



OFFICE OF THE RAMSEY COUNTY ATTORNEY

John J. Choi

TO: Adult Trial Division, Pretrial Justice Division, Youth Justice & Wellness Division, and Victim, Witness & Postconviction Justice Division Attorneys

FROM: John Choi, Ramsey County Attorney *J.C.*

DATE: September 8, 2021

RE: *Charging Policy Regarding Non-Public-Safety Traffic Stops*

I. BACKGROUND

It is the duty and obligation of our office to protect the constitutional rights of every Ramsey County resident and to ensure the law is enforced equitably. It has long been the value of our office to critically evaluate cases, safeguard the rights of those impacted by the legal system, and eliminate practices that cause disparate outcomes. This policy reflects those values while increasing the focus on public safety.

In order to protect public safety and maintain the public's trust and confidence, we must ensure that no segment of our community is disproportionately impacted by our practices in the justice system. The longstanding custom and practice of law enforcement pulling people over for non-public-safety reasons (like traffic code violations) as a pretext to search their vehicles for potential contraband disproportionately impacts people of color and those in under-resourced communities, who are most often subject to these stops. Such stops seldom yield contraband but come at a great cost to our community by diminishing its trust and confidence in law enforcement, which is essential to successful community policing.^{1 2 3}

Non-public-safety stops have similar effects as other discretionary police tactics, such as the disavowed "stop and frisk" practices that impacted millions of Black and Latinx people in major cities across this country. Using such stops enables conscious and unconscious bias to influence law enforcement officers' discretion, which results in targeting people based on perceptions of

¹ Policing Project, NYU School of Law, An Assessment of Traffic Stops and Policing Strategies in Nashville.

² The Stanford Open Policing Project; <https://openpolicing.stanford.edu/>

³ *Racial Profiling*, American Civil Liberties Union, <https://www.aclu.org/issues/racial-justice/race-and-criminal-justice/racial-profiling> (last visited on June 24, 2020).

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their race, ethnicity, or other social categories.⁴ In addition, pulling drivers over for minor traffic violations or equipment-related infractions too often expands into a search of the entire vehicle and the person, without any suspicion of criminal wrongdoing.

As prosecutors serving in our role as ministers of justice, we cannot deny or ignore the role we play in perpetuating racial inequities when we charge the cases resulting from these stops. Our office will utilize its prosecutorial discretion to provide greater protection to those we serve.

II. POLICY GUIDELINES

In order to increase procedural justice for all residents and improve trust in communities of color and under-resourced communities, our office will decline to prosecute cases when the charge is:

- solely the product of a non-public-safety traffic stop; or
- the result of searching a vehicle based solely on consent, without any other articulable suspicion.

For purposes of this policy, a non-public-safety traffic stop means that the articulated justification for the initial stop of the vehicle is any one of the following violations:

- Vehicle Registration (169.79, Subd. 8)
- License Plate Illumination (169.50)
- Muffler excess noise violations (169.69)
- Windshield prohibitions (i.e. air fresheners or other objects hanging from the rear-view mirror or cracked windshields) (169.71)
- Window tint or other restrictions on glazed windows (169.71)
- Headlights, signal lights or rear lamp violations unless both headlights or both rear brake lights are nonfunctioning. (169.55, 169.63, 169.50, 169.57 Subd. 1 (a) Subd. 3)

This policy does not apply to situations that endanger public safety or when a vehicle is stopped due to a dangerous condition. A dangerous condition exists when an improper or malfunctioning piece of motor vehicle equipment creates a substantial, articulable, and identifiable risk of injury to any person.

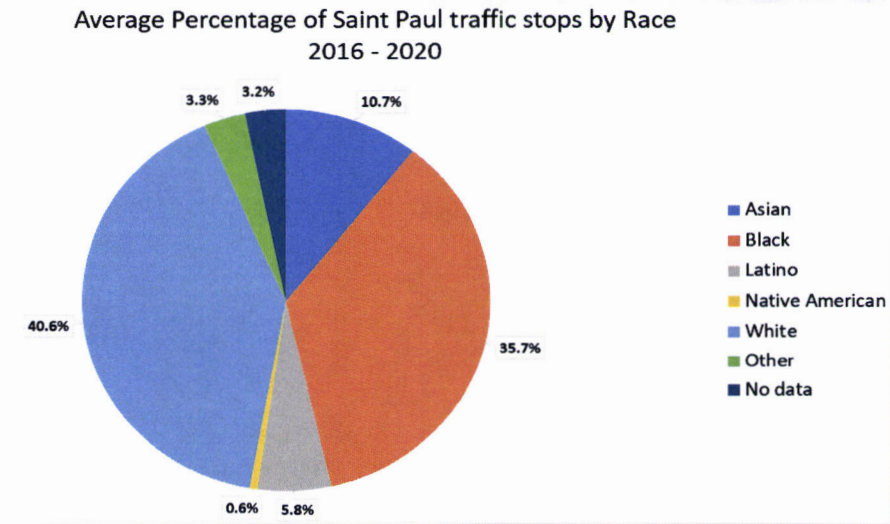
⁴ See e.g., Megan Quattlebaum, *Let's Get Real: Behavioral Realism, Implicit Bias, and the Reasonable Police Officer*, Stanford Journal of Civil Rights & Civil Liberties (2018), <http://law.stanford.edu/wp-content/uploads/2018/05/Quattlebaum-FINAL.pdf> (last visited on June 24, 2020).

