



**Committee for Public Counsel Services**

100 Cambridge Street, 14<sup>th</sup> Floor, Boston, MA 02114

Tel: (617) 482-6212 – Fax: (617) 988-8495

**ANTHONY J. BENEDETTI**  
CHIEF COUNSEL

**ARNIE LUCINDA STEWART**  
DEPUTY CHIEF COUNSEL  
PUBLIC DEFENDER DIVISION

**RE: 2020 Massachusetts Uniform Citation Data Analysis Report – Written Testimony by Arnie Stewart, Deputy Chief Counsel-CPCS**

To whom it may concern,

Thank you all for allowing me to speak at the hearing today and the opportunity to weigh in on the Uniform Citation Data Analysis Report. As requested, I am providing my testimony in written form to allow you to carefully consider what we believe to be serious shortcomings of your report.

“My name is Arnie Lucinda Stewart, and I am the Deputy Chief Counsel of the Public Defender Division at Committee for Public Counsel Services. I have been a public defender for 25 years.

We at CPCS share the communities’ concerns about the deficiencies in this report, especially the overreliance on the Veil of Darkness analysis, of which my colleague will go into greater detail.

One big concern, however, is the dangerous way this report is being conveyed to the public. Immediately after this report’s release, there were headlines in both major papers, as well as local papers reading “Traffic stops study finds no racial disparity” and “Race not a factor in Mass. Traffic stops”. Nothing could be further from the truth.

The report showed that Black and Hispanic drivers were more likely than their counterparts to receive a criminal citation.

It showed Black and Hispanic Drivers were more likely to have their cars searched when they were pulled over.

AND

The report showed that Black and Hispanic Drivers were more likely to be arrested than white drivers.

That is racial disparity. Race is a factor in Massachusetts traffic stops, because racism is alive and thriving across our nation and in our Commonwealth.

The report cautions that without more data, we cannot draw any conclusions as to why these disparities exist, namely because police do not have to record the reason for the initial stop, under the data collection provision of Chapter 122 of the Acts of 2019, or the “Hands-Free

Driving Law”. This may be true, but this seems like a disparity worth taking a deeper looking into.

The Secretary of EOPSS has the power, under the statute, to determine that any police department that subjected more black or Hispanic drivers to criminal citations, searches or arrests would “appear to have engaged in racial profiling”. In which case, the Secretary of EOPSS would have the power and ability to order those departments to collect data on the reason for the initial stop, as well as data on all traffic stops and not just those that result in warnings, citations, or arrests.

I have lived in Massachusetts and the City of Boston, for 27 years. Since my graduation for law school, I have worked as a public defender for 25 years. Prior to being a public defender, I was a police officer and Vice Investigator in our nation’s capital for 7 years. I bring a unique, a balanced and an accurate perspective.

I cannot and will not dismiss my own lived experiences, the experiences of my black and brown clients, nor the experiences of members of my community who targeted by police while driving. My experiences are radically different than those of my white friends and colleagues. I want to share with you a brief a story about a lived experience.

I was with a fellow attorney and close friend, and it was around midnight and that attorney had a late-night craving for pancakes. We set off in my minivan from Jamaica Plain to Brighton and as we drove, any police care we passed, would pull out and begin following my car. This happened not one time, not two times, but three separate times during my short trip from Jamaica Plain to Brighton. My white colleague said to me that she’d never seen anything like this, and that I must be a police magnet. I said to her this is my life, this is not unusual. What was unusual is that I was not stopped. The darkness has never protected me from being pulled over by police. I can recount numerous stops in the day and the night.

Under Chapter 122, Police only need to collect data on stops that result in written warnings, citations, or arrest. Imagine this scenario, one that is common for black youths in Boston:

A police officer pulls over a car driven by a young black man and couple of his friends. Maybe they ran a red light, or maybe simply because he finds them suspicious. The officer asks for all their identification, looks around their car, maybe even orders everyone out of the car, and subjects each one to a pat and frisk. That officer finds nothing. If the officer decides that a verbal warning will suffice for whatever minor traffic violation they may have committed, or releases the parties because there is no basis for an infraction, that interaction is never included in the aggregate data and it should be included.

If we are going to get a real view of racial profiling in Massachusetts, we need to collect data on ALL stops, as well as collect data on the reasons for ALL stops.

I question why this report focused so heavily on the Veil of Darkness analysis.

Why are we not questioning why in almost every single jurisdiction that non-white motorists are more likely to be pulled over at night?

In Boston, where streets are well lit and the underlying basis of veil of darkness is more questionable, non-white drivers are pulled over three times more often at night than their white counterparts.

Shouldn't we question when police in towns like Cohasset are almost three times more likely to pull over a black motorist at night than during the day?

I hope that you take the reports limitations seriously and do not mistake the lack of findings of racial profiling as false and inaccurate proof that it is not happening in our Commonwealth.

We urge you to

- further analyze the discrepancies in the data available, as well as
- expand data collection to ALL motor vehicle stops and to include reasons the stops were made.”

Thank you again for taking our comments under consideration. If you have any further questions on concerns, we would be happy to be involved in further discussions on how we can improve data collection and analysis on traffic stops.

Sincerely,

Arnie Lucinda Stewart  
Deputy Chief Counsel  
Public Defender Division  
Committee for Public Counsel Services

For any further questions, please contact Lisa M. Hewitt, General Counsel, by email at [lhewitt@publiccounsel.net](mailto:lhewitt@publiccounsel.net) or by phone at 617-512-1248