

Use and Abuse of Officer Discretion in Declining to Enforce Motor Vehicle Violations

POLICE ACCOUNTABILITY PROJECT REPORT



Kevin D. Walsh
Acting State Comptroller

Issued December 18, 2024



Table of Contents

<u>I.</u>	<u>Executive Summary</u>	<u>1</u>
<u>II.</u>	<u>Background</u>	<u>3</u>
	A. New Jersey's Motor Vehicle Laws	3
	B. Police Discretion in Motor Vehicle Stops	4
	C. NJSP's Motor Vehicle Stop Dashboard	5
	D. Law Enforcement Record Keeping Tools: CAD Reports, BWCs, and MVRs	6
<u>III.</u>	<u>Methodology</u>	<u>7</u>
<u>IV.</u>	<u>Findings</u>	<u>9</u>
	A. More than one in four stops reviewed showed troopers gave preferential treatment to drivers or passengers when presented with a "courtesy card" or personal relationship to a law enforcement officer or agency.	9
	B. OSC found concerning racial/ethnic trends that require follow-up by NJSP and OLEPS.	21
	C. OSC found that, in some instances, troopers appeared to have abused their discretion by choosing not to enforce the motor vehicle laws after observing certain dangerous offenses.	25
	D. OSC observed violations of the Attorney General's BWC Policy and issues with NJSP's data collection and record keeping.	30
	E. OSC found it would be helpful if troopers articulated/ documented why they exercised their discretion in ending an otherwise lawful stop with no enforcement.	33
<u>V.</u>	<u>Recommendations</u>	<u>34</u>

I. Executive Summary

The New Jersey Office of the State Comptroller (OSC) examined over 500 motor vehicle stops conducted by New Jersey State Police (NJSP) that ended with no enforcement. OSC looked at body-worn camera footage of stops that are rarely, if ever, watched—stops where tickets were not given, arrests were not made, and no one was even ordered to exit their vehicle. Most of the traffic stops OSC reviewed started with the trooper briefly explaining the reason for the stop and requesting a driver's license, registration, and insurance. But in more than one out of four stops reviewed, the motorist presented a courtesy card, asserted a personal relationship with a law enforcement officer, or even flashed a law enforcement badge. When that happened, the side-of-the-road interactions between the motorists and the stopping troopers shifted, and in some cases, shifted dramatically.

Sometimes, the motorist boldly handed over a courtesy card, occasionally in lieu of driving credentials, and the stop resolved relatively quickly with the trooper offering some version of "you're good." Other times, a driver volunteered "my dad is a lieutenant" or "my best friend works at [insert name of any law enforcement agency]" and received remarkably solicitous treatment from the trooper. This was the case even when the drivers were stopped for dangerous traffic infractions, such as driving more than 100 miles per hour or suspected drunk driving. The most serious consequence the troopers imposed in these stops was advising the motorists that they left a voicemail message for the law enforcement officer named on the courtesy card or invoked as a friend or relative. In one instance of suspected drunk driving, the trooper also warned the driver to "stay off my highway," after reminding him how bad things would be if he crashed under the circumstances.

OSC's Police Accountability Project initiated this investigation in response to multiple reports that New Jersey law enforcement officers' exercise of discretion in motor vehicle stops is often influenced by improper factors, such as courtesy cards given to or purchased by motorists. OSC reviewed more than 3,000 minutes of body-worn camera footage, which included 501 traffic stops conducted by a sample of NJSP troopers over a ten-day period in late 2022. In doing so, OSC found evidence of a two-tiered system in which motorists with ties to law enforcement—no matter how tenuous—were given preferential treatment.

[Watch the body-worn camera footage](#) of select motor vehicle stops.

Among the findings:

- Courtesy cards—which are given out by police labor associations and sold by private companies online—appear to be in wide usage and function as accepted currency. Of the 501 stops OSC reviewed, 87 motorists presented courtesy cards which came from municipal police departments, county and state agencies, as well as inter-state and out-of-state law enforcement agencies. They all appeared to be equally effective at getting motorists released without enforcement.
- Motorists who asserted personal relationships with law enforcement have similarly strong social capital that often has the same effect as a courtesy card. In ten percent of the stops,

the motorist did not present a courtesy card but cited a relationship to a law enforcement officer and was able to evade any consequences, even for serious motor vehicle violations. In one stop, a driver was speeding 103 miles per hour. The trooper released her after she said her father was a lieutenant. Another motorist, stopped for tailgating, speeding, and driving over the median in a tunnel, was released promptly after he cited a friendship with a law enforcement officer.

- Many active duty law enforcement officers were observed using their official government position to get out of a ticket. Some volunteered that they were law enforcement, some flashed badges, and in one instance, a trooper sitting in the back seat of a car offered up his badge number.
- Troopers' decisions to grant preferential treatment to motorists who have courtesy cards or asserted close personal relationships with law enforcement seem to be having a discriminatory impact. White motorists were more likely to hold a courtesy card or assert a relationship to law enforcement. Of the 87 courtesy cards observed in the sample, for instance, 69 were presented by White drivers, while Black, Hispanic/LatinX, Asian, and other drivers presented a combined 18 courtesy cards.
- NJSP policy requires troopers to request and review driving credentials (driver's license, vehicle registration, and proof of insurance) for all stopped drivers. Yet, drivers without courtesy cards or a close relationship with law enforcement were more likely to have all three driving credentials requested and verified by the trooper, more likely to have the trooper take the extra step of conducting a full motor vehicle lookup in the computer, and more likely to be given some form of a warning.
- An overall analysis of the full sample revealed racial disparities that went beyond courtesy cards. White and Asian drivers were less likely to have all three of their credentials requested and verified when compared to Black and Hispanic/LatinX drivers. And Hispanic/LatinX drivers who were stopped were generally subjected to a more thorough computerized lookup. Most striking, troopers conducted computerized lookups of Hispanic/LatinX drivers 65 percent of the time, while looking up White drivers only 34 percent of the time.
- Out of the 501 stops that resulted in no enforcement, 232 related to speeding. At least 80 of those stops were for 20 or more miles per hour over the speed limit. Speeding is one of the common causes of traffic fatalities.

In short, this two-tiered system of justice that provides differing treatment for those with law enforcement connections and those without is unethical, discriminatory, and fundamentally unfair. It also contributes to making New Jersey roads less safe. Traffic fatalities on New Jersey roads continue to rise, with fatal crashes at the end of November 2024 already well surpassing the number of fatal crashes from the prior year. Impaired driving and speeding are some of the leading causes of accidents. Millions of public dollars are allocated to law enforcement agencies throughout the state to prioritize safety initiatives and adherence to traffic laws. Yet for some drivers, these priorities do not seem to apply.

For these reasons, and those set forth in more detail below, OSC makes 11 recommendations and has also made appropriate referrals. OSC's findings also make clear that regular review of no

enforcement stops could provide valuable insight into officer discretion and also could reveal why particular data trends persist, highlight the need for training or retraining and updates to policies, and ensure that the motor vehicle laws are being enforced fairly and equitably. While some of the drivers in this sample had courtesy cards or asserted relationships to law enforcement, many did not, and yet still avoided any consequences for often serious violations.

II. Background

A. New Jersey's Motor Vehicle Laws

In New Jersey, most of the statutes that pertain to motor vehicle laws are found in a part of New Jersey's Revised Statutes under Title 39.¹ This includes offenses like speeding, as well as careless and reckless driving. It includes equipment violations such as needing working headlamps and the requirements that all drivers must be in possession of a valid driver's license, registration, and proof of insurance when operating a motor vehicle. Among other things, Title 39 also provides the Director of the Division of Motor Vehicles with the authority to determine the number of points that should be associated with each offense, and sets forth when and how drivers' licenses can be suspended or revoked.²

Many, if not most, of New Jersey's motor vehicle laws implicate public safety. According to data compiled by the New Jersey State Police Fatal Accident Investigation Unit, in 2022, New Jersey recorded 646 fatal collisions that resulted in 689 deaths or 1.89 fatalities per day.³ This was among the highest number of traffic-related deaths in New Jersey in the past 15 years. As stated in the 2022 Fatal Crash Report, "[t]raffic related deaths continue to remain one of the leading causes of death in New Jersey and throughout the nation."

Although New Jersey saw a decrease in 2023, there were still 574 crashes with 606 fatalities.⁴ More recently, the New Jersey Division of Highway Traffic Safety (HTS), a division of the Attorney General's Office, reported that traffic fatalities had fallen nationwide in 2024 so far but not in New Jersey where they actually increased from 2023.⁵

¹ N.J.S.A. 39:1-1 et seq. ("Title 39"). Some other criminal laws that pertain to drivers and motor vehicles can be found elsewhere in the criminal code.

² The Division of Motor Vehicle Security and Customer Service Act of 2003 abolished the DMV and created the New Jersey Motor Vehicle Commission, along with a number of title changes. However, Title 39 still uses the pre-2003 terminology.

³ See Fatal Motor Crash Comparative Data Report for the State of New Jersey 2022, https://www.nj.gov/njsp/information/pdf/fcr/2022_fatal_crash_report.pdf (2022 Fatal Crash Report).

⁴ See Fatal Crash Statistics, <https://www.nj.gov/njsp/info/fatalacc/2023-stats.shtml> (last visited Dec. 13, 2024).

⁵ See National Highway Traffic Safety Commission, Early Estimate of Motor Vehicle Traffic Fatalities for the First Quarter of 2024, June 2024, <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813598> (last visited Dec. 13, 2024).

Working with law enforcement to prioritize safety initiatives and adherence to traffic laws remain a focus of HTS. HTS is responsible for administering the State and Community Highway Safety Program, which annually distributes approximately \$30 million in federal funding received to “develop and implement a statewide highway safety plan.” HTS’s traffic safety priority areas include impaired driving, aggressive driving (including speeding), and occupant protection (seatbelts), among others. In 2023, HTS allocated over \$25 million to “various law enforcement agencies and strategic partners statewide,” including to the New Jersey State Police (NJSP), to support these efforts.

B. Police Discretion in Motor Vehicle Stops

In enforcing the motor vehicle laws, New Jersey’s law enforcement officers have a significant amount of discretion. An officer can legally stop a vehicle if the officer has reasonable and articulable suspicion that the driver committed a moving violation or some other offense.⁶ As a motor vehicle stop progresses, the officer has discretion whether to order the driver to exit their vehicle,⁷ whether to inquire into matters unrelated to the justification for the traffic stop,⁸ and whether to deploy a canine sniff in certain instances.⁹ Police officers also have discretion about how to conclude the stop, including whether to issue a summons or ticket to the driver, to instead issue a warning, or to release the driver from the stop with no enforcement.

NJSP is the largest law enforcement agency in New Jersey with the authority to enforce traffic laws throughout the state. One of NJSP’s “major goals” is “providing the motoring public with the safest possible environment and further recognizing that motor vehicle violators are deterred when they see a member engaged with a detained motorist” on the side of the road. Accordingly, NJSP’s written policies require troopers to conduct “[t]raffic enforcement . . . based on the guiding principles that aggressive and visible enforcement of all motor vehicle laws will result in a decrease in unsafe driving, unsafe equipment, injuries and death from traffic accidents,” and to take “appropriate enforcement action for each violation witnessed or reported to them.”

While troopers have significant “discretionary authority as to which form of enforcement is appropriate” in choosing the outcome of a motor vehicle stop, troopers are “accountable to [the] citizenry and to each other to exercise police powers and discretion in an unbiased way and in conformance with state and federal law.”¹⁰ This means, among other things, that their significant

⁶ State v. Locurto, 157 N.J. 463, 470 (1999). The reasonable suspicion standard requires only “some minimal level of objective justification for making the stop.” United States v. Sokolow, 490 U.S. 1, 7 (1989).

⁷ State v. Smith, 134 N.J. 599, 611 (holding officers can order drivers out of car, without additional suspicion, during routine traffic stop).

⁸ State v. Dunbar, 229 N.J. 521, 533 (2017).

⁹ Ibid. (holding “an officer does not need reasonable suspicion independent from the justification for a traffic stop in order to conduct a canine sniff,” though an officer cannot prolong a stop for a canine sniff without independent reasonable suspicion that a suspect possesses narcotics).

