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January 20, 2025

The Honorable William C. Smith, Jr.
Chairman, Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, MD 21401

Re: Senate Bill 55 - Motor Vehicles – Police Stops-Secondary Enforcement and Excludable Evidence (SUPPORT WITH AMENDMENTS)

Dear Chair Smith:

The Office of the Attorney General (OAG) supports Senate Bill 55 - Motor Vehicles – Traffic Stops - Secondary Enforcement and Excludable Evidence with amendments.

Background

Traffic stops can be dangerous for law enforcement and citizens alike. From the side of law enforcement, an alarming number of officers have been injured and killed when they or their vehicles are struck during a traffic stop. According to the National Law Enforcement Officers Memorial Fund, between 2014-2023, 150 officers were killed by being struck by a vehicle and 292 officers were killed in automobile crashes.¹ A U.S. Department of Transportation study found that traffic-related incidents, including vehicle crashes, are one of the leading causes of death for law enforcement officers, with 39% of law enforcement officers killed in the line of duty killed in traffic-related incidents.² According to the FBI, motor vehicle accidents were the leading cause of accidental officer deaths in 2024.³

¹ <https://nleomf.org/wp-content/uploads/2024/04/Causes-of-Law-Enforcement-Deaths-2014-2023.pdf> and <https://nleomf.org/memorial/facts-figures/officer-fatality-data/causes-of-lawenforcement-deaths/>.

² <https://news.maryland.gov/msp/2022/09/30/maryland-state-police-reminding-motorists-moveover-law-expands-to-all-vehicles-beginning-oct-1/>.

³ <https://le.fbi.gov/cjis-division/cjis-link/statistics-on-law-enforcement-officer-deaths-in-the-lineof-duty-from-january-through-august-2024#:~:text=Accidental%20law%20enforcement%20deaths%20increased,motor%20vehicle%20acciden>

Traffic stops can be similarly dangerous for the motoring public. Far too many people, especially minorities, have been killed or injured by police during traffic stops. These include high-profile cases, such as Daunte Wright, Tyre Nichols, and Philando Castile, but also too many that we have not heard about. A Stanford University nationwide analysis of traffic stops between 2011-2016 found that police pull over 20 million motorists a year, amounting to a staggering 50,000 traffic stops per day.⁴ A 2021 investigation by the New York Times revealed that over a five-year period, 400 drivers or passengers were killed by police during traffic stops, not counting those who were armed or under pursuit for a violent crime.⁵

There are undeniable racial disparities in traffic stops. Stanford’s data showed that officers stopped Black drivers at higher rates than White drivers. Once stopped, Stanford found that in nearly every jurisdiction studied, officers searched Black and Hispanic drivers more often than White drivers. A study by the Vera Institute of Justice looked at traffic stops in Suffolk County, Massachusetts, from 2010-2019, and found that police there pulled over Black drivers at 2.3 times the rate of White drivers for non-traffic-safety reasons.⁶

When law enforcement makes traffic stops for purely non-safety reasons, the risk of the traffic stop often is not worth the reward. The Vera Institute study noted that many jurisdictions, including Virginia, Oregon, Los Angeles, Philadelphia, Seattle, Mecklenburg County (North Carolina), and Berkeley (California), have recently limited police stops for minor infractions, dramatically lowering the proportion of traffic stops for non-safety reasons. For example, in Los Angeles, after the policy took effect, stops for non-moving violations went from 21% of all stops to 12% of all stops.⁷

Reducing the number of non-safety related traffic stops and the racial disparity they foster is an important goal, which is why I support Senate Bill 55. Several amendments are necessary, however, to strike the appropriate balance with public safety. In a civil society, anyone wishing to drive must follow the rules of the road. This includes having vehicles tagged, properly registered, and insured, as well as having the vehicle in a safe, working condition.

Amendment #1

Senate Bill 55 makes driving with an unpaid registration a secondary offense. Vehicles with long-standing unpaid registration are seldom insured, so police must be able to keep those vehicles off the roadway. This section should be removed from the bill.⁸

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⁴ <https://openpolicing.stanford.edu/findings/>.

⁵ <https://www.nytimes.com/2021/10/31/us/police-killings-traffic-stops-takeaways.html>.

⁶ <https://www.vera.org/publications/analysis-of-racial-disparities-police-traffic-stops-suffolk-county-ma>.

⁷ <https://www.latimes.com/california/story/2022-11-14/minor-traffic-stops-plummet-in-monthsafter-lapd-policy-change>.

⁸ This is the approach taken by Philadelphia in the 2022 “Achieving Driving Equality Act” which made eight traffic violations secondary violations, including having an unregistered vehicle if the vehicle had been properly registered within the prior 60 days. *See*

Amendment #2

Currently, traffic stops are the main enforcement mechanism for compliance with the Maryland Vehicle Administration's (MVA) administrative and safety-related repair requirements for vehicles. For instance, if we remove the ability to pull over a vehicle with only one working headlight, there is no way to enforce the requirement that cars on Maryland's roadways have two working headlights.

For secondary offenses, the bill should create a procedure by which law enforcement who observe a violation would contact the MVA and have the MVA issue repair orders through the mail. If a repair order is ignored, the MVA could issue a citation and ultimately suspend a driver's license and vehicle registration until the issues are addressed.

Relatedly, law enforcement officers cannot ignore multiple violations of our transportation laws. While a single secondary violation may not be a safety issue, multiple violations signal a driver who is unwilling to comply with rules of the road. Our law enforcement officers must be able to make traffic stops to keep the community safe. The bill should be amended to allow for a traffic stop if an officer observes more than one secondary violation.

Amendment #3

Senate Bill 55 amends § 2-109 of the Criminal Procedure Article to require an officer to state "*all* reasons for a traffic stop" in any "police report" from that stop. Often, especially in long-term investigations, such as the ones handled by the OAG's Organized Crime Unit, officers conduct traffic stops based not only on a safety violation but also because they have information from victims and witnesses identifying the driver as a suspect in a violent crime. It would endanger officers, victims, and witnesses if the police always had to tell the suspect every single reason for a traffic stop. Senate Bill 55 should be amended to say that an officer must tell the driver only every traffic violation that formed the basis for the traffic stop.

Amendment #4

Under current law, while the failure of an officer to identify themselves, their agency, their identification number, and the reason for the traffic stop may be grounds for internal disciplinary action, it cannot be grounds to suppress evidence found during the stop. This bill states that failing to make those identifications *may* be grounds to suppress any evidence recovered during the stop. Not only does this risk excluding guns or other evidence of violent crimes based on a minor violation, Senate Bill 55 fails to identify any guidelines for how courts should determine when this evidence should be excluded. This extreme sanction lacking in parameters should be removed from the bill.

Amendment #5

Finally, Section 3 includes a retroactivity provision applicable only to Section 2 of the bill. While the purpose of this retroactivity provision is not entirely clear, we are concerned that the

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provision might be interpreted to establish that stops that were valid stops for primary infractions at the time an officer conducted them are now retroactively made invalid secondary-infraction stops, and the consequences of such a determination are undefined. For that reason, we urge that this provision be clarified or removed.

We applaud Senate Bill 55 for seeking to limit non-safety related traffic stops and reduce racial disparities in Maryland's criminal justice system. The Office of the Attorney General supports Senate Bill 55 with the above-described amendments.

Sincerely,

A handwritten signature in black ink, appearing to read "AG Brown". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Anthony G. Brown