III. RACIALLY DISPARATE IMPACT

This policy seeks to eliminate the disproportionate contact drivers of color have with law enforcement and to rebuild trust with communities of color by addressing the ongoing racial disparities in the criminal justice system.

Minnesota’s criminal justice system has among the worst racial disparities in the country.⁵ In the city of Saint Paul, Black drivers are four times more likely to be pulled over than White drivers and nine times more likely to have their vehicles searched.⁶ Reducing racial disparities in traffic stops in Ramsey County is more critical now than ever before, as law enforcement works to improve and repair relationships with communities of color. In June of 2021, a Pioneer Press analysis of the Saint Paul Police Department’s traffic stop data found that Black drivers

accounted for approximately 35.7 percent of traffic stops between 2016-2020, while making up 13 percent or less of the city’s driving-age population. White drivers, by contrast, accounted for 40.6 percent of stops, and made-up 58 percent of the driving-age population.⁷



⁵ African-Americans make up 35 percent of the prison population, but only comprise around 7 percent of the population of the state. Brandt Williams, *Court Officers Say Minnesota Still Struggles for Equal Justice*, MPR News (Feb. 8, 2019), <https://www.mprnews.org/story/2019/02/07/minnesota-struggles-for-equal-justice> (last visited on July 2, 2020); see also Cody Nelson, *Report: Minnesota 2nd Worst State for Racial Inequality*, MPR News (Aug. 23, 2017), <https://blogs.mprnews.org/newscut/2017/08/report-minnesota-2nd-worst-state-for-racial-inequality/> (last visited on July 2, 2020) (in 2017, “for every 100,000 Minnesotans, there were 111 White people incarcerated and 1,219 Black people [incarcerated]”).

⁶ Black drivers nearly 4 times more likely to be pulled over than white drivers – Twin Cities, Pioneer Press (June 12, 2021), <https://www.twincities.com/2021/06/12/st-paul-data-shows-black-drivers-nearly-4-times-more-likely-to-be-pulled-over-than-white-drivers/>

⁷ Black drivers nearly 4 times more likely to be pulled over than white drivers – Twin Cities, Pioneer Press (June 12, 2021), <https://www.twincities.com/2021/06/12/st-paul-data-shows-black-drivers-nearly-4-times-more-likely-to-be-pulled-over-than-white-drivers/>

Race and Ethnicity in Ramsey County.

Ramsey County is the state's second most diverse county; in 2020, 32.9 percent of Ramsey County residents were people of color.⁸ The total population in Ramsey County is 552,352, with White residents making up 67.1 percent of the population, Asian residents making up 15.3 percent of the population, and Black or African American residents making up 12.9 percent of the population.⁹

The criminal justice system is rife with racial inequities. The heightened focus on Black and Brown people that results from non-public-safety traffic stops contributes to the disparities in which people are presented to our office for prosecution, which in turn contribute to the racial disparities in our jail and prison populations. Relative to their proportion of the population, Black and Indigenous people are significantly overrepresented in the criminal justice system. Despite making up only 13 percent of the United States population, Black Americans make up 40 percent of the incarcerated prison population. Between 2010 and 2019 in Ramsey County, close to 2/3 of residents were White and around 12 percent were Black or African American.¹⁰ In 2017 at the Ramsey County Correctional Facility, Black men made up 45 percent of the 2,018 male admissions, and Black females made up 29 percent of the 405 female admissions.¹¹ In comparison, White men made up 34 percent of male admissions, and White women made up 43 percent of female admissions.¹²