¹⁰ See State Police SOP F55. Cf. State v. Cryan, 320 N.J. Super. 325, 330 (App. Div. 1999) (“If on-duty police officers are to fulfill their responsibility to promote safety for the traveling public, intervention is mandated” in dangerous situations such as when the driver is “weaving down a roadway”).

discretion enforcing the law may not be based “to any degree upon an individual’s race, ethnicity, gender or national origin (subject to the [Be on the Look Out] exception).”¹¹

As with other laws, all New Jersey law enforcement officers charged with enforcing the motor vehicle laws must do so in a fair and equitable manner. They are also required to obey those same laws themselves.¹² Police officers, like other public officers, have “an inescapable obligation to serve the public with the highest fidelity. In discharging the duties of their office they are required to display such intelligence and skill as they are capable of, to be diligent and conscientious, to exercise their discretion not arbitrarily but reasonably, and above all to [act with] good faith, honesty and integrity.”¹³

C. NJSP’s Motor Vehicle Stop Dashboard

The New Jersey State Police–Traffic Stop Data Dashboard (Dashboard), created and made public by the Attorney General’s Office in 2021, is a helpful tool to better understand how NJSP troopers exercise their discretion when enforcing the State’s motor vehicle laws.¹⁴ Until recently, this Dashboard was readily available online, presenting an extensive data set—information about “over 6 million State Police motor vehicle stops and any interaction between trooper(s) and vehicle occupant(s) during those stops from January 1, 2009 to May 31, 2021.” Among other categories, the data on the Dashboard includes the driver’s race. The Dashboard is interactive and illustrates “trends over time about the reasons a state trooper stopped a motor vehicle, and the actions—if any—the trooper(s) took after the motor vehicle stop with respect to driver/passengers,” including whether summonses or warnings were issued, arrests were made, consent searches were conducted, or whether the motorists were asked to step out of their vehicle or frisked.

The Dashboard also includes data about stops that ended in “no enforcement.” The Dashboard defines “no enforcement” stops as “instance[s in which] State Police did not issue a summons or

¹¹ See State Police SOP F55 ; see also B13 (“The Division will not tolerate any members’ reliance on race, creed, color, national original, nationality, ancestry, sex, pregnancy, breastfeeding, sexual orientation, gender identity or expression, mental or physical disability, familial status, marital status, domestic partnership/civil union status, military status, atypical hereditary cellular or blood trait, genetic information, and age . . . in determining whether to provide services or enforce laws in other than a fair and equitable manner.”); see also Attorney General Law Enforcement Directive 2005-1.

¹² State v. Stevens, 203 N.J. Super. 59, 65–66 (Law. Div. 1984) (“Every police officer has an inherent duty to obey the law and to enforce it. That duty is essential to the preservation of a free society. Its absence makes the law enforcer lawless, permitting violence, oppression and injustice”); see also State Police SOP B13 (requiring all law enforcement actions taken by the Division and its members “shall be provided in a fair and equitable manner”).

¹³ Driscoll v. Burlington-Bristol Bridge Co., 8 N.J. 433, 474–75 (1952); Stevens, 203 N.J. Super. at 65–66 (citing Driscoll to describe duties of police officers).

¹⁴ See NEW JERSEY OFFICE OF THE ATTORNEY GENERAL, State Police Traffic Stop Dashboard, <https://www.njoag.gov/trafficstops/> (last visited March 7, 2024). A few months ago, OSC discovered that the dashboard had become unavailable. When OSC inquired about the reason for this, OSC was advised by the Office of Law Enforcement Professional Standards (OLEPS) that the dashboard had not been intentionally removed from public access. Rather, the outside vendor responsible for hosting the dashboard is facing software issues and working to resolve the problem.

warning in the motor vehicle stop.” The Dashboard does not include information as to the reason why a summons or warning was not issued in the cases of no enforcement. Stops that resulted in no enforcement are differentiated on the Dashboard from those where warnings were issued for moving and non-moving violations.¹⁵ Notably, the Dashboard makes clear that it “includes events that originate as motor vehicle stops, as well as events that become a motor vehicle stop during the interaction.” In other words, the Dashboard would not include those instances when—from start to finish—troopers acted solely in their “community caretaking” role, providing social services such as rendering motorist aid.¹⁶

The Dashboard data reveal an ethnic/racial disparity in stops that ended in no enforcement that has been occurring for several years. Specifically, White drivers are over-represented in stops that are classified as no enforcement on the Dashboard, as compared to minority motorists.¹⁷ According to the data, between January 2009 and May 2021, White drivers had a greater likelihood of having a stop conclude in no enforcement than minority motorists.¹⁸ The reason for this data trend is unexplained on the Dashboard. Similarly, NJSP has acknowledged that this trend in the data exists but does not have a sufficient explanation of why.¹⁹

D. Law Enforcement Record Keeping Tools: CAD Reports, BWCs, and MVRs

The available aggregate data on the Dashboard is helpful for identifying concerning data trends but only partly reflects what is happening on the road. To understand these trends in context, it is helpful to review Computer-Aided Dispatch (CAD) reports, body-worn camera (BWC) footage, and mobile video recorders (MVRs), or “dash cams,” for individual stops.

¹⁵ NJSP’s standard operating procedures (SOPs) provide that a written warning “[m]ay be used by a member when it is obvious that the violation was unintentional and the violator will now comply with the law due to the member’s warning.” See State Police SOP F55. The policy does not specify when a verbal warning or no enforcement is appropriate. As discussed below, for the purposes of this investigation, OSC did review warnings that were provided in the sample of BWC footage it received and observed that many of those warnings were not given to the driver in writing. In addition, a high-ranking NJSP officer informed OSC as part of a previous review that warnings are essentially the same as no enforcement.

¹⁶ State v. Scriven, 226 N.J. 20, 38 (2016).

¹⁷ White drivers’ representation in stops that ended in no enforcement increased 4.91 percent when compared to their overall representation in all stops, while Black, Hispanic/LatinX, and Asian representation in stops that ended in no enforcement decreased a combined 5.56 percent when compared to their overall representation in all stops.

¹⁸ The disparity becomes even more evident when analyzing stops with “Post Stop Interaction” or “PSI” (e.g., vehicle exit, frisk, person search, vehicle search, evidence seizure, arrest, consent request, use of force, canine deployment). PSI was not the subject of this investigation, but further information on this subject can be found in a report about NJSP data trends made public by the New Jersey Office of the Attorney General in July 2023. See Matthew B. Ross, New Jersey State Police Traffic Stops Analysis, 2009-21 (July 7, 2023), available at https://www.nj.gov/oag/newsreleases23/2023-0711_NJSP_Traffic_Stop_Analysis.pdf.

¹⁹ This data trend was discussed in OSC’s Ninth Review of Law Enforcement Professional Standards, and at the time of OSC’s Ninth Review, NJSP did not believe it was necessary to review body-worn camera (BWC) footage of no enforcement stops to gain a better understanding of it.

CAD systems help law enforcement agencies and first responders manage emergency calls, direct resources, and record incidents. A CAD report is essentially a print out of the information transmitted to dispatch during a call. For a motor vehicle stop, the CAD report might include information such as the date and time of the call, the identity of the responding officer, how the call was received, the clearance code for the call, and other information. Police officers are not required to draft an investigative report or incident report after every contact with the public, but a CAD report should be available for every call.

A BWC is a device worn by a law enforcement officer that makes an audio and video recording of activities that take place during any law enforcement action. BWCs have been mandatory for all law enforcement agencies in New Jersey since 2020. BWC footage from a motor vehicle stop usually includes an officer calling in a stop and turning on their lights, the interaction with the motorist, and everything else that occurs through the conclusion of the stop when the officer decides whether to enforce a violation and what to communicate to the dispatch operator regarding the stop.

MVRs have been required in most police vehicles in New Jersey since 2014. Unlike BWCs that travel with the officer, these cameras are mounted inside police vehicles, sometimes facing forward to capture what is occurring in front of the police vehicle, such as driving behaviors prior to a motor vehicle stop. Some MVRs also show the inside of the police vehicle. MVRs, like BWCs, increase transparency involving officers' interactions with the public.

When CAD reports and footage from BWCs and MVRs are viewed together, they can tell a compelling story of what transpired during a stop, but they often do not tell the whole story. The full picture of what happened may be obscured by limitations in the technology, some of which are completely outside an officer's control, such as background noise on a busy highway. But something officers can control is documenting their process. The full picture, as courts have recognized, is enhanced when officers articulate the reasoning for the choices they made.

III. Methodology

OSC initiated this investigation in response to frequent reports that New Jersey law enforcement officers' exercise of discretion during motor vehicle stops is regularly influenced by improper factors, including courtesy cards given to and purchased by motorists. To conduct this investigation, OSC examined relevant statutes and case law; New Jersey State Police policies, directives, and regulations; municipal ethics policies; and publicly available information related to courtesy cards. OSC also reviewed over 3,000 minutes of New Jersey State Police BWC footage.

OSC limited its investigation to NJSP for a representative sample, as the agency serves New Jersey's diverse population statewide and conducts motor vehicle stops on the State's major roadways. According to the Dashboard, between January 2009 and May 2021, NJSP conducted over 6.2 million motor vehicle stops. Over 1.2 million of those stops (20 percent) ended in no enforcement in this reported period.

Given this high volume, OSC sought to review a sufficiently large sample of no enforcement stops as part of this investigation to ensure the findings would be meaningful. To accomplish this

without placing an undue administrative burden on NJSP, OSC agreed to limit its review to BWC footage of stops resulting in no enforcement from the 25 troopers in each troop (A, B, C, or D) with the highest number of no enforcement stops. The stops spanned a ten-day period in the winter of 2022.

OSC did not review BWC footage from county or municipal departments as part of this investigation or any stops that resulted in some form of enforcement or post-stop interaction, such as a request for consent to search, issuance of a summons, or an arrest. In other words, if a courtesy card was presented as part of a stop that resulted in some enforcement, other than a warning or post-stop interaction, those stops were not reviewed as part of this investigation.

There were certain limitations to the information that OSC was able to obtain and analyze during this investigation. First, there were limitations with the BWC footage files provided to OSC. Some of the BWC footage provided by NJSP included stops that were not true “no enforcement” because they included post-stop activities such as arrests, summonses, or exit orders to drivers. After removing the videos that were not relevant to this investigation and duplicate videos, there were 501 unique stops resulting in no enforcement and different types of warnings that OSC used for its analysis.²⁰

In addition, the BWC footage did not always capture all relevant information pertaining to a stop. For example, in some instances, OSC was unable to determine the race/ethnicity and gender of the driver from the information relayed to the dispatcher or inputted into the computerized system.²¹ In those instances, OSC relied on visual perception to assess in good faith the race/ethnicity of the driver depicted in the stop.²² Some BWC footage did not capture the entirety of a stop, which is discussed in OSC’s findings below.

Finally, OSC sought to interview NJSP officials regarding Division policies and procedures and their implementation by troopers on the road during motor vehicle stops, the use of software systems available to troopers on the road, and the exercise of trooper discretion during motor vehicle stops, among other topics. After pursuing that interview for over six months, on August 1, 2024, NJSP, through counsel, contended that their policies adequately set out NJSP’s position without the need for further explanation and declined to produce a witness who would answer OSC’s questions. OSC did not insist on such an interview because it determined that it was in the public interest to report on its findings based on the BWC footage and other documents received to date and to supplement this report, if necessary, if additional information becomes available.

²⁰ For this review, OSC analyzed stops resulting in warnings and no enforcement. Although a warning is considered a type of enforcement on the Dashboard, as discussed above, during an interview that was conducted as part of OSC’s Ninth Review of Law Enforcement Professional Standards in 2023, a high-ranking Division official stated that a warning is essentially no enforcement. NJSP’s policies do not appear to define the distinction between verbal, written/printed and system input warnings, other than stating that, if a warning is not entered in the system, it is as if it never happened.

²¹ For the purposes of this investigation, OSC followed the race and ethnicity categories utilized on the Dashboard. For example, the Dashboard uses the category of Asian rather than separate categories for Asian Indian and Other Asian, and their reasons for doing so are articulated on the Dashboard.

²² Under State Police SOP F7, the racial classification will be based on the member’s good faith and reasonable belief as determined by physical observation of skin color and/or facial characteristics.

OSC sent a discussion draft of this report to NJSP to provide it with an opportunity to comment on the facts and issues identified during this review. OSC also sent confidential referral letters to other appropriate agencies, including to NJSP, concerning this report and other issues identified during the course of the investigation that fell outside the scope of this report. NJSP provided a limited response for OSC's consideration.

IV. Findings

Each traffic stop in the sample reviewed concluded with no enforcement or a warning, but not all stops were treated the same way by the troopers. As set forth below, the outcome of approximately one in four of those stops was heavily—and at times solely—influenced by the presentation of a courtesy card by the driver or passenger in the stopped car or an asserted personal relationship to law enforcement.

