

## AFD Ep 328 Links and Notes Traffic Stops and the Origins of Traffic Laws Around Cars [Bill/Rachel, Oct 11]

- There are two big reasons to cover this topic this year: First, earlier in the year when the number of covid-19 fatalities in the US was much lower, many conservative commentators dismissively remarked that the fatality count was lower than the number of vehicular deaths in the US each year, which raised some obvious questions about why we allow so many of those deaths as well. Second, the role of traffic stops in incidents of violent police interactions with the populace – and the apparent lack of a link between traffic stops and actual traffic safety – has been gaining more attention amid protests around policing in general, [given that](#) there are 20 million police traffic stops per year in the US and 50,000 per day. I myself (Bill) have gotten into hot water for criticizing the practice of police high-speed pursuits and the fatalities that result, although I believe the data still supports my position. Traffic safety policy is a huge topic, but we've narrowed it down to a few themes that seemed most relevant to our show and to this year. So, first, let's rewind to the beginning of automotive traffic laws in the United States [at the turn of the last century?], and then let's talk about police traffic enforcement more specifically in the present day.
- **The Origins of Traffic Laws [Rachel]**
  - <https://one.nhtsa.gov/nhtsa/timeline/index.html>
    - 1901: First speed limit law in Connecticut: 12 mph city; 15 mph country roads
    - 1910: First drunk driving law in New York
    - 1930: Three-way traffic light introduced in US
    - 1960: DOT established (motto: to ensure our nation has the safest, most efficient and modern transportation system in the world; that improves the quality of life for all American people)
    - 1970: Highway Safety Act creates National Highway Traffic Safety Administration NHTSA and DOT work together to establish safety standards for vehicles
    - 1974: [Nationwide speed limit](#) of 55 mph established
    - 1978: Tennessee requires car-seat/booster-seat use for children
    - 1984: New York enacts first seat-belt law
    - 1998: Zero-tolerance laws in all 50 states and D.C., establishing 0.02 BAC for minors
    - 2000: All states must enact 0.08 BAC laws by 2004 or lose highway funding
    - 2003: Click-it or Ticket campaign in all 50 states
  - [https://en.wikipedia.org/wiki/National\\_Minimum\\_Drinking\\_Age\\_Act](https://en.wikipedia.org/wiki/National_Minimum_Drinking_Age_Act)
    - 1984: Adopt age 21 alcohol purchase laws or highway funding reduced by 10% (Idaho didn't raise it until 1987)
  - [https://www.salon.com/2015/08/20/the\\_secret\\_history\\_of\\_jaywalking\\_the\\_disturbing\\_reason\\_it\\_was\\_outlawed\\_and\\_why\\_we\\_should\\_lift\\_the\\_ban/](https://www.salon.com/2015/08/20/the_secret_history_of_jaywalking_the_disturbing_reason_it_was_outlawed_and_why_we_should_lift_the_ban/)
    - According to the Detroit News, upwards of 60 percent of automobile-related fatalities in the 1920s were children under the age of 9.
    - By the close of the 1920s, automobiles had claimed the lives of more than 250,000 children and adults in the United States.
    - *In 1923, Cincinnati residents pursued an ordinance that would require motorists to outfit their cars with mechanical devices called governors. The governors would switch off car engines if vehicles exceeded speeds of 25 miles per hour. Local automobile dealers mobilized to strike down*

*the measure. Over the next decade the auto industry pursued aggressive action to take sole possession of public roads and, in turn, reshape the conversation around cars. The American Automobile Association, or AAA, sponsored safety campaigns in schools, educating students on the dangers of crossing the street in unmarked zones. Boy Scouts handed out cards to pedestrians, warning them against the practice of jaywalking. Mock trials were conducted in public settings to shame or ridicule offenders. The National Automobile Chamber of Commerce persuaded politicians and journalists to shill for their cause. The Packard Motor Car Co. went so far as to construct tombstones engraved with the name Mr. J. Walker. In Buffalo, beachgoers were treated to a public performance by the National Safety Council, in which a jaywalker was arrested, handcuffed and fitted with a sandwich board that read "I am a jaywalker," and then ushered into a police wagon plastered with anti-pedestrian slogans. ("Hell is paved with good intentions, but why crowd the place? Don't jaywalk.") By the 1930s, jaywalking had been adopted as common law in most major municipalities. The term was near ubiquitous, and opposition to the automobile had softened to scarcely a whisper.*

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- **Modern US Police Traffic Enforcement [Bill]**

- According to the US DOJ's Bureau of Justice, "*The most common reason for contact with the police is being a driver in a traffic stop.*"  
<https://www.bjs.gov/index.cfm?tid=702&ty=tp> If there were a way to eliminate that role, it would dramatically reshape the US populace's interactions with police.
- My [Bill's] colleagues on the Cambridge Massachusetts City Council (both of whom I know at least a little) earlier this year proposed exploring making unarmed city employees the primary traffic enforcers pulling people over.  
<https://boston.cbslocal.com/2020/07/29/cambridge-police-officers-traffic-stops-proposal-city-employees/> They wrote in the draft of the policy that "The presence of an armed police officer during a routine traffic stop raises the tension of the encounter unnecessarily and can itself lead to conflict, causing harmful stress to both parties and damaging the relationship between police and the community." However, in a demonstration of how challenging it is to explore this idea and change the paradigm for policing in the US, the proposal still contemplated using police "for apprehending known criminals, dangerous or erratic drivers, and other related situations that clearly go beyond routine traffic enforcement." So then the question becomes what is the dividing line in the moment where an unarmed employee would decide that they couldn't pull someone over and needed to call in the police? Or would the armed police be paired off with the unarmed civilian enforcement official?
- In Massachusetts on the whole, the state briefly began collecting racial data on police traffic stops after legislation passed in the year 2000 and then allowed it to expire in the mid-2000s when it became embarrassingly clear that police traffic stops across the state were disproportionate for Black and Latino drivers. And yet the legislature continues to add legal reasons for police to pull over drivers in Massachusetts, such as "distracted driving" related to cell phones, without allowing new racial data collection.  
<https://www.aclum.org/en/legislation/traffic-stop-data-collection> 2019 legislation on that issue required racial data to be collected at least in distracted driving stops where a citation was issued, although not other kinds of stops, but public reporting has not been forthcoming. A 2020 ruling by the state's Supreme

Judicial Court ordered the legislature to require police to start producing those statistics. The majority opinion stated “This type of data collection would help protect drivers from racially discriminatory traffic stops, and also would protect police officers who do not engage in such discriminatory stops.”