⁸ <https://www.census.gov/quickfacts/ramseycountyminnesota>

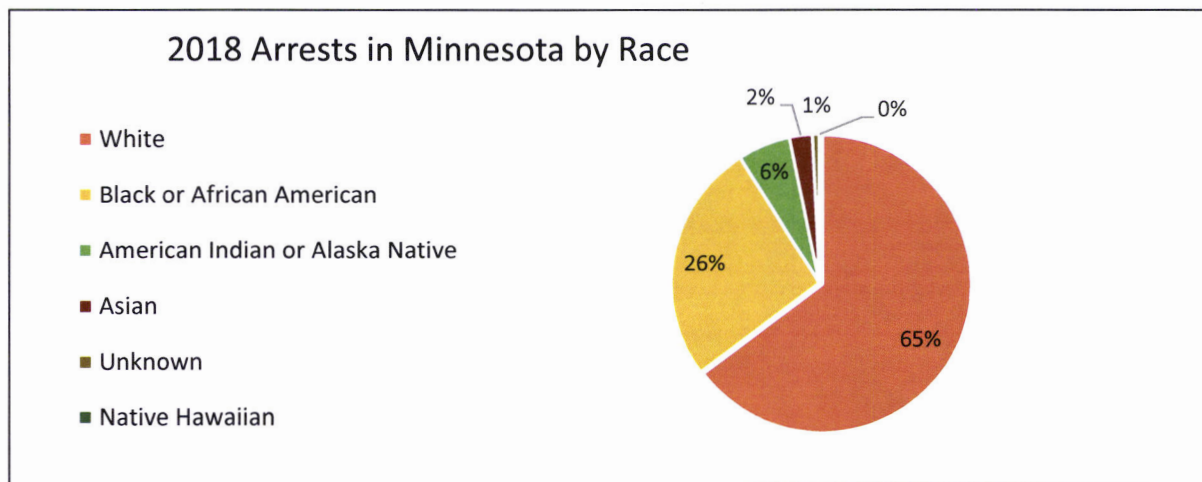
⁹ 2019 American Community Survey 5-Year Estimates, United States Census Bureau (2019), <https://data.census.gov/cedsci/profile?q=0500000US27123> (last visited on June 21, 2021) (source for data and graph).

¹⁰ *QuickFacts: Ramsey County, Minnesota*, United States Census Bureau (2010-2019), <https://www.census.gov/quickfacts/ramseycountyminnesota> (last visited on June 25, 2020).

¹¹ *Crime- Incarceration and Legal Supervision of Adults*, 2018 Ramsey County Community Health Assessment (2018), https://www.ramseycounty.us/sites/default/files/Departments/Public%20Health/CHA/Crime%20-%20Incarceration%20and%20Legal%20Supervision%20of%20Adults_final.pdf (last visited on June 25, 2020).

¹² Research and Evaluation Unit, *2017 Fact Sheets*, Ramsey County Community Corrections (June 2018) <https://www.ramseycounty.us/sites/default/files/Public%20Safety%20and%20Law/2017%20Community%20Corrections%20Fact%20Sheets.pdf> (last visited on June 25, 2020).

RACIAL DISPARITIES IN MINNESOTA AND SAINT PAUL



FBI-reported arrest rates in Minnesota.

The Federal Bureau of Investigation (FBI) collects data from law enforcement agencies across the country through the Uniform Crime Reporting (UCR) program. The Program's objective is to "generate reliable information for use in law enforcement administration, operation, and management; over the years, however, the data have become one of the country's leading social indicators."¹³ Based on data from the Uniform Crime Reporting program, FBI statistical figures show in 2018, there were 147,318 arrests in Minnesota.¹⁴ Despite only making up 7 percent¹⁵ of the state population, Black residents made up more than 20 percent of the arrests that year.

¹³ *Uniform Crime Reporting*, Federal Bureau of Investigation, <https://www.fbi.gov/services/cjis/ucr/> (last visited on July 10, 2020).

¹⁴ *Crime Data Explorer, Minnesota*, Federal Bureau of Investigation (2018), <https://crime-data-explorer.fr.cloud.gov/explorer/state/minnesota/arrest> (last visited on July 10, 2020) (2018 FBI Arrest statistics for Minnesota are based on data received from 382 law enforcement agencies that submitted 12 months of arrest data of 407 total number of law enforcement agencies in the state that year).

¹⁵ *QuickFacts: Minnesota, United States*, United States Census Bureau (2010-2019), <https://www.census.gov/quickfacts/fact/table/MN,US/PST045219> (last visited on July 10, 2020).

Minnesota Statewide Racial Profiling Study.¹⁶

For nearly two decades, numerous reports have highlighted the gravity of the problem of racial profiling caused by non-public-safety stops and searches. A 2003 analysis across sixty-five law enforcement jurisdictions found that officers stopped Black, Latinx, and Indigenous drivers at higher rates than White drivers and found drugs as a result of searches of Black, Latinx, and Indigenous drivers at lower rates than in searches of White drivers. Conversely, law enforcement officers stopped and searched White drivers at lower rates than drivers of color and found drugs in searches of White drivers at higher rates than in searches of drivers of color.