The preferential treatment these drivers were given was, at times, in stark contrast to how drivers without the same law enforcement connections were treated. Drivers without courtesy cards, who also did not assert a close relationship with law enforcement, were more likely to have all three driving credentials requested and verified by the trooper, more likely to have the trooper take the extra step of conducting a full motor vehicle lookup in the computer, and more likely to be explicitly given some form of a warning. The fundamental unfairness of troopers using their discretion in this way was further accentuated by the races/ethnicities of the drivers with this privilege in OSC's sample. To be clear, when first viewed in isolation, the outcome of some of the no enforcement stops could be considered innocuous. It was only when the stops were considered in the aggregate that these problematic trends emerged. OSC thus recommends that NJSP and the Office of Law Enforcement Professional Standards (OLEPS) further investigate certain racial/ethnic trends that OSC observed in the sample it reviewed, as discussed below.

Beyond these concerns, also set forth in detail below, there were many instances in which OSC observed that stopping troopers exercised their discretion not to enforce the law even when the troopers observed that a driver had posed a very real danger to other motorists on the road. This phenomenon was not limited to those stops in which a courtesy card or law enforcement relationship was asserted. In many cases, OSC was unable to ascertain the motivations of the trooper who declined to enforce the law. OSC makes numerous recommendations below to address the significant problems identified in these stops, as well as the various policy violations and data collection issues it observed in the sample.

A. More than one in four stops reviewed showed troopers gave preferential treatment to drivers or passengers when presented with a “courtesy card” or personal relationship to a law enforcement officer or agency.

OSC found that in well over one-fourth (over 27 percent) of the stops it reviewed, troopers exercised their discretion in a manner that gave preferential treatment to drivers or passengers who presented courtesy cards or asserted personal relationships with law enforcement officers

or agencies. Examples of these stops are described below, as well as the ethical implications of these practices.

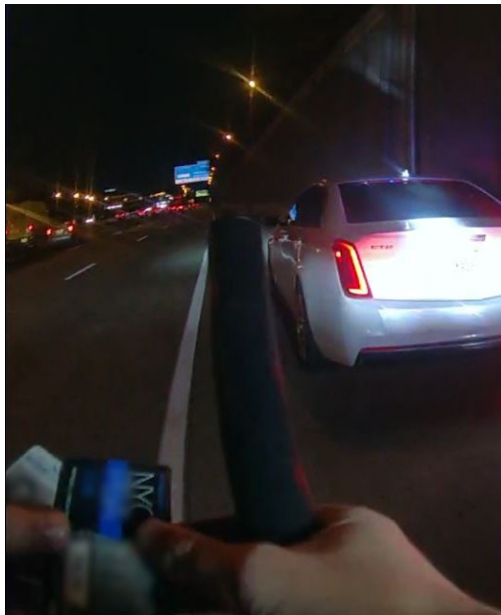
1. **In over 17 percent of stops reviewed, troopers chose to exercise their discretion not to enforce motor vehicle laws when a “courtesy card” was presented by a driver or passenger of the stopped vehicle.**

Courtesy cards (sometimes also referred to as “family cards,” “gold cards,” “PBA cards,” or “FOP Cards”) have existed for over forty years and are still distributed by major police labor organizations and associations in New Jersey.²³ These organizations typically provide or sell courtesy cards to their members for the members to then distribute to friends and family. Some of these organizations’ websites suggest that courtesy cards are also available to members of the general public for purchase or if they send a monetary donation. Certain police organization websites suggest that there are verification requirements that must be met before someone can purchase a courtesy card online. There are also vendors that sell or resell courtesy cards online outside of police organization websites and brick and mortar stores that do the same. OSC did not attempt to obtain a courtesy card by either of these methods, but it is clear from certain vendors advertising the sale of these items that there would be no restrictions on who could purchase a card.²⁴

The cards usually bear the name of the police labor organization or association and a prominent image of a badge or other symbols associated with law enforcement. The card might also identify the bearer’s relationship to the member, with a statement such as, “The bearer of this card is an immediate family member of a police officer” or it might more generally identify the bearer of the card as a supporter of the organization. The card usually identifies the member who distributed the card, including the member’s name, rank, and sometimes their employing department or agency. It often requests on the card that any officer who stops the bearer “should try to extend every courtesy possible.” Some examples of courtesy cards observed by OSC during its review of BWC footage are below.

²³ Police officers belong to a wide array of police labor organizations to represent their interests. Some organizations are police unions that are certified and recognized as representing all police employees within a bargaining unit. However, numerous independent police labor organizations have developed from local benevolent associations, protective leagues, federations, lodges, or internal police associations. Some officers also belong to identity-based police organizations that do not have the legal right to bargain collectively on behalf of their members, but speak publicly on behalf of their members.

²⁴ Matthew Enuco, *Federal agent admits selling ‘family member’ cards for thousands of dollars*, NJ ADVANCE MEDIA, July 18, 2024 (officer pleaded guilty, admitted to purchasing courtesy cards from a business in North Jersey and resold).



With over 31,000 active law enforcement officers in New Jersey as of 2023 and more retired law enforcement officers across the state, the number of courtesy cards in circulation in New Jersey could reach into the hundreds of thousands.²⁵ This does not include courtesy cards from federal, interstate, and out-of-state law enforcement agencies that police officers encounter when stopping motorists who are traveling through New Jersey.

There are, however, no publicly available statistics that OSC is aware of regarding the number of courtesy cards in circulation, how often courtesy cards are presented, or how they affect the outcome of motor vehicle stops in New Jersey. Information about the use and effectiveness of

²⁵ A May 2024 edition of a New Jersey policing magazine advertised that members of a police organization would be issued ten courtesy cards each year in addition to special family member cards.

these cards is often shrouded in secrecy, and the law enforcement community, in general, has been unwilling “to go on the record” about them.²⁶

a. 87 of the 501 stops OSC reviewed involved courtesy cards from a variety of law enforcement agencies at all levels of government

In 87 of the no enforcement stops OSC reviewed (17 percent), a driver or passenger presented a courtesy card to the stopping trooper.²⁷ The courtesy cards OSC observed being presented or discussed during the stops in the sample came from a variety of agencies, including municipal police departments, county and state agencies in New Jersey, as well as federal, interstate, and out-of-state law enforcement agencies.²⁸ OSC found that in numerous stops, the trooper explicitly articulated that the courtesy card would influence their discretion in determining the outcome of the stop. Other stops ended immediately upon presentation of the courtesy card, sometimes without any review of the driver’s credentials. Each one of these stops was troubling for one or more reasons. Some of these stops are described below:

- In one instance involving two troopers, one of the troopers informed the driver that he was “all over the road” and “caught [him] doing 94.” At that time, a passenger in the vehicle presented his “uncle’s gold card.” The troopers returned to their vehicle to check the driver’s credentials and identification for all of the passengers. When the troopers returned to the stopped vehicle, one told the driver that “you got more points than your age,” but released the driver from the stop anyway after joking about fast cars.²⁹
- In another instance that is described in greater detail below because it also involved suspected impaired driving, the trooper informed the driver that, if he did not have the courtesy card, the trooper would be “hitting [him] with at least 6” violations and that if he “crashes there is going to be a fucking problem.”
- Yet another instance involved a driver being stopped for driving on the shoulder during rush hour on a busy highway. After the trooper explained the reason for the stop, the driver tried to minimize the behavior by saying he “wasn’t going the whole way.” When asked for a driver’s license, the driver presented a courtesy card from his cousin who was an officer at a sheriff’s office, along with the license. The driver asserted that his driving record was good and encouraged the trooper to check it. After a brief electronic scan of the driver’s

²⁶ Kevin Manahan, *PBA cards: Do they work, and should they?*, NJ ADVANCE MEDIA, May 20, 2012, https://www.nj.com/njvoices/2012/05/pba_cards_do_they_work_and_sho.html (last visited Dec. 13, 2024).

²⁷ For the purposes of this review, OSC considered instances where a courtesy card could be visually observed on the BWC video and where a courtesy card was mentioned by a driver, passenger, or trooper during the stop.

²⁸ Notably, in one stop, the driver informed the trooper that he had “a bunch of PBA cards” but recognized that troopers were in a different police union from other officers. In response, the trooper remarked that it was “all the same.” Another driver complained to the trooper, after being stopped for speeding (89 miles per hour in a 65 miles per hour zone) that another officer had taken some enforcement action despite being presented with the driver’s PBA card during a past stop in New Jersey. In this instance, the stopping trooper chose not to enforce after being presented with the card which apparently had been given to the driver by a relative who worked in a county prosecutor’s office.

²⁹ It is not clear from what was captured on the BWC footage if the troopers had the authority to request identification from all of the passengers in the vehicle. *See State v. Boston*, 469 N.J. Super. 223, 248 (App Div. 2021).

license, the trooper released the driver from the stop with “no tickets, nothing like that,” and advised the driver to “stay off the shoulder.” The driver again tried to minimize his driving behavior by saying “You know everyone does that right?” before thanking the trooper for being released with no enforcement.

- In another stop, the trooper advised the driver that she was observed holding a cell phone while driving. The driver admitted to changing music on the phone and said she was on the way to the gym. When the driver opened her wallet, a PBA card was clearly visible and the trooper asked to see it. The trooper did not review any driving credentials. The PBA card appeared from the BWC footage to be from a local police department in New Jersey. The trooper told the driver to enjoy her workout and released her from the stop.

These were only some of the examples where courtesy cards appeared to be the deciding factor in the motor vehicle stop. It appeared that the trooper’s discretion turned solely on the presence of the courtesy card and there were no other reasonable explanations why these stops resulted in no enforcement.

In many other stops, a courtesy card was not visible from the BWC footage, but it was clear that a courtesy card was presented and that it was the sole basis for the trooper choosing not to take any further action. In some of these stops, the troopers’ interactions with the drivers ended almost immediately upon presentation of a courtesy card. Three examples of this are described below:

- In one of the videos in which a driver was stopped for high rate of speed, the driver asked the trooper, “I have one of these, do you care?” and the trooper responded, “It will help.” The driver continued to argue with the trooper about the appropriateness of her driving behavior, even after the trooper advised that he observed the driver traveling at 92 miles per hour, and “cut across 4 lanes.” The trooper even cautioned the driver that “a split second, that’s when the accident happens.” When the trooper asked about the courtesy card, the driver indicated that the card related to a former chief of police in New Jersey.
- In another example, the trooper approached the vehicle and the driver presented something to which the trooper responded, “Who is this?” After learning that the item belonged to the driver’s “dad,” the trooper said “slow it down for me, alright. Drive safe,” and walked back to his vehicle.
- In another example, even though the trooper told the driver that he observed him “going 90,” and needed to drive over 100 miles per hour (mph) to conduct the stop, the driver showed something to the trooper that made the trooper respond with “what is your relationship to the officer?” Shortly after, the trooper told the driver “next time it’s not going to be a warning” and then walked back to his vehicle.

There did not appear to be a uniform way in which the troopers behaved when presented with a courtesy card. In some stops involving courtesy cards, the stopping trooper took some action, performing computerized lookups, and/or scolding drivers about their behavior. In one notable stop, the trooper confiscated the courtesy card and told the driver that he had “the right to take it.” It is unclear what is done with a courtesy card when it is confiscated or what would legally authorize a law enforcement officer to take a driver’s property under those circumstances, especially where they are releasing them from the stop with no enforcement and it would not have

any evidentiary value.³⁰ When an officer takes a courtesy card from the driver instead of issuing a ticket, it supports the notion that the card is literally a “free pass” to get out of a motor vehicle violation. On the other hand, when courtesy cards are not confiscated, as was the case in all of the other stops reviewed by OSC in which cards were presented to the officer, they presumably could be used multiple times by the driver to receive preferential treatment during stops in perpetuity without any negative consequences for the driver that might inspire them to alter their dangerous and illegal behavior.³¹

OSC also found that in 4 of the 87 stops the trooper attempted to verify the driver’s relationship to the officer named on the card. For example, in one instance, the stopping trooper took the courtesy card back to his vehicle and attempted to directly call the trooper who was named on the card. The named trooper did not answer, and the stopping trooper did not leave a message but instead noted aloud that he would “talk to him” when he called back on Monday.

b. Ethical concerns with courtesy cards

As set forth above, OSC’s investigation has revealed that—in a significant number of cases—courtesy cards are not only perceived by some in the driving community as “free passes” to speed and commit other motor vehicle infractions but are treated by members of the law enforcement community as such.³² This is significant because, historically, there has been only anecdotal evidence suggesting that courtesy cards help the bearer avoid consequences for motor vehicle infractions. A review of New Jersey case law shows that some motorists believe they will be able to avoid consequences for drinking and driving or speeding at high rates with a courtesy card. News articles on the topic generally conclude that courtesy cards remain a valuable tool to lessen or eliminate consequences of motor vehicle infractions, while at the same time pointing out that officers have been unwilling to speak “on the record” about them. Some police labor organizations, in response to past press inquiries about courtesy cards and their intended

³⁰ Courtesy cards sometimes state on them that they are the property of the organization they relate to or are subject to being “rescinded by the law enforcement,” but it is unclear under what circumstances that would be appropriate.