<https://www.boston.com/news/policy/2020/09/23/massachusetts-sjc-traffic-stops-racial-data> <https://www.wbur.org/news/2020/09/17/police-stop-racial-bias>

The Massachusetts court opinions issued this year also allowed defendants who have been convicted of something related to a traffic stop to still be able to sue over certain things that occurred during the stop such as racist treatment or police brutality. In one case at hand, yes, the driver was convicted of repeatedly operating a vehicle without a license and for having an unregistered gun in the car, but also it turned out that 80% of all drivers pulled over by the arresting officers were Black drivers and the officers had not pulled him over for a driving violation that day but rather had pulled him over after running his plates on a whim since he was driving a luxury vehicle and noticing an expired tag and then noticing other standing warrants. In a different case, police beat a man they had pulled over and the court ordered that although he was pulled over for some real violations, he can still sue for the beating.

- Activists around the country this year have also pushed for state governments to curb so-called “pretext stops” where minor traffic and driving offenses are considered sufficient primary reasons for police to pull over a vehicle such as “failure to signal, broken license plate light, tinted windows” or driving too slowly in a left lane on the highway. Pretext stops are known as such because they are disproportionately deployed in so-called “high crime areas” due to explicit federal training to local law enforcement agencies to give a pretext for finding purported troublemakers and known criminals and were legalized by the US Supreme Court in 1996, unanimously, in a decision written by Scalia. [Thanks RBG!]  
<https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/09/03/police-pretext-traffic-stops-need-to-end-some-lawmakers-say> Listeners may recall that Congressman Joe Kennedy, a former prosecutor, in a 2018 interview with Ezra Klein for Vox bemoaned marijuana legalization for removing a useful traffic stop and vehicle search pretext in Massachusetts, which was smelling marijuana wafting from a passing vehicle and then searching it for weapons after a traffic stop. <https://reason.com/2018/04/01/rep-joe-kennedy-iii-is-sad-that-pot-legal/>
- Nationally, about one in eight people are pulled over annually by police and among non-whites it is about one in four. But does any of this have any effect on traffic safety, let alone any of the purported community safety from those type of pretext stops? The answer appears to be no, of course. A 2020 study published in Counterpunch magazine looking at the first 1000 non-criminal traffic cases filed this year in Albuquerque, New Mexico – which is a community of more than half a million people and since 2014 a police force under long-term federal monitoring for civil rights violations – found that half the annual police budget went toward traffic enforcement, generating court fees and revenue in fines but no apparent improvements in road safety. If you take the number of speeding violations, something most of us would consider at least a somewhat genuine road safety concern that can get people killed, and then double that number, that is still less than the combined number of citations issued in Albuquerque for problems with vehicle registration and vehicle insurance. In fact speeding was only the 3rd largest pool of citations. Failure to pay these tickets over registration & insurance and failure to appear in court to contest them, all of which relate directly to poverty or inability to leave work or find childcare, escalate immediately to

automatic license suspensions and standing arrest warrants for actual jail time. This all fuels a further cycle of driving violations, traffic stops, fines, and jail. Overwhelmingly, warrants were associated with those secondary types of technical violations, rather than to primary violations directly related to some kind of unsafe driving that a police officer noticed. A different study elsewhere by the Rochester Institute of Technology confirmed those poverty-related reasons for many drivers' secondary violations and their subsequent inability to pay the fines or go to court to contest them and many drivers also mentioned that they were forced to drive without or on suspended licenses due to the lack of public transit. Bench warrants can also cost people their jobs and force them out of public benefits that would help keep them from sliding deeper into poverty.

<https://www.counterpunch.org/2020/08/27/what-good-are-police-on-patrol-an-analysis-of-traffic-enforcement-in-albuquerque/>

- And what about those actual, primary safety-related violations such as speeding, which is one of the [top 3 causes](#) of fatal US crashes and which [dramatically increases the chance of death](#) with each additional amount of excess speed? For the most part, if we want safer streets with fewer vehicular deaths and injuries, we need better design and engineering that naturally discourages unsafe driving, not more enforcement by police. And for issues like failure to comply with seat belt laws (another top 3 US crash fatality cause) or helmet laws or distracted driving laws, we should be exploring unarmed non-police enforcement.
- As a side note [maybe not on air]: Drunk driving (the other top 3 US crash fatality cause) remains a possible exception in terms of the role of police enforcement but even for that there remains a great deal of debate as to why drunk driving fatalities (and arrests for it) have declined so precipitously in the past 40 years – and a lot of that seems to have more to do with education campaigns and specific targeted consequences to prevent repeat offenses, such as sobriety ignition locks.  
<https://www.donturnerlegalteam.com/blog/drun-driving-arrests-decline-decline/>  
[Saving for the notes but not on air] Another similar arena where road safety is less related to engineering would probably be drowsy driving but again that has more to do with bigger social factors such as lack of public transportation options and unreasonable working conditions and presumably it's hard to pull over a driver who is falling asleep.