



February 10, 2022

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Lizabeth Rhodes, Director for the Office of Constitutional Policing and Policy

Los Angeles Mayor Eric Garcetti

SENT BY EMAIL

**RE BPC 22-023: LAPD Proposed Policy on Limitation on Use of Pretextual Stops**

We urge you to reject Chief Moore's proposal for a policy authorizing use of "pretext stops" in certain circumstances. **While claiming to restrict or limit these stops, the policy in fact spells out how officers can continue the same abusive behavior under a new guise.** The Los Angeles Police Protective League's (LAPPL) aggressive opposition to this policy underscores the threat that police will exploit this guise to continue harassing our communities. And more broadly, that opposition – in line with LAPPL's efforts to build political power by decrying every possible effort to place rules on their work – is a sham intended to fool the public into believing this policy will change officer behavior.

We have long demanded that LAPD stop harassing our communities using pretext stops. As Chief Moore's proposed policy recognizes, these stops subject people "to

inconvenience, confusion, and anxiety.” More than that, they subject our communities to constant police harassment, abuse, and violence. LAPD’s own self-reported data has revealed:

- **These stops are plainly racist:** “Black people are 9% of the city population yet made up 27% of [LAPD] stops” in 2019, “while white people are 29% of the population and 8% of stops.”<sup>1</sup>
- **These stops feed LAPD’s racist surveillance tactics:** LAPD uses pretext stops “to gather an individual’s personal and physical information, which is recorded on a Field Interview (FI) card and stored in databases accessible to LAPD.” In 2019, “LAPD filled out FI cards during 16% of stops of Black people” and “for white people in only 5% of stops.”<sup>2</sup>
- **These stops subject Black communities to worse violence than others:** “During traffic stops, police pointed guns at over 5 times as many Black people as white people. Of 54 times when police dogs bit or held a person during an officer-initiated stop, 23 were Black people; 3 were white.”<sup>3</sup>

LAPD’s proposed policy notes that “community members sometimes perceive stops as biased, racially motivated, or unfair.” This is yet another example of LAPD insulting our communities by treating people’s well-documented experience of police violence as a mere “perception.” The reference to perception of bias ignores the reality of abusive, discriminatory policing, which in line with LAPD’s record of sustaining exactly zero of the 4,882 individual complaints of biased policing that members of the public submitted between 2010 and 2019.<sup>4</sup> If anyone “sometimes perceives stops” incorrectly here, it is LAPD, which has repeatedly been exposed to have lied about the scale of these stops.<sup>5</sup>

**The proposed policy grants officers discretion to make these same abusive stops.** The policy’s first paragraph, titled “Use of Traffic/Pedestrian Stops,” states that “officers should make stops for minor equipment violations or other infractions” whenever “the officer believes that such a violation significantly interferes with public safety.” This paragraph authorizes police to continue using minor traffic offenses to

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<sup>1</sup> Black Lives Matter LA, Stop LAPD Spying Coalition, Los Angeles Community Action Network, and White People 4 Black Lives, [LAPD Confirms Continued Criminalization, Harassment of the Black Community](#) (November 2020), at 1.

<sup>2</sup> Id.

<sup>3</sup> Id. at 2.

<sup>4</sup> Id. at 1.

<sup>5</sup> See Kevin Rector, “[LAPD admits it made hundreds more traffic stops in South L.A. than it told The Times](#),” L.A. Times (Feb. 23, 2021).

target people they want to stop, so long as they don't admit a "pretextual" basis for the stop. Given how easy it is to find a basis for a stop in the Traffic Code – which is "so large and so difficult to obey perfectly that virtually everyone is guilty of a violation, permitting the police to single out almost whomever they wish for a stop"<sup>6</sup> – as well as the impossibility of surfacing an officer's true personal motivations for stopping a person, this paragraph undermines any restrictions that the policy otherwise attempts to establish on "pretext stops."

This "Use of Traffic/Pedestrian Stops" paragraph will mean that an officer who wants to stop a person can assert they are in compliance with LAPD's proposed policy by finding a basis for the stop in the state's vast menu of equipment and regulatory violations and claiming that these rules are "intended to protect public safety." Given the aggressive resistance that LAPPL has already mounted to the prospect of a limit on their ability to harass the community with pretextual stops, it is safe to assume that police will abuse this loophole in this way.

**The proposed policy only gets more meaningless as it goes on.** In a section titled "Duration and Scope of All Stops," the policy notes that "[o]fficers' actions during all stops (e.g., questioning, searches, handcuffing, etc.) shall be limited to the original legal basis for the stop." But the U.S. Supreme Court held almost two decades ago that a traffic stop "that is justified solely by the interest in issuing a warning ticket to the driver can become unlawful if it is prolonged beyond the time reasonably required to complete that mission."<sup>7</sup> More recently, the Supreme Court has held that "a police stop exceeding the time needed to handle the matter for which the stop was made violates the Constitution."<sup>8</sup> That case established that even a single "dog sniff conducted after completion of a traffic stop" can violate the Fourth Amendment.

In other words, this "Duration and Scope of All Stops" paragraph is merely instructing officers to abide by minimal standards long ago set by the U.S. Supreme Court. The fact that LAPD is trying to sell this baseline compliance with the U.S. Constitution as some kind of generous reform speaks to the impunity and lack of accountability that LAPD is used to operating with.

The only sure way to end the harassment of pretextual stops is to strictly prohibit officers from pulling people over on the basis of harmless and trivial traffic charges. This is particularly imperative for charges such as failure to signal a turn, an overdue registration sticker, or tinted windows, all of which are disproportionately used to target

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<sup>6</sup> Whren v. United States, 517 U.S. 806, 818 (1996).

<sup>7</sup> Illinois v. Caballes, 543 U.S. 405, 407 (2005).

<sup>8</sup> Rodriguez v. United States, 575 U.S. 348, 350 (2015).

Black, brown, and poor people, and none of which require armed police forces stopping a car in transit. This “idea of removing traffic enforcement from the police is not new” and in fact was embraced by a former LAPD chief almost a century ago.<sup>9</sup>

In contrast, policies like the one proposed here continue a long line of sham “reforms” that LAPD has embraced as a means of sanitizing, expanding, and codifying its violence and discrimination. The fact that Chief Moore appears to view this issue as a “perception of bias” rather than a systematic pattern of deliberate discrimination might explain why the policy does nothing to actually address the problem. We are not fooled by this sham. Nor should you be.

Sincerely,

Stop LAPD Spying Coalition  
Los Angeles Community Action Network  
Black Lives Matter LA

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<sup>9</sup> Liz Mineo, “[Historian urges end to police traffic-law enforcement](#)” Harvard Gazette (Nov. 22, 2021).