NUSRAT CHOUDHURY
STAFF ATTORNEY
RACIAL JUSTICE PROGRAM
T/212.519.7876
NCHOUDHURY@ACLU.ORG

January 26, 2016

Transmitted via UPS and Email

Police Chief Rodolfo Llanes
Miami Police Department
400 NW 2nd Avenue
Miami, Florida 33128
rodolfo.llanes@miami-police.org

Chief Llanes,

AMERICAN CIVIL LIBERTIES UNION FOUNDATION
NATIONAL OFFICE
125 BROAD STREET, 18TH FL.
NEW YORK, NY 10004-2400
T/212.549.2500
WWW.ACLU.ORG

We write on behalf of the American Civil Liberties Union and the American Civil Liberties Union of Florida to express concerns about the City of Miami Police Department's (MPD) compliance with the Florida Safety Belt Law, as discussed in our report *Racial Disparities in Florida Safety Belt Law Enforcement*. This report will be released tomorrow morning and is enclosed as Exhibit A for your review.

Since 2005, the Florida Safety Belt Law has required that every law enforcement agency in the state collect and annually report the race and ethnicity of all people issued citations for violating the seatbelt requirements to the Governor, the President of the Senate, and the Speaker of the House of Representatives. *See* Fla. Stat. Ann. § 316.614(9). The Florida Legislature enacted this data collection and reporting requirement in 2005 in order to help inform public debate about racial profiling in traffic enforcement. Since that year, the Florida Department of Highway Safety and Motor Vehicles (FDHSMV) has published seatbelt citation data received pursuant to the Florida Safety Belt Law in annual reports available on its website.[1]

ACLU analysis of the most recent seatbelt citation data reveals that in 2014, law enforcement officers across Florida stopped and cited Black people for seatbelt offenses far out of proportion to their estimated representation in the Florida resident driver population. The 2014 seatbelt citation rate for Black motorists was **nearly double** the rate for white motorists.[2] This dramatic racial disparity in seatbelt enforcement raises serious concerns about whether officers engage in racial profiling when enforcing the Florida Safety Belt Law because it is not explained by any differences in seatbelt use behavior documented by state or national studies.[3] Rather, a 2014 Florida Department of Transportation study found that white and Black people in Florida use seatbelts at closely comparable rates.[4]

---

[1] Florida Department of Highway Safety and Motor Vehicles, Seat Belt Violation Data Collection 316.614(9), F.S. Annual Reports 2005-2014, http://www.flhsmv.gov/resources/cabinet-and-legislature-reports/.

[2] *See* Exhibit A, American Civil Liberties Union, Racial Disparities in Florida Safety Belt Law Enforcement at 9.

[3] *See id.* at 11.

[4] The 2014 FDOT report found that 91.5% of white people and 85.8% of Black people wore seat belts. FLA. DEP'T OF TRANSP., JUNE 2014 SEAT BELT USE IN FLORIDA: FINAL REPORT 16 (2014), http://www.floridaoprc.ce.ufl.edu/Document.asp?DocID=465 (last visited Jan. 16, 2016).

We are particularly concerned about the City of Miami Police Department's compliance with the Florida Safety Belt Law. The FDHSMV annual seatbelt citation data reports for the following years do not include MPD seatbelt citation data: 2005, 2009, 2012, 2013, and 2014.[5]

As a result, prior to the issuance of the FDHSMV's 2014 report, the ACLU submitted a public records request to the City of Miami Police Department notifying MPD of its obligation to report seatbelt citation data to state officials and requesting citation data for 2005, 2009, 2012, and 2013 that was shared with the FDHSMV pursuant to the Florida Safety Belt Law.[6] MPD responded that it has "no record pertaining to annual reports on Seat Belt Violation Data Collection."[7] Moreover, the FDHSMV 2014 Report on seatbelt citation data does not include any information from MPD. Nor did the City of Miami disclose any 2014 data to the ACLU.

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION

The City of Miami Police Department's response to the ACLU's public records request raises concerns about whether 2014 MPD data on Florida Safety Belt Law enforcement would show racial disparities in citation rates that are larger than the estimated statewide disparity, and why MPD has failed to comply with the law's data collection and reporting requirements.

We respectfully request a meeting with you to discuss the enclosed report, its findings, and measures that may be adopted to help the Miami Police Department comply with the Florida Safety Belt Law's data collection and reporting requirements and promote fair and impartial policing. You may reach Howard Simon at hsimon@aclufl.org or (786) 363-2709 concerning this request.

We look forward to discussing this matter further with the Miami Police Department.

Sincerely,

/s/ Nusrat Choudhury
Nusrat Choudhury
American Civil Liberties Union
Racial Justice Program

Howard Simon
American Civil Liberties Union
of Florida

---

[5] Seat Belt Violation Data Collection 316.614(9) F.S. Annual Reports 2005-2014, *supra* note 1.