³¹ A separate, but related issue was addressed in an unpublished case, in which an appellate panel appeared to agree that it was appropriate for the law enforcement agency to terminate an officer for “conduct unbecoming” when the officer’s actions included, among other things, providing someone with a courtesy card and allowing that person to continue to use it after discovering that they had a criminal record. See In re Boykins, 2016 WL 3461654, A-2176-13T1 (App. Div. June 27, 2016).

³² There have been cases in New Jersey and nationally where the behavior of individual officers signaled the high value of courtesy cards. See Manahil Ahmad, *Montclair State cop accused of fraud scheme involving PBA card swap*, THE BERGEN RECORD, Oct. 3, 2023, <https://news.yahoo.com/news/montclair-state-cop-accused-fraud-153832666.html> (last visited Dec. 13, 2024) (officer accused of trading a PBA card for falsified insurance documents); see also Erik Larsen, *Police: Manalapan cop sent teen photo with hand down pants, wanted to kiss her “so bad,”* ASBURY PARK PRESS, Sept. 8, 2023, <https://www.yahoo.com/news/police-manalapan-cop-sent-teen-083148856.html> (last visited Dec. 13, 2024) (officer was charged with endangering the welfare of a child and other crimes, where part of his conduct involved promising the victim a PBA card for their 17th birthday); see also Matthew Enuco, *Federal agent admits selling “family member” cards for thousands of dollars*, July 18, 2024, <https://www.msn.com/en-us/news/crime/federal-agent-admits-selling-family-member-cards-for-thousands-of-dollars/> (last visited Dec. 13, 2024) (federal agent admitted to selling “family member” cards for thousands of dollars).

purpose and effectiveness, have insisted they are merely a public relations tool and have little impact on outcomes of stops.

This sentiment is directly contradicted by OSC's observations. In many of the no enforcement stops OSC reviewed, the trooper's decision not to enforce even serious motor vehicle violations turned solely on the fact that the driver presented one or more courtesy cards with a law enforcement officer's name on it. In other words, courtesy cards that reflect the officer's name (and often rank) are effectively a "laminated wink and a nudge" that law enforcement officers hand out to family and friends to provide them with an otherwise improper benefit tied directly to their official position.³³ In short, the ethical implications are very real.³⁴

NJSP troopers are subject to the Uniform Ethics Code (UEC) which governs and guides the conduct of "State officers and employees and special officers and employees in State agencies in the Executive branch of State Government." While not specifically addressing courtesy cards, the UEC section on "Misuse of Official Position or Information" states that "[n]o State officer or employee or special State officer or employee should use or attempt to use his/her official position to secure unwarranted privileges or advantage for him/herself or others." Because, in practice, courtesy cards confer a privilege or benefit on the bearer, this section appears to be implicated.

In addition, the Department of Law and Public Safety, under which NJSP falls, has a Supplementary Code of Ethics. The Supplementary Code of Ethics states that no officer or employee shall "[p]erform official duties in any manner from which it might be reasonably inferred that the influence either of a personal relationship or of an unprofessional circumstance caused the officer or employee to act in a biased or partial manner." Again, while not explicitly referencing courtesy cards or relationships to law enforcement, these provisions of the UEC and Supplementary Code of Ethics would necessarily address situations when officers are presented with courtesy cards during motor vehicle stops—the same types of cards they distribute to their own friends and family. The expectation is that these cards will result in preferential treatment, including non-enforcement of the law in many cases.

While municipal police are not subject to the State ethics policies, Local Government Ethics Law similarly provides that "[n]o local government officer or employee shall use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others."³⁵ Local police departments in New Jersey may also have their own code of ethics for officers. Some of the policies held by departments in New Jersey use the phrase, "I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor."³⁶

³³ Katie Way, *The Little Cards That Tell Police "Let's Forget That This Ever Happened,"* VICE, Sept. 2, 2020, <https://www.vice.com/en/article/v7gxa4/pba-card-police-courtesy-cards> (last visited Dec. 13, 2024).

³⁴ Some police unions, which are run by active duty law enforcement, advertise that civilians who donate money will be "gifted" with one or more courtesy cards as a "thank you." To the extent these types of cards are influencing officer discretion during motor vehicle stops, they implicate similar ethical concerns.

³⁵ N.J.S.A. 40A:9-22.5(c).

³⁶ See, e.g., Monroe Township Police Department, Law Enforcement Code of Ethics, <https://monroetownshipnj.org/3-2/departments-of-public-safety/police-department/code-of-ethics/> (last

While OSC only reviewed motor vehicle stops effectuated by NJSP troopers, it is clear that courtesy card usage and its impact on law enforcement decision-making is a statewide issue. It touches municipal police departments in New Jersey, as well as county and other state law enforcement agencies. The BWC footage revealed that NJSP troopers were giving preferential treatment when presented with courtesy cards reflecting the names of law enforcement officers at all levels of government—interstate, state, local, and even out-of-state law enforcement organizations and associations.³⁷ In the one instance discussed further below, when the stopping troopers allowed a driver who was initially stopped for reckless driving and later admitted to drinking alcohol to leave without a field sobriety test, the motorist had a courtesy card from another NJSP trooper and one from a NJ municipal police officer. In allowing the driver to leave under these circumstances, without having been administered a field sobriety test or receiving any enforcement for the multiple observed motor vehicle violations, one of the stopping troopers announced he was going to “do the right thing.”³⁸

c. Laws implicating courtesy cards

In addition to these important ethical considerations, it is concerning that the use and distribution of courtesy cards also remains largely unregulated in New Jersey.³⁹ There are currently two statutes that touch on the regulation of courtesy cards to some degree, but they include large loopholes that ensure they will never be enforced. First, it is considered a disorderly persons offense to distribute an honorary membership or courtesy cards on behalf of an organization or association of law enforcement officers to individuals other than current and retired law enforcement officers or an individual who has performed outstanding or meritorious public

visited Sept. 16, 2024); see also Elizabeth Police Department, Code of Ethics, <https://www.elizabethnj.org/DocumentCenter/View/2611/V1C3-Rules-and-Regulationspdf> (last visited Sept. 16, 2024).

³⁷ While OSC could not observe any courtesy cards presented from federal agencies on the BWC footage, one driver mentioned that her son was a special agent at a federal agency and offered to produce his “card.”

³⁸ The pressure for officers to give preferential treatment to courtesy card holders was reflected in a New Jersey case in which an officer was publically ridiculed by a family member of an officer from another department when he did not accept a courtesy card and enforced the law. Kelly v. Millenium Atl. City Holdco, L.L.C., A-5522-06T1 (App. Div. July 15, 2008) (reported friction between two local police department unions after an officer from one failed to give preferential treatment to someone who had a courtesy card from the other). This problem is not unique to New Jersey and has been highlighted in recent New York lawsuits as well. The New York Police Department (NYPD), for example, maintains that they do not recognize courtesy cards as “carrying any privileges,” and that the card should “have no influence on an officer’s discretion in enforcing the law” because “officers are expected to do their job without favoritism.” However, an NYPD officer filed a federal lawsuit in 2023, describing a practice of “selective enforcement” in which people with a connection to law enforcement avoided traffic tickets. Jonathan Edwards, *Officer who ignored NYPD’s ‘courtesy cards’ receives \$175K settlement*, WASHINGTON POST, Sept. 11, 2024 (the officer described the unofficial courtesy card system as one under which those with a card “can break the law with impunity” and that could keep going until someone who has repeatedly escaped punishment kills someone); see also Asher Stockler, *Westchester County cop claims firing was over PBA card favoritism*, ROCKLAND/WESTCHESTER JOURNAL NEWS, March 18, 2024 (the officer alleged that he was terminated from his employment with the police department for refusing to grant special privileges to a motorist carrying a courtesy card).

³⁹ Notably, courtesy cards are not a universal phenomenon. In California, for example, selling or giving out a “membership card, where it can be reasonably inferred by the recipient that display of the device will have the result that the law will be enforced less rigorously” is a crime. See Cal. Penal Code § 146d.

service.⁴⁰ But the standard for finding that someone has performed “meritorious public service” remains undefined and subject to the organization’s interpretation.

Second, subject to certain exceptions, it is a “misdemeanor” (punishable by up to 60 days in jail) to display or use certain items including a “membership card,” unless the possessor “is entitled to use and wear the same under the constitution, by-laws, rules, or regulations of any such association or organization.”⁴¹ This suggests again that the regulations of the police organization would control who is permitted to use a courtesy card and contemplates that a prosecutor would bring criminal charges on that basis, which is highly unlikely.

The lack of any regulation becomes even more concerning because, as set forth above, courtesy cards are being sold online, even outside of police organizations websites, and without any apparent restrictions. There does not appear to be any limit on how many courtesy cards someone could possess or purchase. There is nothing that removes courtesy cards from circulation, even when an officer is disciplined or terminated for misconduct, has retired or is deceased. In addition, some courtesy cards are being sold for profit. In one notable case, a courtesy card was sold for almost \$2,000.⁴²

Notably, in 2019, the Legislature limited the issuance of law enforcement badges or badges that could be mistaken for one in New Jersey. The impetus behind the law banning badges was to prevent public officials from attempting to use their position to prevent law enforcement officers from taking certain actions against them or their families.⁴³ The Legislature may wish to revisit this same issue with regard to courtesy cards.⁴⁴

2. In an additional ten percent of stops reviewed, troopers exercised their discretion not to enforce motor vehicle laws when a driver or passenger of the stopped vehicle asserted a personal relationship with a law enforcement officer or agency.

OSC found that in 52 (ten percent) of the no enforcement stops it reviewed, the driver or passengers asserted some relationship with law enforcement without presenting a courtesy card and that relationship appeared to be the deciding factor that influenced the trooper’s discretion not to enforce. For example, some stops resulted in no enforcement when the driver or

⁴⁰ N.J.S.A. 2A:170-20.1.

⁴¹ While not immediately apparent from the text of N.J.S.A. 2A:170-20.1, when viewed in isolation, N.J.S.A. 56:2-7 indicates that there might be exceptions to N.J.S.A. 56:2-6 for certain police organizations, if their membership card was copyrighted prior to June 21, 1933 and their constitution, by-laws, rules, or regulations permit the “wearing, exhibiting, displaying or using thereof.”

⁴² Matthew Enuco, *Federal agent admits selling ‘family member’ cards for thousands of dollars*, NJ ADVANCE MEDIA, Jul. 19, 2024, <https://www.nj.com/middlesex/2024/07/federal-agent-admits-selling-family-member-cards-for-thousands-of-dollars.html> (last visited Dec. 13, 2024).

⁴³ Larry Higgs, *It’s now law: Non-cops can’t have badges to get themselves or family out of trouble*, NJ ADVANCE MEDIA, August 9, 2019, <https://www.nj.com/traffic/2019/08/its-now-law-non-cops-cant-have-badges-to-get-themselves-or-family-out-of-trouble.html> (last visited Dec. 13, 2024).

⁴⁴ News 12 Staff, *So about those PBA cards . . . -A Positively New Jersey look at a Jersey Tradition* (August 13, 2019), <https://newjersey.news12.com/so-about-those-pba-cards-a-positively-new-jersey-look-at-a-jersey-tradition-40914146> (last visited Dec. 13, 2024).

passengers made known they were retired, active, or in-training law enforcement officers. Other stops resulted in no enforcement when the drivers or passengers merely indicated some relationship (family or friend) to a law enforcement officer, whether with a municipal, county, state, interstate, or federal agency (retired or active).

OSC observed 29 stops in the sample in which the driver or passengers involved in the stop identified themselves as law enforcement officers, whether active, retired, or in training. Some examples of stops involving active law enforcement officers are described below.

