis intervention personnel to respond to calls for mental healthcare.

NPAP is eager to help with efforts to reimagine public safety and reduce the footprint of law enforcement. Please do not hesitate to contact us at [legal.npap@nlg.org](mailto:legal.npap@nlg.org) if you are interested in implementing traffic enforcement and/or crisis intervention alternatives in your community.

---

<sup>66</sup> Jordan Blair Woods, *Traffic Without the Police*, *supra* note 7 at 1504.

<sup>67</sup> *See id.* at 1502 n.151 (citing potential issues automated traffic enforcement, including erosion of transparency and the legality of automated enforcement).

<sup>68</sup> Vera Institute of Justice, *Investing in Evidence-Based Alternatives to Policing: Non-Police Responses to Traffic Safety* at 2-3 (Aug. 2021), [chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.vera.org/downloads/publications/alternatives-to-policing-traffic-enforcement-fact-sheet.pdf](https://www.vera.org/downloads/publications/alternatives-to-policing-traffic-enforcement-fact-sheet.pdf).

<sup>69</sup> Communities United Against Police Brutality, *supra* note 65 at 99-100.

<sup>70</sup> *Id.* at 102-04.

<sup>71</sup> *Id.* at 104-05.