The study found the disparities especially high for Black and Latinx drivers. In fact, if officers had stopped and searched drivers of all racial and ethnic groups at the same rate in the sixty-five jurisdictions, approximately:

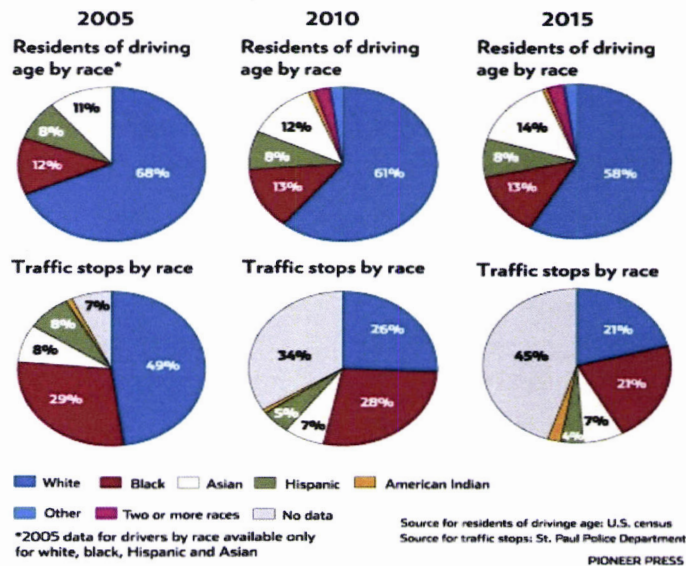
- 18,800 fewer Black, 5,800 fewer Latinx, and 22,500 more White drivers would have been stopped; and
- 2,114 fewer Black, 428 fewer Latinx, and 2,645 more White drivers would have been searched.

2016 Pioneer Press Analysis of Saint Paul Police Department Data.¹⁷

A 2016 analysis showed that Black drivers accounted for 29 percent of traffic stops over the last decade, while making up 13 percent or less of the city's driving-age population. By contrast, White drivers accounted for 31 percent of stops, while making up 58 percent of the driving-age population. Black drivers were also about two times more likely to have their vehicles searched and be frisked than White drivers.

Black drivers accounted for 35 percent of the tickets issued by police, compared to

St. Paul traffic stops



¹⁶ Institute on Metropolitan Opportunity, *The Minnesota Statewide Racial Profiling Study*, University of Minnesota Law School (2003), https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1113&context=imo_studies (last visited on June 24, 2020).

¹⁷ Scott Takushi, *St. Paul Officers Stop Black Motorists at Higher Rates than Whites, Data Show—Twin Cities*, Pioneer Press (Apr. 21, 2011), <https://www.twincities.com/2016/12/14/st-paul-officers-stop-black-motorists-at-higher-rates-than-whites-data-shows/> (last visited on June 24, 2020).

26 percent for White drivers. The analysis also found that there is no racial information for a large number of traffic stops over the past fifteen years, due to limitations in record keeping. In 2015, 45 percent of traffic stops did not have racial information, hindering a more precise analysis of the size of racial gaps.

When people feel unfairly targeted by non-public-safety stops, it diminishes trust in law enforcement, prosecution, and in the justice system, as a whole, which comes at great cost to the people being profiled and to our collective ability to achieve community safety. As Justice Sonia Sotomayor recently stated in a dissent, “Although many Americans have been stopped for speeding or jaywalking, few may realize how degrading a stop can be when the officer is looking for more.”¹⁸

IV. MEASURING RESULTS & ACCOUNTABILITY

We will track all cases referred to our office but not charged because of this policy, regularly analyze our data and make it publicly available to ensure our efforts are effective, consistently applied, and our community can hold us accountable for results. We will also regularly share our data with law enforcement agencies in Ramsey County to inform the training of their officers.

V. EXCEPTIONS

Public safety exceptions may be made in limited circumstances with supervisor approval.

VI. CONCLUSION

The voices in our community and studies cited in this policy clearly demonstrate the harm and unfair burden these types of traffic stops have on communities of color. In order to rebuild trust and cooperation with these communities, redirect law enforcement resources to focus on the greatest threats to public safety, and enhance procedural justice, we will decline to prosecute charges arising from non-public-safety stops or searches of vehicles based solely on consent.

¹⁸ *Utah v. Streiff*, 136 S. Ct. 2056, 2069 (2016) (dissenting opinion of J. Sotomayor).