- In one instance, a trooper stopped a vehicle for speeding and both the driver and passenger were high-ranking county law enforcement officers who immediately identified themselves by rank and department. After commenting that where they were headed to was a nice place to have lunch, the trooper released them from the stop and told them to "Be careful and have a nice day."
- In a different situation when the stop was effectuated in a parking lot, a higher ranking off-duty state trooper casually intervened in the stop on behalf of a friend. Even though the stopping trooper performed a lookup and found that the driver was a "wanted person," and the higher ranking off-duty trooper said "do whatever you gotta do," the stopping trooper released everyone from the stop and walked back to his vehicle after apologizing to the driver.⁴⁵
- In another stop, the driver was wearing a uniform from what appeared to be a municipal law enforcement agency. The trooper told the driver "you were flying bro," but then promptly released him, taking no further action.
- In yet another stop, the driver confirmed that the vehicle was not registered and told the trooper that she was law enforcement. The trooper released the driver from the stop, returned to her vehicle, and said aloud, "slow down bro."
- There was a stop where an active state trooper was a backseat passenger in the stopped vehicle. The trooper released the driver from the stop almost immediately after the trooper in the backseat offered his badge number.
- In another stop, the driver had his law enforcement credentials open, resting on his lap with the badge clearly showing when the trooper approached. The interaction between the trooper and driver lasted approximately ten seconds before the driver was released from the stop.

OSC found that retired law enforcement officers appeared to be given the same preferential treatment as active law enforcement. Some instances that involved retired law enforcement officers are described below.

- In one stop, the trooper advised the driver that he was "trying to make sure you are alright," because he had received reports that the vehicle was driving "all over the place," and even driving "on the grass" passing other drivers. The trooper also observed the driver "tailgating [a] car pretty hard." The driver denied that driving behavior. The driver told the trooper that he was a retired state trooper and also presented identification from another state agency where he was currently employed. The trooper went back to his vehicle and

⁴⁵ While it appeared that the computerized system was notifying the trooper that the driver had an active warrant, OSC was unable to ascertain anything more about the nature of this notification from what can be observed on the BWC footage.

accessed the “roll call roster” to lookup the badge number that the driver had provided. After apparently confirming that information, the trooper told the driver “You are all good to go” and walked back to his vehicle.

- In a similar stop, another retired state trooper was stopped for what appeared to be a speed of 89 mph. After a brief interaction between the trooper and the driver, the stop ended with the stopping trooper apologizing for “bother[ing]” the retired trooper.
- Another stop involved a retired officer who was stopped for careless driving. Before even being told why he had been stopped, the driver offered that he had retired from a county law enforcement agency and presented his badge. The trooper expressed concern about the driver “getting into an accident with that high rate of speed,” which the driver attributed to medication causing an unawareness of his driving behavior. The driver was released with no further action.

OSC also found three alarming instances in which a trooper encountered individuals who appeared to be law enforcement academy trainees or recruits during the stops. These types of encounters are layered with ethical implications, among other concerns, such as the truthfulness of the stopping trooper and the recruits themselves. All of these stops are described below.

- In one instance, the trooper approached the vehicle and told the driver that reason for the stop was speeding. One of the vehicle occupants offered that he was currently attending a county police academy. The trooper informed the vehicle occupants that, when the trooper was in the state police academy, he had to report any contact with law enforcement but then offered not to report the stop, saying, “It never happened on my end. If you don’t say nothing, I’m not saying nothing.” The trooper fist bumped the passenger who said “police family, man.”
- In another instance, the trooper stopped the vehicle for reckless driving. The trooper approached the vehicle and told the driver he was “all over the road” and going 86 mph. When the trooper asked where the driver was headed, the driver responded that he was “just leaving the State Police Academy.” The trooper told the driver “be careful pulling out” and asked “do you have to report this?” The driver’s response was unclear due to the quality of the BWC audio, but the stop ended without much further interaction. It was unclear if the answer factored into the trooper’s decision to choose no enforcement as the outcome.
- In yet another instance, as the trooper approached the vehicle and asked for credentials, the driver offered that he “just came from the academy.” The trooper requested and reviewed the driver’s credentials visually at the side of the vehicle but then told the driver to “slow it down alright” and released him from the stop.

This preferential treatment was not limited to fellow law enforcement officers. In at least 23 of the stops, OSC observed that the trooper’s discretion was similarly influenced when a driver or passenger asserted a relationship with a law enforcement officer, whether family or friend. Some of those stops are described below.

- In one instance, the trooper described the driver’s driving behavior that he observed while following the vehicle. Even though the trooper indicated that he had a “whole laundry list” of reasons for stopping the vehicle and there were signs of impairment in the driving behavior, the driver mentioned having a relationship to a high-ranking NJSP official and was released from the stop with no enforcement.

- In another instance, the driver told the trooper that his spouse was a “cop” in a particular municipality and asked if that would help. The driver later disclosed during the stop that he was separated from his spouse. The driver was released from the stop with no further action being taken.
- In yet another example, the trooper approached the vehicle and advised the driver that he was observed doing “90 in a 55” mph zone. The driver explained to the trooper that he had a friend who was a ranking officer in the state police. The trooper initially questioned the relationship and asked the driver whether the ranking officer would confirm the friendship. The trooper explained to the driver that he “gets a lot of these” stops with drivers asserting relationships to other troopers, when they do not actually know them. The driver then showed the trooper an image on a cellphone, after which the trooper released him from the stop and asked the driver to say hello to the ranking officer for him.
- In another stop where the stopping trooper advised the driver that she was being pulled over for speeding, the driver immediately apologized and said she had relatives who were law enforcement officers. The trooper asked the driver if she had anything to confirm that relationship. The driver offered to call someone, but the trooper declined and said “I will take your word for it.” The trooper told the driver to slow down before releasing her from the stop.
- In yet another instance, the trooper advised the driver that he was observed going “97 [mph] at one point.” After an extended discussion about the law enforcement “friends” that the trooper and the driver had in common and the fact they lived in the same town, the trooper released the driver and said to slow down and get home safe.

In some of the instances when the driver asserted a relationship to a law enforcement officer, the trooper verified or at least attempted to verify the relationship with the officer being mentioned. Some forms of verification included attempting to contact the officer the driver mentioned, open source searches, and looking up information available in the trooper’s computerized system. In the majority of these stops, there was no verification of the asserted relationship before the stop ended in no enforcement.

The above described motor vehicle stops pose similar ethical implications to those noted above with respect to courtesy cards. Officers do not have a free pass to violate motor vehicle laws when they are off-duty or on a lunch break. And yet the BWC footage showed that law enforcement officers from almost all levels of government were using their official positions—and in some cases a flash of their badges—to avoid any consequences for the very laws they are charged with enforcing.

There were also instances in which the drivers volunteered that they were employed by a state agency in order to obtain favorable treatment during the motor vehicle stop. In one instance, the driver volunteered that she worked as a civilian employee for the state law enforcement agency. Even though the driver was stopped for speeding, she was eventually released from the stop after asking to take a selfie with the stopping trooper, providing the stopping trooper her business card, and telling the stopping trooper that, if he ever needed anything from her unit, to get in contact. Appropriate referrals for this kind of conduct, which was not limited to the stops described above, have been made by OSC.

B. OSC found concerning racial/ethnic trends that require follow-up by NJSP and OLEPS.

While not the preliminary focus of this investigation, OSC observed certain concerning data trends related to race and ethnicity that require further investigation. These trends were observed in stops involving courtesy cards and relationships with law enforcement and in stops involving so-called “low or no discretion” violations related to driving credentials, as described below.

In light of these trends, OSC makes several recommendations below regarding additional analysis that should be conducted by NJSP, under the supervision of the Attorney General, both to explore the significance of the trends OSC observed in the reviewed sample and to address any disparate impact that the exercise of trooper discretion on the road is having in these areas. Given that most of the factors at play are not unique to NJSP, this analysis should also help inform the Attorney General about any changes that need to be made statewide.

1. OSC observed certain racial/ethnic trends when courtesy cards and relationships with law enforcement were a factor in the stop.

As noted above, the Dashboard is a very useful tool, as its data can reveal areas where there are potential discrepancies in the Division’s motor vehicle stop data. “No enforcement” is one of the areas where discrepancies are observed. As discussed above, a review of the dashboard data reveals an ethnic/racial disparity in stops that ended in no enforcement that has been occurring for several years. Specifically, White drivers are overrepresented in stops that ended with no enforcement as compared to minority groups.

The reason for this data trend is unexplained on the Dashboard itself. While NJSP has acknowledged this trend in the aggregate data exists and has persisted for several years, the underlying reason for the trend remains unknown, OLEPS, the oversight agency for NJSP, has repeatedly questioned NJSP’s Risk Management Advisory Panel about this trend and sought additional information to explain it. However, NJSP has not adequately explained or taken further steps to gain a better understanding of the underlying reasons for the trend. At the time of OSC’s Ninth Review of Law Enforcement Professional Standards report, NJSP maintained its position that it was unnecessary to review BWC footage of no enforcement stops to gain a better understanding of why White drivers have been consistently overrepresented among no enforcement stops for several years.⁴⁶

When looking at the racial and ethnic breakdown in the sample of BWC footage of no enforcement stops that it reviewed, OSC found the following startling data trends that suggest that troopers’ discretionary decisions to grant preferential treatment when presented with courtesy cards and

⁴⁶ In 2020, NJSP posited a theory that Hispanic motorists are more likely to commit violations related to identification and documentation that allow for little or no discretion by the enforcing trooper to explain why White drivers are more likely to get warnings or no enforcement. At the time, OLEPS advised NJSP that this theory was not a sufficient explanation and, as discussed below, OSC found this explanation to be flawed in the sample of stops that it reviewed.

close personal relationships with law enforcement may have a discriminatory impact. Based on the data OSC has reviewed to date, it is unable to determine whether the trends below relate to the racial/ethnic composition of law enforcement officers statewide. As of 2023, 67 percent of law enforcement officers in New Jersey were White.

- White drivers represented 61 percent of drivers in the sample but represented 79 percent of drivers who presented a courtesy card. Of the 87 courtesy cards observed in the sample, 69 were presented by White drivers, while Black, Hispanic/LatinX, and Asian drivers presented a combined 17 courtesy cards.⁴⁷
- In this sample of no enforcement stops, White drivers were far more likely to present a courtesy card when compared with any other racial/ethnic group, especially Black drivers. One in 4.5 White drivers presented a courtesy card compared to 1 in 14 Black drivers.
- White drivers were represented in 103 of the 139 stops in the sample (74 percent) in which some relationship to law enforcement was asserted. This is 13 percent greater a share compared to their overall representation in the sample.

The New Jersey Supreme Court has cautioned that “limitless [officer] discretion can . . . lead to arbitrary and discriminatory enforcement.”⁴⁸ Given that White drivers in OSC’s sample were more likely than drivers of any other group to present a courtesy card or mention a relationship to law enforcement to obtain favorable treatment by law enforcement officers, the Attorney General, NJSP, and other law enforcement agencies should consider whether to continue to permit officer discretion to be exercised on these bases. Law enforcement practices that lead to more favorable outcomes for White drivers or less favorable ones for minority motorists, smack of “disparate impact discrimination” and fundamental unfairness.⁴⁹

In fact, it was with similar concerns in mind that the Attorney General, in July 2023, announced a pilot program to reduce racial and ethnic disparities in motor vehicle enforcement actions taken by the New Jersey State Police by focusing law enforcement efforts on the violations that are most likely to lead to fatal and serious motor vehicle crashes, and refraining from the enforcement of minor infractions absent a contemporaneous report of justification for same.⁵⁰ Whether

⁴⁷ One of the 87 cards presented came from a driver whose race and ethnicity did not fall into one of the above noted racial or ethnic categories.

⁴⁸ *State v. Carter*, 247 N.J. 488, 519–20 (2021). Over the years, officer discretion has been limited by courts, legislation, and Attorney General Guidelines and Directives. *See, e.g., State v. Carty*, 170 N.J. 632, 635 (limiting officer discretion by requiring reasonable suspicion before an officer can ask to search a car “serves the prophylactic purpose of preventing the police from turning routine traffic stops into a fishing expedition for criminal activity unrelated to the lawful stop”); N.J.S.A. 2C:35-10c(a) (legislation providing police can no longer rely on odor of marijuana to be reasonable suspicion or probable cause to conduct a warrantless search); Attorney General Law Enforcement Directive No. 2022-4 (authorizing vehicle pursuits when certain criteria are met).

