



City of Newton Police Department



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Date: February 14, 2022
To: Newton City Council – Public Safety & Transportation Committee
From: Chief John Carmichael
Ref: 2020 Massachusetts Uniform Citation Data Analysis Report

Dear PS&T Chair Councilor Downs,

Please accept this document as a summary of the 2020 Massachusetts Uniform Citation Data Analysis Report and my review of specific data relative to the Newton Police Department. While Massachusetts is only in the early stages of statewide data collection for motor vehicle stops, the first report is encouraging for the future.

One of the most commonly reported complaints received by the Newton Police Department is traffic/motor vehicle complaints, and requests for stricter enforcement of motor vehicle infractions throughout the City. The Newton Police Department makes every effort to accommodate reported traffic complaints using traffic posts, directed patrols, and highway-traffic safety grants.

Pursuant to M.G.L. c.90 § 63 (Massachusetts Hands-Free Law), police departments in Massachusetts are required to report information relative to traffic stops to the Registry of Motor Vehicles (RMV). The RMV is required to collect such data from all issued Massachusetts Uniform Citations and identifying characteristics of all individuals who receive a [written] warning, citation or is arrested, including the age, race and gender of the individual; the traffic infraction; the date and time of the offense and the municipality in which the offense was committed; and whether a search was initiated as a result of the stop.



Pursuant to section 63, the RMV reports the information annually to the secretary of public safety, which maintains a standardized process to facilitate data collection for law enforcement agencies and the procedures for law enforcement officials to collect data. The Secretary of Public Safety and Security will publish an annual report derived from the data used for the annual analysis and report this data publicly.

If the Secretary of EOPSS in consultation with the Attorney General, determines that the analysis and report suggests that a law enforcement agency appears to have engaged in racial or gender profiling, the Secretary must:

- (1) require the law enforcement agency to collect information, for a period of 1 year, on all traffic stops, including those not resulting in a warning, citation, or arrest; and
- (2) mandate implicit bias training using best practices for the law enforcement agency.

As a result of this law, EOPSS contracted with Salem & Worcester State University to analyze local and state police traffic stop data and develop a comprehensive report. The hands-free driving law established guidelines for research requirements performed by Salem State that provides evidence-based insight into factors surrounding traffic stops and to identify any potential patterns of racial disparities.

The Salem/Worcester State study included ten months of stop data from February 2020 through December 2020, evaluating information at a statewide and municipal level, including the Newton Police Department. The first report has been released by the state, which I am sharing.

As a result of the baseline study, we should be very proud of our Newton Police Officers and the exceptional work they perform each day to keep our City safe. The traffic stop report reveals our officers treating motorists fairly and impartially. The data demonstrates that when comparing Newton to statewide averages for stops, NPD is below comparable averages for demographics in warnings, citations and arrests involving African American/Black, and Hispanic drivers.

The statewide analysis of traffic stop data “**found no support for patterns of racial disparity in traffic stops.**” According to the report, non-white motorists are 36% less likely to be stopped in daylight (when they could potentially be seen and racially profiled for a stop) than in darkness.” As it relates to Newton, statistically, according to the report, non-white drivers in Newton are less likely to be stopped during the day light hours than white motorists. (Inter-twilight stops vs. day light).



The 2020 MASSACHUSETTS UNIFORM CITATION DATA ANALYSIS REPORT NEWTON POLICE DEPARTMENT, can be found on page 222 of the Full Report.

According to the report statewide data, about **16%** of stopped drivers in the State as a whole were African American/Black, **15%** were Hispanic, **65%** were White, and **4%** were Other (Asian, Asian Pacific, American Indian, Middle Eastern or Pacific Islander).

In comparison, Newton's data, is **7.9%** of drivers were African American/Black, **6.7%** were Hispanic, **76.8%** were White, and **8.7%** other, (Asian, Asian Pacific, American Indian, Middle Eastern or Pacific Islander).

When we compare the stop data of Newton PD vs. our own city demographics, we stop a higher percentage of black motorists compared to the percentage of white and Hispanic motorists; however, as mentioned above, when comparing Newton to statewide stops, Newton is well below the percentages for black and Hispanic stops compiled by *all* Massachusetts Police Departments.

Aside from city demographics, the data does not consider or identify the demographics of the motoring public for the state or the area. The Newton stop data suggests that approximately **35.3%** of traffic stop outcomes involve Newton residents, and **64.7%** involve "passing through" motorists. It is also sufficing to say that there is a difference in demographics between the City of Newton and the motoring public passing through.

Statewide, when examining motor vehicle arrests by race/ethnicity, Hispanic motorists were most likely to be arrested **3.7%** followed by Black motorists **3.1%**. Conversely, motorists in the Other race category were least likely to be arrested **1.3%**, followed by White motorists at **2.4%**.

In Newton, comparably, black motorists were more likely to be arrested **2.3%**, than Hispanic **0%** and white motorists **.8%**, however, in comparison to statewide data, Newton is again below the arrest percentage for black and Hispanic motorists.

In Newton, white **89.7%**, other **89%**, and black **87.2%** motorists were most likely to receive a written warning, compared to Hispanic drivers at **64.5%**. Hispanic drivers were more likely to receive a citation or criminal summons, but least likely of the cohorts to be arrested.