[6] *See* Exhibit B (Letter from Nusrat Choudhury, Staff Attorney, ACLU, to Police Chief Rodolfo Llanes, Miami Police Department (July 2, 2015)).

[7] *See* Exhibit C (E-mail from Kimberlyn Duncan, Records Custodian/Supervisor, City of Miami Police Department to Nusrat Jahan Choudhury, Staff Attorney, ACLU, (July 28, 2015, 9:46 EST)).

EXHIBIT A

RACIAL DISPARITIES IN FLORIDA SAFETY BELT LAW ENFORCEMENT

A REPORT BY
THE AMERICAN CIVIL LIBERTIES UNION RACIAL JUSTICE PROGRAM
AND
THE AMERICAN CIVIL LIBERTIES UNION OF FLORIDA

ACLU AMERICAN CIVIL LIBERTIES UNION

ACLU AMERICAN CIVIL LIBERTIES UNION of FLORIDA

JANUARY 2016

TABLE OF CONTENTS

SUMMARY 1

I. INTRODUCTION 5

II. FINDINGS 8

Finding #1: In 2014, Black People Were Stopped and Issued Seatbelt Tickets by Law Enforcement Across Florida Far Out of Proportion to Their Estimated Representation Among Drivers 8

Finding #2: In 2014, Law Enforcement Officers Across Florida Stopped and Ticketed Black People for Seatbelt Violations Nearly Twice as Often as White People 9

Finding #3: Racial Disparities in Florida Safety Belt Law Enforcement are Persistent 10

Finding #4: Any Differences in Seatbelt Use by White and Black People Do Not Explain Why Florida Law Enforcement Officers Stopped and Ticketed Black People for Seatbelt Violations at Nearly Twice the Rate of White People in 2014 11

Finding #5: Certain Law Enforcement Agencies' Enforcement of the Florida Safety Belt Law Has Resulted in Racial Disparities That Exceed Even the Statewide Average Racial Disparity 13

Finding #6: Law Enforcement Agencies' Failure to Report Seatbelt Citation Data to State Authorities as Required by Law Underscores Concern About Racial Disparities in Safety Belt Law Enforcement 14

III. RECOMMENDATIONS 17

Recommendation #1: Investigation 19

Recommendation #2: Enforcement 19

Recommendation #3: Transparency 20

Recommendation #4: Supervision 21

IV. METHODOLOGY, DATA, & SOURCES 22

Description Versus Causal Analysis 22

Methodology 23

Data and Sources 24

Survey Weighting and Error Estimation in 1-Year ACS/PUMS Data 26

Lack of Adequate Data on Latino Drivers 29

V. CALCULATIONS 31

SUMMARY

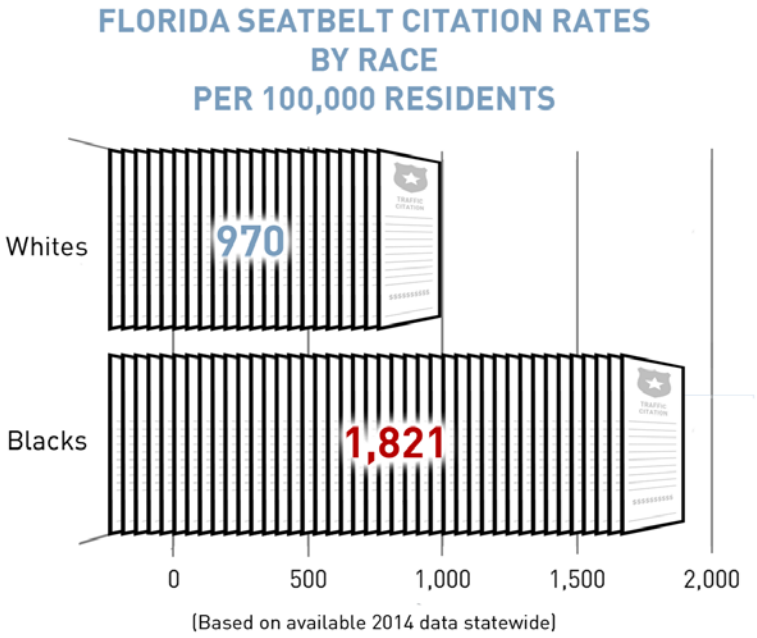
To help inform public debate about the prevalence of racial profiling, since 2005, the Florida Safety Belt Law has required that every Florida law enforcement agency annually report the race and ethnicity of seatbelt citation recipients to the Governor, President of the Senate, and Speaker of the House of Representatives. *See* Fla. Stat. Ann. § 316.614(9). This requirement is carried out through annual reports to the Florida Department of Highway Safety and Motor Vehicles (FDHSMV).