⁴⁹ The Division on Civil Rights recently proposed rules to also address “disparate impact discrimination” which includes practices that, while perhaps not intentional, have a negative effect on members of a protected class. The proposed rule is available at https://www.njoag.gov/wp-content/uploads/2024/06/Disparate-Impact-Discrimination-Rule-Notice-of-Proposal_5.30.24.pdf.

⁵⁰ Reportedly, the research team will meet regularly with leadership from the Office of the Attorney General and across the LPS—including leadership from NJSP, the Office of Public Integrity and Accountability

through a pilot program or other changes to law enforcement policies and procedures, more should be done to determine whether the use of officer discretion to grant preferential treatment to those with courtesy cards or based on relationships to law enforcement is having even an unintended impact on minority motorists that is fundamentally unfair.

2. OSC observed certain racial/ethnic trends when troopers were exercising discretion for so-called “no or low discretion” violations related to driving credentials.

OSC also observed in the sample that certain offenses considered by NJSP policy to be “no or low discretion” violations were not being enforced uniformly by troopers on the road. Along with the lack of uniformity, OSC observed additional concerning trends related to race and ethnicity in the sample that suggest that further investigation is needed to ensure that officers are not engaging in practices that have a discriminatory impact.

As discussed above, troopers are afforded significant discretion during motor vehicle stops. But there are certain motor vehicle offenses that troopers must enforce according to NJSP policy. This means that when a trooper encounters a violation of one of these offenses during a motor vehicle stop, the trooper must issue a summons for the offense and should not ordinarily choose no enforcement as the outcome. Some of the offenses that allow for little or no discretion in enforcement, according to NJSP, are Suspended Driver, Unlicensed Driver, Unregistered Vehicle, and Uninsured Vehicle. These offenses are referred to by NJSP as “low or no discretion” violations.⁵¹

And yet, OSC observed in the sample of no enforcement stops it reviewed that troopers were, in fact, exercising significant discretion in their decisions surrounding so-called low or no discretion violations in a number of ways. At the outset, troopers were not requesting or reviewing all of the drivers’ credentials (driver’s licenses, vehicle registration, and insurance card) during the stops, making it impossible to determine if the driver had committed a low or no discretion violation in the first place.⁵² In fact, of the 501 stops that OSC reviewed, troopers did not ask for all three required documents almost 40 percent of the time.⁵³

(OPIA), the Office of Justice Data (OJD), OLEPS, and HTS—to ensure interventions are effectively implemented across NJSP and adjusted as needed.

⁵¹ The plain language of N.J.S.A. 39:3-29 suggests these kinds of violations should be enforced by all officers, and not just NJSP. The statute explains that a person “shall” be subject to a fine for failing to have their “driver’s license, the registration certificate of a motor vehicle and an insurance card” in their possession when operating a motor vehicle on the highways of New Jersey. The only exception to this is if a judge chooses to dismiss and not to impose court costs where the person can show those documents were valid on the day the stop happened, even though they were not in their possession at the time.

⁵² According to State Police SOP F3, “[i]n a case of ‘other than high risk’ stop, members will, immediately upon approaching the vehicle, identify oneself as a member of the state police, obtain the proper credentials from the driver, and state the specific reason (speeding, overdue inspection, tailgating, etc.) for which the vehicle has been stopped.” Driver credentials include driver’s license, registration, and insurance card.

⁵³ OSC could not determine whether the trooper asked for and verified all three documents in 45 of the stops it reviewed due to various factors. For this reason, these stops were excluded solely from this part of OSC’s analysis.

Relatedly, troopers also exercised significant discretion in how they reviewed driver's information during the stops. Discretion ranged from inspecting the driver's license visually on the side of the road to performing extensive computerized "lookups."⁵⁴ Lookups could be as simple as scanning the driver's license or as complicated as checking the driver's criminal history and court records.⁵⁵ While performing a computerized lookup is not required during a motor vehicle stop, according to NJSP policy, it is an action that a trooper can take in their discretion. OSC noted that, in many of these stops, troopers also asked drivers "how is your license," referring to how many points they had or previous stops/violations. Sometimes troopers checked the number of points in the computer system and sometimes they did not.⁵⁶

Even when troopers requested the proper credentials, reviewed them all, and found a violation of a "low or no discretion offense," OSC observed that troopers still exercised their discretion to choose no enforcement as the outcome of the stop. During one stop OSC reviewed, a trooper had stopped a motorist for exceeding the speed limit and, during the course of the stop, learned that both the registration and insurance for the vehicle were expired. The driver showed the trooper a courtesy card. The trooper asked "who gave you this" and the driver replied it was from his brother. While two "low or no discretion" violations had been established by the trooper, and the trooper can be heard on the BWC footage telling the driver that he should be towing the vehicle, the trooper nonetheless released the driver from the stop saying, "Take care of that today."

During another stop, the driver confirmed that the vehicle's registration was expired and showed the trooper a courtesy card from a state police union. The trooper responded "you know it's not registered and you are still driving," and that it's "not even close to anywhere near to being just recently expired," noting that the registration on the vehicle had been expired for "about 8 months." Despite the trooper acknowledging the presence of a "no or low discretion" violation and that "you can't drive, if it's not registered," the trooper permitted the driver to drive away from the stop without any consequences.

Similarly, in another stop, the driver confirmed that the registration was expired, but the driver mentioned being an active duty law enforcement member and presented what appeared to be identification from a state agency. The trooper released him from the stop without delay.

As with the courtesy cards, when looking at the racial and ethnic breakdown in the sample and the impact of the decision-making, the following concerning data trends emerged.

- White and Asian drivers were less likely to have all three of their driving credentials (driver's license, vehicle registration, and car insurance) requested and verified when

⁵⁴ State Police SOP F3 provides that a "[c]omputerized check for active warrants, driver's license verification, and criminal history" might occur as a result of a motor vehicle stop.

⁵⁵ OSC sought to interview a representative from NJSP about lookups and how much information is available to the trooper in the computerized system with a license plate lookup versus scanning a driver's license. However, as discussed above, to date, NJSP did not produce anyone to be interviewed as part of this investigation.

⁵⁶ If preferential treatment is being repeatedly given to a driver for motor vehicle violations and their conduct is not being recorded in the computerized system, this deprives officers who stop that driver in the future of pertinent information about that driver's record. This practice could potentially keep dangerous drivers on the road.

compared to Black and LatinX/Hispanic drivers. Stopping troopers did not request driving credentials a combined average of 44 percent of the time for White and Asian drivers compared to a combined average of 30 percent for Black and Hispanic/LatinX drivers.

- Hispanic/LatinX drivers who were stopped were generally subjected to a more thorough computerized lookup. In the sample reviewed, 65 percent of Hispanic/LatinX drivers stopped were subjected to a more thorough computerized look up, compared to 34 percent of White drivers stopped.

Troopers are not required to write a motor vehicle stop report for no enforcement and, in general, troopers did not memorialize the reasons they chose not to request credentials or to do computerized lookups in the CADs. At this time, based on the information received by OSC, any possible reasons for exposing more Black and Hispanic/LatinX motorists to additional scrutiny in the manner observed in the sample was largely unexplained. For these reasons, OSC is also recommending below that certain trooper activities be memorialized to help with subsequent review.

C. OSC found that, in some instances, troopers appeared to have abused their discretion by choosing not to enforce the motor vehicle laws after observing certain dangerous offenses.

OSC found that in some instances troopers chose to exercise their discretion not to enforce the law when that choice did not appear to be reasonable under the circumstances. This included stops where troopers chose no enforcement when motorists were driving at high rates of speed (up to almost 40 mph over the speed limit) and even when the driver admitted to the stopping trooper that they had been drinking alcohol prior to driving. Troopers also exercised their discretion and chose no enforcement in incidents of careless driving and even reckless driving which, as discussed below, covers a broad range of negligent and also willful driving conduct.

Despite all of the effort and resources expended on public awareness campaigns, laws enacted to address these offenses, regulatory agencies and courts' authority, and NJSP's own policies, OSC found that troopers were exercising their discretion and choosing not to enforce after having observed some of these dangerous offenses on the road and, sometimes, even after acknowledging the severity of the driver's conduct themselves. Whether a courtesy card, relationship to law enforcement or other factor influenced their decisions, it appears that, in certain instances, choosing no enforcement could constitute an abuse of discretion. Some examples of these no enforcement stops that OSC observed are described below.

1. Careless or Reckless Driving

A motorist is guilty of careless driving if they drive a vehicle "carelessly, or without due caution and circumspection, in a manner so as to endanger, or be likely to endanger, a person or property."⁵⁷ Careless driving encompasses a broad range of driving conduct and can include actions like speeding, driving too fast for wet road conditions, and distracted driving. A driver is

⁵⁷ N.J.S.A. 39:4-97.

guilty of reckless driving if they drive a vehicle “heedlessly, in willful or wanton disregard of the rights or safety of others, in a manner so as to endanger, or be likely to endanger, a person or property.”⁵⁸ The Legislature has determined that the offense of reckless driving is so serious that it can carry penalties of up to 60 days jail for a first offense and up to three months in jail for a second or subsequent conviction, in addition to other mandatory fines. Where the Court finds that the motorists conduct was “willful,” the Court has the authority to impose a period of driver’s license suspension as well.

There was a broad range of driving conduct involved in the stops OSC observed in which the recorded reason for the stop or reason provided to the driver for the stop was careless or reckless driving.⁵⁹ Careless driving behavior included speeding, passing a truck on the right, swerving, and even coming within “inches from hitting” another vehicle on the road. In one instance of careless driving, the trooper told the driver that he was “inches from hitting that blue car” in front of him and did not want to see anyone get hurt, especially with a child in the backseat of the vehicle. The driver presented a gold card from a state agency. At this point, the trooper released the driver and walked back to his vehicle.

In another instance of careless driving, the trooper advised the driver that he saw her talking on the phone while driving (without a hands-free device). The driver presented what appeared to be a gold card to the trooper. The trooper appeared concerned and advised the driver to “be careful with the phone while driving.” The trooper gave the driver factual information about how quickly serious consequences can result when a driver looks down at their phone while driving. The trooper also instructed the driver that if she needs to use her phone to pull over. Given the concerns in New Jersey and nationally about distracted driving, it is surprising that the stop resulted in no enforcement. Distracted driving has also been the subject of recent campaigns in New Jersey. In 2024, the Attorney General announced the “U Drive. U Text. U Pay” campaign and law enforcement agencies conducted “saturation patrols” that are intended to address distracted driving behaviors like texting or talking on the phone.

There were two instances in the sample of violations where the trooper was so concerned about the observed driving behavior that they logged it as “reckless driving.” In one instance of reckless driving, the trooper advised the driver that he was observed speeding at 86 mph and driving “all over the road.” The other stop for reckless driving is described in greater detail below, as it also implicated suspected impaired driving, but the trooper noted that the driver was putting his life and others in danger. Again, the motor vehicle offense of reckless driving requires “wanton” or “willful” conduct that would be likely to endanger persons or property, so OSC found it very concerning that these stops resulted in no enforcement. Based on what OSC observed, it has made several recommendations below regarding NJSP’s review of no enforcement stops in the future, especially reckless driving stops that result in no enforcement, and updates to NJSP’s warning policy regarding careless driving and distracted driving.

⁵⁸ N.J.S.A. 39:4-96.

⁵⁹ OSC found in this investigation that there were 2 stops where reckless driving was the recorded as the primary reason for the stop and 45 stops where careless driving was the recorded primary reason for the stop. Of the 47 stops involving reckless or careless driving in the sample, 11 involved courtesy cards or relationships to law enforcement.

2. Speeding/Rates of Speed

OSC found that there were approximately 232 no enforcement stops out of the 501 reviewed that related to speeding, with speed as the recorded reason for the stop or the trooper mentioned speed/speeding to the driver during the stop. In at least 119 of these stops, the trooper could be heard informing drivers of their observed rate of speed and those speeds ranged between 9 and 38 mph above the speed limit. In at least 80 of those stops, the speed was 20 or more mph over the speed limit. Studies reflect that high speed crashes are more likely to occur than crashes at lower speeds and, when they do occur, the likelihood increases that they will be fatal. In other words, the risk of death resulting from a crash exponentially increases with the rate of speed.