According to the report "the chi-square test was statistically significant, which is taken as evidence that there is a relationship between race/ethnicity of the stopped motorist and the outcome of the stop (whether a motorist received a warning, citation, or is arrested). Although the chi square test tells us that there appears to be a statistically significant relationship between race/ethnicity of the stopped motorist and the outcome of the stop (and that relationship is NOT



due to chance alone), that doesn't mean that the race/ethnicity of the stopped driver causes the specific stop outcomes. There is a lot we don't know about the circumstances of the stop that could definitely influence the outcome of the stop.”

As such, the report identifies limitations on data, which includes;

- The fact that the RMV does not require a driver's license or the licensee to identify their race on the license. The race category on the citation is based on the perception of officer. However, part of the purpose of collecting data is supposedly based on officer perception. Simply requiring driver's licenses to indicate race on the license would be appropriate.
- The data does not measure traffic stops, where verbal warnings are issued.
- The data does not differentiate the reason or severity of stop, only whether there was a written warning, citation or arrest.
- The data does not identify the civil or criminal law cited for the stop, effecting instances where officers have no discretion as to the outcome, such as unregistered/uninsured motor vehicle, suspended or revoked license, operating under the influence, failure to stop or submit, etc.)
- The data does not measure searches initiated by operator behavior - furtive movement, arrest warrant, or ancillary criminal act.
- The data does not account for stops based on complaints where officers were dispatched to a traffic complaint and executed a traffic stop (I.E. erratic driving, suspicious vehicle, etc.)
- The data does not measure behavior, attitude or demeanor of motorist leading to an outcome.
- The data does not measure if contraband was discovered, (I.E. Drugs, weapons, instrumentalities of other crime)
- The data does not account for stops associated with crime or community caretaker (I.E. - reported domestic disturbance, mental health crisis, etc.)



- The data does not measure visibility of operator (I.E. day light, tinted windows, etc.) The data does differentiate between nighttime and daytime which demonstrates no disparity)
- The data does differentiate percentages of overall data involving residents or non-residents)
- The data does not measure the impacts of motoring public effected by COVID.

In addition to this report, the Newton Police Department does track its own demographic data for citations and arrests based on Newton residents. In 2021, **77%** of citations issued to Newton residents were white, **3.9%** were black and **2.2%** were Hispanic, and approximately **12%** other. According to the report, Newton's demographics are **73.7%** white, **18.4%** other, **4.9%** Hispanic and **3%** black.

In consideration of the report, it is important to recognize that in 2022 there are multiple safeguards in place to address disparate stops, inferences of bias policing and racial profiling, including M.G.L. c.90 § 63 [Hand-Free Data Collection], M.G.L. c.12, §.11H [Non-bias Policing], M.G.L. c.6E [Justice, Equity, Accountability in Law Enforcement – POST], and relevant case law such as [*Comm. vs. Long, SJC-12868* September 17, 2020], as well as NPD Policies and Procedures on non-bias policing, racial profiling, and procedural justice – fair and impartial policing.

Pursuant to M.G.L. c.12, §.11H, all persons have the right to bias-free professional policing. Chapter 253 of the Acts of 2020 known as the Justice, Accountability, and Equity, in Law Enforcement created M.G.L. c.6E, §.1 - Bias-Free Policing. Non-bias policing requires decisions made by law enforcement officers shall not consider a person's race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level.

The Newton Police Department General Order 406 – Commitment to Non-Biased Policing reaffirms the Department's commitment to unbiased policing and goal to reinforce the lawful and constitutional procedures that serve to maintain the public's confidence in our ability to provide service and enforce the law in a fair and equitable manner.

Racial or Other Profiling is defined as differential treatment by a law enforcement officer based on actual or perceived race, color, ethnicity, national origin, immigration or citizenship status, religion, gender, gender identity or sexual orientation; in conducting a law enforcement action; whether intentional



or evidenced by statistically-significant data showing disparate treatment [M.G.L. ch.90, §.63]. Violations (real or perceived) may be reported to the Police Officer Standards & Training (POST) Commission. It is also the policy of the Newton Police Department, that the department shall not engage in racial or other profiling. Pursuant to MGL c. 6E, the attorney general may bring a civil action in the superior court for injunctive or other equitable relief to enforce this requirement.

Pursuant to *Comm. vs. Long, SJC-12868* (September 17, 2020), any defendant may challenge traffic stops on the basis that they were motivated by bias. In *Long*, the SJC established a revised test for a court to determine whether a defendant seeking to suppress evidence based on an inference that the traffic stop violated equal protection principles. A motion to suppress/dismiss may be entered as a remedy to bias stops.

There is a substantial amount of oversight and accountability of traffic stops and data in Massachusetts. Overall, it is important to remember, while taking into consideration the prevalence of motor vehicle infractions across the state, the “context of racially biased motor vehicle stops, purportedly to enforce traffic laws, because of the ubiquity of traffic violations, only a tiny percentage of these violations ultimately result in motor vehicle stops, warnings, or citations. Thus, it virtually always will be the case “that a broader class of persons” violated the law than those against whom the law was enforced. [*Bernardo B., 453 Mass. at 168*].

In closing, this report is only the beginning of analyzing traffic stop data in Massachusetts; nonetheless, the baseline data provided by the report, especially for Newton is encouraging and should be revered. As such, I commend the officers of the Newton Police Department and look forward to further successes in the future.

Respectfully,



Chief John Carmichael
Newton Police Department

