

February 15, 2023

The Honorable Merrick B. Garland
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

The Honorable Pete Buttigieg
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Re: Federal Solutions to Reduce Police Violence in Traffic Encounters

Dear Attorney General Garland and Transportation Secretary Buttigieg,

NAACP Legal Defense and Educational Fund, Inc. (LDF)¹ writes to support the demands of Memphis advocates to prevent additional police violence against Black people following the killing of Tyre Nichols by members of the Memphis Police Department's SCORPION unit.

On February 14, 2023, Decarcerate Memphis, a coalition of community leaders, activists, attorneys, strategists, clergy and concerned residents, sent a letter urging your agencies to support a number of changes to certain police practices in their community. We stand with these advocates, Tyre Nichols' family, and with the Black community of Memphis. As stated in their letter, the Memphis community made the following demands:

1. "End the deployment of armed patrol officers in traffic enforcement."
2. "Eliminate the use of pretextual stops, terminating all Federal funding for them."
3. "Require public police reports showing the location of each stop and the demographic characteristics of every driver."
4. "Disband the Jump-Out squads that operate to criminalize, intimidate, and too-often brutalize residents in low-income Black and Brown communities."²

We urge your agencies to take the following actions to advance the goals of these demands.

¹ Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in the areas of education, economic justice, political participation, and criminal justice. It has been a separate organization from the NAACP since 1957. LDF's work to address police violence and misconduct dates back to its inception. *See, Shepherd v. Florida*, 341 U.S. 50 (1951) (in reversing the wrongful interracial rape convictions of Black men, who were brutally beaten by sheriff's deputies in an attempt to force confessions). Today, LDF's Justice in Public Safety Project uses litigation, policy advocacy, research, community organizing, and strategic communications to transform public safety systems, advance police accountability, and prevent and remedy the impact of racial bias in public safety.

² Letter from Decarcerate Memphis to Merrick Garland, Att'y Gen., U.S. Dep't of Just., and Pete Buttigieg, Sec'y, Dep't of Transp. (Feb. 14, 2023).

1. End Federal Funding of Armed Patrol Officers for Routine Traffic Enforcement and Invest in Non-Police Measures for Traffic Safety.

Armed enforcement of traffic laws does not increase traffic safety,³ but it does drive racial disparities in the criminal legal system and may result in dangerous police interactions that irreparably harm Black and Brown communities, as demonstrated by the brutal killing of Tyre Nichols. Officers stop Black drivers at higher rates than white drivers, and Black and Latinx drivers are searched more often as well.⁴ Since 2017, over 800 people have been killed by police during traffic stops.⁵ The federal government must end its complicity in this injustice by terminating its funding of state and local officers for routine traffic enforcement, and instead supporting the redesign of roads for traffic safety, the use of unarmed responders for routine traffic stops, and the repeal of low-level traffic offenses.⁶ We urge you to identify funds in your agency’s 2024 budget to invest in non-police pilot programs for traffic enforcement.

2. Eliminate Federal Funding that Supports or Facilitates Pretextual Stops.

Pretextual traffic stops pose a particularly grave threat to Black drivers.⁷ The discriminatory impact of these stops is so widespread that President Biden called to end them in a recent executive order.⁸ These stops have led to police brutality, costing people their lives while sweeping countless others into the criminal legal system.⁹ The federal government must not fund, encourage, or otherwise participate in programs that promote this destructive policing practice. For example, the Data-Driven Approaches to Crime & Traffic Safety program, launched by the Department of Transportation and the Department of Justice, encourages pretextual stops by “[teaching] police that they can use traffic stops to drive down crime” and “[encouraging] police

³ A comprehensive study of police traffic stops and motor vehicle crash death data from 2004 to 2016 found no association between rates of police stops and motor vehicle crash deaths, suggesting that increased police enforcement of traffic laws does not reduce traffic fatalities. See generally Anuja L. Sarode et al., *Traffic Stops Do Not Prevent Traffic Deaths*, J. TRAUMA & ACUTE CARE SURGERY, July 1, 2021.

⁴ *Findings*, The Stanford Open Policing Project, <https://openpolicing.stanford.edu/findings/> (last visited Feb. 8, 2023).

⁵ Bernd Debusmann, Jr., *Why Do So Many Police Traffic Stops Turn Deadly?*, BBC NEWS (Jan. 31, 2023), <https://www.bbc.com/news/world-us-canada-64458041>.

⁶ Schuyler Null, et al., *6 Road Design Changes That Can Save Lives*, World Resources Institute (Oct. 3, 2018), <https://www.wri.org/insights/6-road-design-changes-can-save-lives>; *Decriminalization of Minor Traffic Violations*, MOST Policy Initiative, https://mostpolicyinitiative.org/wp-content/uploads/2021/09/Decriminalization_of_Minor_Traffic_Violations.pdf (last visited Feb. 6, 2022); *Fact Sheet: Driver Accountability Program*, Center for Court Innovation (March 2022), <https://www.innovatingjustice.org/publications/fact-sheet-driver-accountability-program>.

⁷ Studies show that Black and Brown motorists are pulled over for pretextual stops at a significantly higher rate than their white counterparts. See Stephen Rushin & Griffin Edwards, *An Empirical Assessment of Pretextual Stops and Racial Profiling*, 73 STAN. L. REV. 637 (2021).

⁸ Exec. Order No. 14074, 87 Fed. Reg. 32945 (May 25, 2022) (“Building trust between law enforcement agencies and the communities they [serve] requires. . . ending discriminatory pretextual stops.....”).