Some examples of these stops are as follows:

- In one instance, a trooper told the driver that she was observed traveling at 103 mph (at a minimum this would be 38 mph over the speed limit). However, before the trooper could even request the driving credentials, the driver told the trooper that her “dad” was a high-ranking officer in a municipal police department in New Jersey. The trooper unsuccessfully attempted to contact the driver’s father and released her from the stop with no further action.⁶⁰
- In another example, the trooper told the driver that she was traveling at 92 mph and had been observed cutting across multiple lanes. That driver presented a courtesy card and was released with no further action.
- In yet another stop, the trooper told the driver that he had a “whole laundry list” of reasons for stopping him, including speeding. But when the driver indicated that he had a relationship to a high-ranking NJSP official, that driver was also released.
- In another stop, the trooper told the driver that he was observed traveling at 83 mph in a 65 mph zone. The driver presented a courtesy card that appeared to be from New York. After going back to his vehicle and performing a look up, the trooper returned the driving credentials to the driver. When the driver then asked about the “PBA card,” the trooper told the driver, “I can take that from you” and the trooper did not return the courtesy card to the driver. The trooper released the driver from the stop and told him “keep the speed down.”

There were numerous additional stops for speeding in the sample. Stopping troopers advised drivers that they were observed speeding at high rates of speed, up to and including 103 mph in certain stops. In some instances, the trooper advised the driver that their high rate of speed was

⁶⁰ There were a number of other notable concerns with this stop. First, while the trooper told the driver she was observed going 103 mph, OSC observed the trooper driving at 128 mph to catch up with her to effectuate the stop. Second, after the trooper performed an open source search of the driver’s father on this phone, the trooper then turned the BWC off. In this instance, OSC had requested a copy of the MVR footage and was able to observe on the MVR that the trooper contacted the police department and attempted to verify the relationship. This portion was not captured on the BWC footage and turning the BWC off at that point could violate the BWC Policy. Third, this stop was also significant because the driver was Black and the trooper relayed to the dispatcher the same, but NJSP’s records reflect that the driver was White. The reason for this discrepancy cannot be determined from information available to OSC at this time.

significant given that it occurred in a “55 mph zone,” such as 90 in a 55. In 116 out of the 232 stops related to speed, drivers presented courtesy cards, relationships with law enforcement, or there was another factor that influenced the trooper’s discretion outside of the circumstances of the stop itself.⁶¹

As of July 2023, more than a quarter of crash fatalities in New Jersey were related to speeding. As a result, the Attorney General announced that same month that law enforcement would “intensify their efforts to enforce speed limits on roads throughout New Jersey.” This campaign increased enforcement actions against dangerous and reckless speeding behavior across the state. Notably, also in 2022, the National Highway Traffic Safety Administration (NHTSA) launched its “Speeding Wrecks Lives” campaign.

In light of all of the state and national data available about the dangers of speeding and enforcement activities and public campaigns in New Jersey that are intended to deter this dangerous driving conduct and save lives, the number of speeding-related stops resulting in no enforcement found in the sample that OSC reviewed was startling.

3. Impaired Driving

In at least three of the stops reviewed, OSC found that the trooper made a decision not to take any enforcement action, or even further investigative steps, despite making it clear that they had observed dangerous driving behavior and suspected the driver was impaired.⁶²

In one instance, the trooper informed the driver that she was stopped because the trooper observed the vehicle swerving back and forth. When the trooper asked the driver if she had been drinking prior to driving, the driver admitted to having one drink, a “dirty martini.” The trooper did not conduct any field sobriety tests. The trooper only inquired how close the driver was to home and indicated that the driver would be receiving a “verbal warning” before allowing her to leave.

⁶¹ OSC observed that some drivers in the sample did not have a courtesy card or a relationship to law enforcement, but provided other information that possibly influenced the trooper’s exercise of discretion to release the driver without enforcement. These drivers, who represented about five percent of the sample reviewed, were typically healthcare workers, military personnel, teachers, first responders, and other public employees. In one such stop, the trooper told the driver that she was doing 90 mph in a 65 mph zone and the driver admitted that she was tired. The driver then told the trooper that she was a nurse. The trooper released the driver from the stop and said “Oh you’re a nurse. Alright dear, then get out of here alright. Just slow it down for me please.”

⁶² In addition to the stops described in this section, OSC observed at least two stops in the sample in which the stopping troopers noted that the drivers appeared to be driving while very tired or drowsy. In one instance, where the driver admitted to being tired, the trooper issued a warning and told the driver that “if you are too tired to drive take the next exit and take a little nap or something.” In another instance, the trooper asked the driver if he was “falling asleep a little” and the driver agreed. The trooper told the driver to “pull over, get some shut eye.” New Jersey has recognized the dangers of driving while sleep deprived. Maggie’s Law was enacted in 2003 after Maggie McDonnell was killed in a motor vehicle crash where the driver had not slept for 30 hours prior to the deadly crash. See N.J.S.A. 2C:11-5 (2003 amendment to the State’s vehicular homicide statute, to establish that driving a vehicle or vessel while knowingly fatigued constitutes recklessness).

After releasing the driver, the trooper entered the stop into the computerized system as no enforcement. This outcome was troubling because there was evidence of driver impairment due to alcohol; specifically, the driver was observed swerving and admitted to drinking. When those criteria are met, NJSP policy requires a trooper to take certain actions, such as administering an evidential breath test. That policy makes sense as “intoxication” is not always visible even to trained observers.”⁶³

In another instance involving two troopers, the driver was informed that he was observed driving “well over 90” mph for several miles, causing the troopers to have to “risk [their] lives” and “weav[e] through traffic” to conduct the stop. The driver presented the troopers with two courtesy cards—one appeared to be a gold card from a NJSP trooper union, which the driver claimed his “best friend” gave him, and the other was from an officer who worked in a municipal police department in New Jersey. When the troopers asked the driver if he had been drinking alcohol, the driver first said “not a lot at all” and then “maybe 2 glasses.” The troopers did not conduct any field sobriety tests. Instead, the troopers returned to their vehicle and attempted to contact one of the officers listed on the courtesy cards. When that officer did not pick up the call, one of the troopers said he would “do the right fucking thing,” which to him meant simply lecturing the driver about his driving behavior without further consequences. The trooper told the driver that he did not “give a crap whose gold card this is,” but, if the driver did not have the courtesy card, the stop “would be going a whole different way.” The trooper then threatened the driver, warning him “don’t let me catch you on my highway again cause then I’m actually hammering you out.” The trooper released the driver from the stop and told him to “get out of here.”

In still another instance, the trooper informed the driver that he was stopping the vehicle after observing the driver doing 87 mph in a 65 mph zone and driving between two lanes. The trooper repeatedly told the driver that he “smell[ed] alcohol,” but the driver initially denied having any alcoholic drinks, insisting that she cannot drink “at all” and that she had “a good job—a state job.” The trooper then used a flashlight to conduct what appeared to be a nonstandard version of a field sobriety test intended to help assess whether a driver is impaired by alcohol or drugs, if performed correctly. Afterwards, the driver admitted that she did have “two drinks” before driving, but the trooper told the driver “People can drink and drive. You just can’t be over the limit and drive.” Even though the driver could not tell the trooper how far she was from home, the trooper released the driver from the stop with nothing but a reminder to get home safe.

Given the national public awareness campaigns regarding the dire consequences of impaired driving, including the National Highway Traffic Safety Commission’s “Buzzed Driving is Drunk Driving” campaign (image below), OSC found the statements made by the trooper to be disturbing. According to the National Highway Traffic Safety Association, about 37 people in the United States die in drunk-driving crashes every day—that is one person every 39 minutes. In 2022, more than 13,000 people died in alcohol-impaired driving traffic deaths. In New Jersey alone, 121 intoxicated drivers were involved in the fatal crashes that occurred in 2022.

⁶³ Brick, J., & Erickson, C. K., *Intoxication is not always visible: An unrecognized prevention challenge*, *Alcoholism: Clinical and Experimental Research*, (September 2009) at 1489; see also James C. Fell III, Robert B. Voas, *The effectiveness of reducing illegal blood alcohol concentration (BAC) limits for driving: Evidence for lowering the limit to .05 BAC*, (July 2006) at 239 (“Visible intoxication is affected by tolerance. Some drinkers have exceptional tolerance . . . to alcohol that masks visible signs of intoxication, even at BACs that would produce unconsciousness or death in some drinkers.”).



In light of the serious safety implications apparent in many of these described stops, among others, allowing these motorists to leave the stop without any further investigation or consequences beyond a stern talking to, appears to be a gross abuse of discretion.⁶⁴ Given the gravity of OSC's concerns, OSC has made referrals to other agencies for potential additional investigation, where appropriate.

D. OSC observed violations of the Attorney General's BWC Policy and issues with NJSP's data collection and record keeping.

While not the primary focus of this investigation, OSC observed a number of issues with the BWC footage in the sample of no enforcement stops that it reviewed. In addition, OSC observed several data-related issues during the stops that could impact the aggregate motor vehicle stop data that NJSP is required to collect pursuant to the Law Enforcement Professional Standards Act (the Act). These issues are set forth in more detail below.

⁶⁴ Lawsuits arising out of these types of fact patterns can result in large payouts of public dollars. A recent lawsuit claiming that two municipal police officers were negligent in failing to see the driver was drunk (after stopping him from driving the wrong way down a city street) and improperly released him from a motor vehicle stop in a way that allowed him to get right back behind the wheel, resulted in a \$3 million settlement. New Jersey Law Journal, Suit Claiming Police Failed to Stop Drunk Driver Settles for \$3M, Oct. 28, 2024, <https://www.law.com/njlawjournal/2024/10/28/suit-claiming-police-failed-to-stop-drunk-driver-settles-for-3m/> (last visited Dec. 13, 2024).

1. BWC Directive violations

With regard to the BWCs, some of the issues appeared more equipment-related in nature, such as unclear audio or video that failed to capture documents that the driver provided to the trooper for review or other pertinent information related to the stop. Other observations made by OSC included potential violations of the Attorney General's BWC Policy, such as failing to inform the occupants of the stopped vehicle that they were being recorded and failing to activate the BWC's audio before initially communicating the intention to conduct the motor vehicle stop to dispatch. Issues like these could also potentially interfere with supervisory review of these stops.

Part of the BWC Policy requires law enforcement officers who are wearing BWCs to "notify the subject of the recording that the subject is being recorded by the BWC, unless it is unsafe or infeasible to provide such notification. Such notification shall be made as close to the inception of the encounter as is reasonably possible."⁶⁵ And yet, OSC found that in 459 out of 501 stops it reviewed, troopers did not advise the driver that they were being recorded on the body-worn camera at all.

As part of New Jersey's Excellence in Policing Program, the BWC Policy was designed to continue the process of "building public trust by promoting professionalism, enhancing transparency, and ensuring accountability across the law enforcement profession." Announcing to the driver the BWC has been activated helps to achieve that goal by potentially diffusing what could be a stressful situation and offering a sense of security that the interaction is being recorded and could be reviewed by a supervisor.

The BWC Directive also requires that BWC cameras "be activated before a uniformed officer arrives at the scene of a dispatched call for service or other police activity" to "ensure that the entire encounter/event/episode is recorded." OSC found that in 96 of the stops reviewed, the troopers did not activate their BWC camera audio before initially communicating their intention to conduct the motor vehicle stop to dispatch. It is unclear whether this is a technical violation of the BWC Policy. However, a trooper's decision to wait until after the stop is initially called in before activating the BWC could result in incomplete information being captured. Likewise, OSC also observed that in several instances the BWC footage did not capture the entirety of the stop, whether due to equipment malfunction or because the stopping trooper turned the camera off before clearing the stop. The failure to capture the entire interaction—audio and visual—could be to the detriment of the driver, trooper, or supervisory command, should they need to review the stop in the future or assess the accuracy of information inputted in the CAD system.

2. Data and record keeping irregularities

NJSP is required under the Act to collect data on the driver's race or ethnicity for analysis of aggregate motor vehicle stop data for the Division. For the purposes of this data collection, NJSP policy directs troopers to use the perceived race or ethnicity of the driver as determined in good faith by the trooper. NJSP policy further provides that for instances when the trooper is unable to

⁶⁵ In May 2021, the Attorney General issued Attorney General Law Enforcement Directive No. 2021-5, Directive Revising Policy Regarding Use of Body Worn Cameras (BWCs) and Stored BWC Recordings which promulgated guidance to law enforcement officers statewide on the use of BWCs. See N.J. Office of the Attorney General, Body Worn Camera Policy (May 2021).

observe the race/ethnicity of the driver, they can indicate that in the computer system or when calling the stop in to dispatch.