⁹ For example, a stop for an allegedly broken taillight ended with Minnesota police fatally shooting Philando Castile in 2016. Sharon LaFraniere & Mitch Smith, *Philando Castile Was Pulled Over 49 Times in 13 Years, Often for Minor Infractions*, N.Y. TIMES (July 16, 2016), <https://www.nytimes.com/2016/07/17/us/before-philando-castiles-fatal-encounter-a-costly-trail-of-minor-traffic-stops.html>; In 2021, Daunte Wright was fatally shot by Brooklyn Center police after being pulled over for an expired registration tag. *What to Know About the Death of Daunte Wright*, N.Y. TIMES (Feb. 21, 2022), <https://www.nytimes.com/article/daunte-wright-death-minnesota.html>.

to focus their enforcement efforts in ‘high crime’ locations.’”¹⁰ These kinds of practices should neither be tolerated nor encouraged.

Some jurisdictions have begun to limit or prohibit pretextual stops on their own.¹¹ The federal government should join this effort by funding alternative approaches at the state and local level that will meaningfully deter this practice.

3. Prohibit the use of Federal Funds for Specialized Crime-Suppression Units.

Mr. Nichols’ tragic killing is only one among countless criminal acts by officers in specialized crime-suppression units. These units often engage residents by stopping drivers for minor traffic violations as pretext to investigate other potential criminal activity—oftentimes in an unconstitutional manner—and use tactics that cause immeasurable harm in Black and Brown communities.¹² Too often, these units incubate a culture of lawlessness, and their abusive behavior has caused public outrage, federal investigations, and criminal indictments in jurisdictions around the country.¹³ The Department of Justice should investigate the use of federal funds that support these units, make such investigations publicly available, and immediately cease any federal funding for them.

* * *

We support the demands stated in Decarcerate Memphis’ letter and urge the Department of Justice and Department of Transportation to meet with Memphis advocates to support their community-driven plans to improve their public safety system. Local stakeholders have invaluable expertise on the public safety measures that will help their families and neighbors. It is imperative that they play an important and substantive role in any federal policy efforts responding to the tragedy that occurred in their community.

¹⁰ See Letter from Transportation Equity Caucus to Pete Buttigieg, Sec’y, Dep’t of Transp., and Merrick Garland, Att’y Gen., U.S. Dep’t of Just. (Feb. 4, 2022), <https://equitycaucus.org/node/66806>; See also Mike McIntire & Michael H. Keller, *The Demand for Money Behind Many Police Traffic Stops*, N.Y. TIMES (Nov. 2, 2021), <https://www.nytimes.com/2021/10/31/us/police-ticket-quotas-money-funding.html>.
<https://www.nytimes.com/2021/10/31/us/police-ticket-quotas-money-funding.html>.

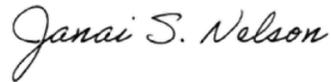
¹¹ See, e.g., David D. Kirkpatrick et al., *Cities Try to Turn the Tide on Police Traffic Stops*, N.Y. TIMES (Apr. 15, 2022), <https://www.nytimes.com/2022/04/15/us/police-traffic-stops.html>, Kevin Rector, *New Limits on ‘Pretextual Stops’ by LAPD Officers Approved, Riling Police Union*, L.A. TIMES (March 1, 2022), <https://www.latimes.com/california/story/2022-03-01/new-limits-on-pretextual-stops-by-lapd-to-take-effect-this-summer-after-training>.

¹² Radley Balko, Opinion, *Tyre Nichols’s Death Proves Yet Again That ‘Elite’ Police Units Are a Disaster*, N.Y. TIMES (Jan. 29, 2023), <https://www.nytimes.com/2023/01/29/opinion/tyre-nichols-police-scorpion.html>.

¹³ See, e.g., Steve Eder et. al., *Muscle Cars, Balaclavas and Fists: How the Scorpions Rolled Through Memphis*, N.Y. TIMES (Feb. 4, 2023), <https://www.nytimes.com/2023/02/04/us/memphis-police-scorpion.html>; Justin Fenton, *Corrupt squad scoured Baltimore streets in pursuit of black men to search, arrest — and steal from*, BALTIMORE SUN (June 12, 2023), <https://news.baltimoresun.com/cops-and-robbers/part-two/>; William Rashbaum & Al Baker, *Police Commissioner Closing Controversial Street Crime Unit*, N.Y. TIMES (Apr. 10, 2002), <https://www.nytimes.com/2002/04/10/nyregion/police-commissioner-closing-controversial-street-crime-unit.html>.

Thank you for your consideration. Should you have any questions, please do not hesitate to contact Puneet Cheema, Manager of LDF's Justice in Public Safety Project at pcheema@naacpldf.org.

Sincerely,



Janai Nelson
President and Director-Counsel
NAACP Legal Defense and Educational Fund, Inc.

cc: The Honorable Ambassador Susan Rice, Director, Domestic Policy Council
The Honorable Charles Schumer, Senate Majority Leader
The Honorable Mitch McConnell, Senate Minority Leader
The Honorable Members of the Senate Committee on Appropriations, Committee on Commerce, Science, and Transportation, and Committee on the Judiciary
The Honorable Kevin McCarthy, House Majority leader
The Honorable Hakeem Jeffries, House Minority Leader
The Honorable Members of the House Committee on Appropriations, Committee on the Judiciary and Committee on Transportation and Infrastructure