OSC was surprised to find that, in nearly half of the stops it reviewed, the troopers did not relay the driver's race/ethnicity to dispatch prior to interacting with the driver. It is possible that these instances could be attributed to factors that affected the trooper's ability to observe the driver, such as tinted windows, rate of speed, or weather conditions. But it is important that NJSP and OLEPS evaluate and assess the reasons for this high rate of unknowns because there have been instances where law enforcement officers in New Jersey and throughout the country have intentionally falsified or obscured accurate information to avoid detection of improper stops.⁶⁶ Based on information received to date, OSC is unable to determine whether this high rate of inability to perceive the race/ethnicity of the driver is unusual. NJSP and OLEPS may wish to consider whether the high number of unknowns is indicative of a problem or suggests re-training is needed.

There were other unusual data entries that OSC observed in the sample. NJSP collects data on the date of birth (DOB) of the driver in each stop. In many cases, troopers did not inspect the driver's license to obtain date of birth information in the first instance. OSC also noticed that in a significant number of stops, troopers entered a birth date that was incorrect or impossible, such as the date of the stop itself or, in one instance, January 1, 1800.⁶⁷

In another unusual instance, a trooper who had no contact with the driver (the stop concerned illegal parking) closed out a stop as "no report" and did not relay any race/ethnicity or gender information to dispatch. OSC reviewed related NJSP records for this stop that noted the race/ethnicity of the driver as White and listed the driver's gender as male. OSC also observed the opposite irregularity. OSC observed particular troopers entering the race/ethnicity for the driver, but the related stop records reflect the race/ethnicity as "unknown." It is unclear to OSC why records related to the same stop would contain different race/ethnicity data.

It is also worth noting that, in response to OSC's request for BWC footage of no enforcement stops, NJSP provided 574 files of body-worn camera footage to OSC including: incomplete and duplicate videos and stops resulting in warnings, summonses, vehicle exits, and one arrest. In other words, some of the files OSC received were not from true "no enforcement" motor vehicle

⁶⁶ See e.g. Mike Deak, *Ex-trooper sentenced for covering up improper stops of female drivers*, COURIER NEWS AND HOME NEWS TRIBUNE, Dec. 8, 2007 (the trooper falsely reported the gender of the drivers that were pulled over to disguise stopping a high number of females); see also Dave Collins, *Connecticut troopers falsified data on traffic stops reported to racial profiling board, audit says*, June 28, 2023 (hundreds of state police troopers falsified information on traffic stops from 2014 to 2021, skewing reports about the race and ethnicity of stopped drivers); see also Texas troopers ticketing Hispanic drivers as white, KXAN, updated March 16, 2022 (troopers inaccurately recording the race of large numbers of minority drivers, leading to flawed racial profiling reports).

⁶⁷ OSC also found numerous stops ended with the trooper saying "Clear Code 5, no DOB" to the dispatcher over the radio, ensuring accurate DOB information would not be collected in accordance with the Act. Because NJSP has not produced a representative to speak with OSC, OSC was unable to obtain an explanation about why so many troopers said "Clear Code 5" to dispatchers, or inquire about the other irregularities with the data in this context.

stops and actually included footage of some kind of enforcement and post-stop interaction (PSI). As discussed above, OSC included motor vehicle stops resulting in warnings in the sample it analyzed as part of this investigation. After OSC removed enforcement (other than warnings), PSI, and duplicate and incomplete videos from all the BWC footage received from NJSP, 501 stops remained. Because NJSP does not regularly review BWC footage of stops resulting in no enforcement, it is unlikely to identify and remedy potential issues related to the mislabeling of stops, or the impact on the aggregate data. OLEPS and NJSP have expressed their belief that many of these data issues should be resolved now that NJSP is using different software for data collection.

E. OSC found it would be helpful if troopers articulated/ documented why they exercised their discretion in ending an otherwise lawful stop with no enforcement.

OSC observed that, with very little exception, troopers did not document their reasons for exercising their discretion to choose no enforcement. While troopers are “expected to be prepared to explain all of the reasons that justify the member’s exercise of discretion in selecting a particular vehicle to be stopped,” it does not appear that NJSP policy requires troopers to be prepared to explain the reasons that justified their selection of no enforcement as the outcome of a stop.⁶⁸ They are not necessarily required to do any type of investigative report for no enforcement either.

As noted above, an analysis of the Dashboard data show that White drivers are over-represented in stops that are classified as no enforcement as compared to minority motorists. Given the nature of this data trend, it is crucial that NJSP take steps to better understand the reasons it persists. While it is impossible to “plumb the subjective motivations” of individual troopers based on a review of video footage,⁶⁹ if they were to articulate in real-time the reason why they exercised their discretion not to enforce observed motor vehicle violations, that information could help inform changes to policies or practices that need to be made. This is not an impossible or even difficult task. The software that troopers use on the road provides a space for the trooper to potentially enter the reasons why they chose no enforcement as the outcome. They also have the ability to articulate the same reasons on the BWC footage before turning it off after a stop.

In fact, in the BWC footage reviewed, OSC observed one stop in which a trooper typed the words “retired trooper” into the troop car’s computer system. OSC also observed another instance when the stopping trooper voiced a comment that can be clearly heard on the BWC footage. These two stops show that troopers have the ability to quickly record the reasoning behind their decision-making so it can later be reviewed. This would be helpful for supervisors to the extent a particular decision violates an internal policy or indicates a need for training. It could also be used to better understand the underlying reasons for otherwise unexplained aggregate data trends and inform possible changes to Division-wide policies or practices. If all troopers articulated their reasons

⁶⁸ See NJSP SOP F55.

⁶⁹ *State v. Edmonds*, 211 N.J. 117, 132 (2012).

for choosing not to enforce observed violations of drivers they chose to stop, this information could be analyzed collectively to help law enforcement leadership better assess whether bias is causing a disparate impact for certain groups, or whether a policy or practice such as granting preferential treatment to motorists with courtesy cards is having an unintended discriminatory effect.

Accordingly, OSC has made recommendations below regarding additional analysis that should be conducted by NJSP into this trend under the supervision of OLEPS, as well as a recommendation that troopers document in some form their reasons for choosing not to enforce observed motor vehicle violations.

V. Recommendations

In light of its findings, including those that suggest courtesy card usage may be having unintended discriminatory consequences, and to ensure New Jersey roadways are safe and the motor vehicle laws are being fairly and impartially enforced, OSC makes the following recommendations:

1. To promote public trust in law enforcement, increase officer and roadway safety, reduce motor vehicle fatalities, and further support ongoing efforts to eliminate racial and ethnic disparities on New Jersey roadways, the Attorney General, as Chief Law Enforcement Officer, should strongly consider requiring law enforcement leadership statewide to monitor when preferential treatment is given to motorists for improper reasons and to evaluate any resulting racial and ethnic disparities. This would allow for periodic review of that data by the Attorney General and inform decision-making for any necessary reforms or other actions.
2. The Attorney General should also strongly consider issuing a directive explicitly prohibiting law enforcement officers from considering the following as permissible factors in the exercise of their discretion whether to enforce an observed violation of Title 39 or the New Jersey's Criminal Code:
 - a. a motorist's familial or social relationship with a law enforcement officer;
 - b. a motorist's status as a sworn or in-training law enforcement officer;
 - c. a motorist's status as a former or retired law enforcement officer; and
 - d. any cards, shields, or devices presented or displayed by a motorist to influence an officer's decision about how vigorously to enforce observed violations of the law.
3. NJSP should expand its quarterly reviews and analysis of its motor vehicle stop data to include an examination of no enforcement stops.⁷⁰ As no enforcement stop footage is not

⁷⁰ No enforcement is not one of the 15 enumerated categories of incidents that triggers any type of review in the Early Warning System, which includes internal affairs complaints, civil or criminal actions or complaints, cases or arrests that are rejected or dismissed by a court, insubordination, neglect of duty, unexcused absences, or "any other indicators, as determined by the Superintendent of NJSP." The Early Warning System was established in 2018 pursuant to Attorney General Law Enforcement Directive No. 2018-3. 1.

generally reviewed by NJSP, this leads to a gap in oversight of these types of motor vehicle stops. Some of this additional review and analysis should include:

- a. Developing a system to “flag” when the recorded reason for the stop is a reckless driving offense but the stop ends in no enforcement. There should be an automatic supervisory review in those particular instances, given the severity of driving conduct that is required to charge that offense, to determine whether the trooper appropriately exercised their discretion.
 - b. Implementing a periodic review of a randomly selected sample of stops that were entered into the computerized system as careless driving offenses but that ended in no enforcement. There should be supervisory review of this random sample, given the range of driving conduct that could constitute careless driving, to determine whether troopers are appropriately exercising their discretion in these situations and whether any larger trends exist that need to be addressed on a troop or Division level.
 - c. Conducting additional analysis of no enforcement stops where the recorded primary reason for the stop was a “low or no discretion offense.” There should be a supervisory review to determine whether trooper discretion is being appropriately exercised in these instances. NJSP should also look at the aggregate data on this subject to determine if there are trends in enforcement of these violations that need to be addressed further, whether with a pilot program or through other changes to policies and procedures.
 - d. Implement a periodic review of a randomly selected sample of no enforcement stops in general. There should be an aggregate analysis of no enforcement data to determine whether there are any problematic trends (such as over-representation of White drivers) that need to be addressed on a Division level, whether through a pilot program or other changes in Division policies and procedures.
 - e. To the extent that the 180-day retention period for BWC footage of no enforcement stops interferes with the ability for NJSP and OLEPS to review this information and use it to conduct additional analysis, they should consider extending the retention period beyond the minimum currently required in the BWC Policy.
4. To better understand the many troubling observed trends concerning race and ethnicity in OSC’s analysis, as well as troopers’ decisions not to enforce certain serious observed violations of the motor vehicle laws, the Attorney General, NJSP, and OLEPS should consider whether to implement a pilot program requiring troopers to articulate aloud on the BWC or in writing on the CAD where practicable, the reason(s) for their decision-making. This information would also enhance supervisory review should there be an issue with an individual stop.
 5. NJSP and OLEPS should investigate the following concerns observed in the data sample reviewed by OSC:
 - a. The high number of entries of “unknown” race and ethnicity that OSC observed in its sample and whether there are any underlying reasons for this trend (e.g., window tint, discomfort with the policy) or ways that it can be addressed (e.g., retraining);

- b. The multiple entries of incorrect or impossible driver DOBs entered in the CADs and if additional action should be taken to address that issue on an individual-level or a larger scale; and
 - c. The significant number of stops in OSC's sample that were mislabeled as no enforcement, when the stops included some type of enforcement or PSI, and the impact, if any, on the larger universe of collected data (e.g., whether it could inflate/deflate aggregate data in particular categories).
- 6. Given the high number of technical violations of the BWC Policy that OSC observed in its sample, OSC recommends that NJSP consider retraining troopers on the BWC Policy. Retraining should include instruction on issues such as, notification to occupants of the vehicle that they are being recorded on the BWC, timing of when to active the BWC audio and video, timing of when to deactivate the BWC audio and video, and how to best position and use the BWC to capture the entirety of the stop and all pertinent information to the stop.
- 7. While warnings were not the focus of OSC's investigation, OSC observed warnings being issued to drivers in its sample and issues with documenting those warnings. In light of this, OSC recommends that NJSP:
 - a. Retrain troopers on the importance of entering warnings into the computerized system because, if they do not, this information will not be available to another officer in the future. If these actions are not entered into the computerized system, it will not accurately reflect the driver's history and a "clean driving record" will not reflect that a person is, indeed, a safe or model driver. A similar problem will also occur if drivers are consistently being given preferential treatment in this manner.
 - b. Consider updating its standard operating procedures regarding warnings and the offenses that are listed as appropriate for the issuance of a warning.
- 8. OSC did not assess the prevalence or impact of courtesy cards or a motorist's relationship to law enforcement in stops that resulted in PSI. Given OSC's findings in this Report, OSC strongly recommends NJSP and OLEPS consider reviewing traffic stops that resulted in PSI to evaluate whether similar problematic trends emerge.
- 9. NJSP should implement formal mechanisms and ensure appropriate staffing to facilitate cooperation by NJSP with OSC's present and future investigations. OSC should have full and complete access to the documents and information that it deems necessary, so that it can provide the public with greater transparency.
- 10. The New Jersey Division of Highway Traffic Safety should consider whether to condition federal grant funding intended to increase highway safety on law enforcement agencies committing to having its officers enforce the motor vehicle laws uniformly, without regard to any motorist's relationship to law enforcement.
- 11. The Legislature should strongly consider whether to institute fines or other penalties for the distribution by sale or gift of any courtesy card or membership card, shield, or other device, where it can be reasonably inferred by the recipient that display of the item will have the result that the law will be enforced less rigorously.