American Civil Liberties Union (ACLU) analysis of the most recent seatbelt citation data confirms that the Florida Safety Belt Law has been applied more often to Black motorists than white motorists. Across Florida, and in specific counties, Blacks are stopped and issued seatbelt citations far out of proportion to their estimated representation among Florida drivers, despite the fact that Black and white people in Florida use seatbelts at closely comparable rates. These findings suggest that biased policing impacts seatbelt enforcement.

In 2014, Florida law enforcement officers stopped and ticketed Black motorists for seatbelt violations 1.9 times more often than white motorists.

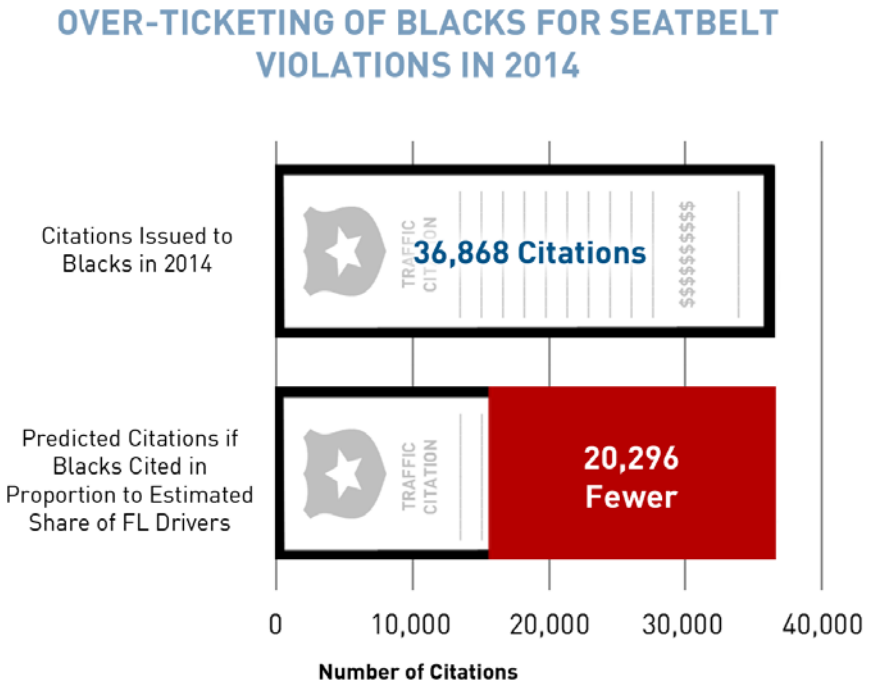
This racial disparity is persistent.

In 2011, Black motorists were stopped and ticketed 2.1 times more often than white motorists.



In 2014, Black people made up only 13.5% of the estimated Florida resident driver population, but made up 21.96% of recipients of all seatbelt citations reported to state authorities.

If Black people had been stopped and ticketed for seatbelt violations in proportion to their estimated representation among Florida drivers, they would have received 20,296 fewer seatbelt citations in 2014.



Certain agencies' enforcement of the Florida Safety Belt Law resulted in disparities that met or exceeded the statewide racial disparity.

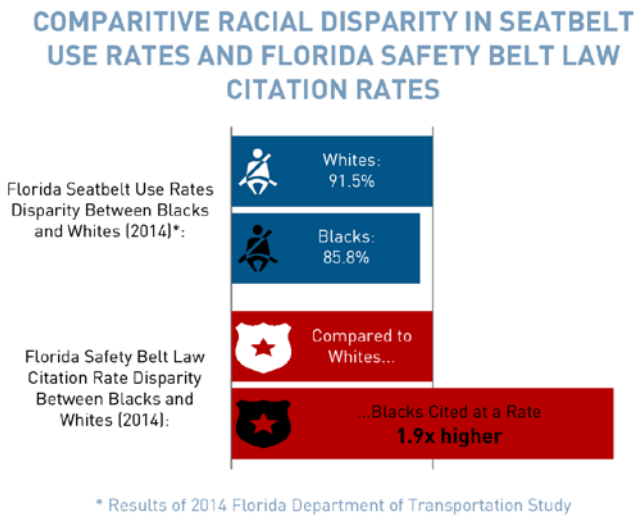
Black motorists were stopped and cited for seatbelt offenses:

- **4 times** more often than white motorists by the **Escambia County Sheriff's Office** in 2011.*
- **3 times** more often than white motorists by the **Palm Beach County Sheriff's Office** in 2014.
- **2.8 times** more often than white motorists by the **Orange County Sheriff's Office** in 2014.
- **1.9 times** more often than white motorists by the **Broward County Sheriff's Office** in 2014.

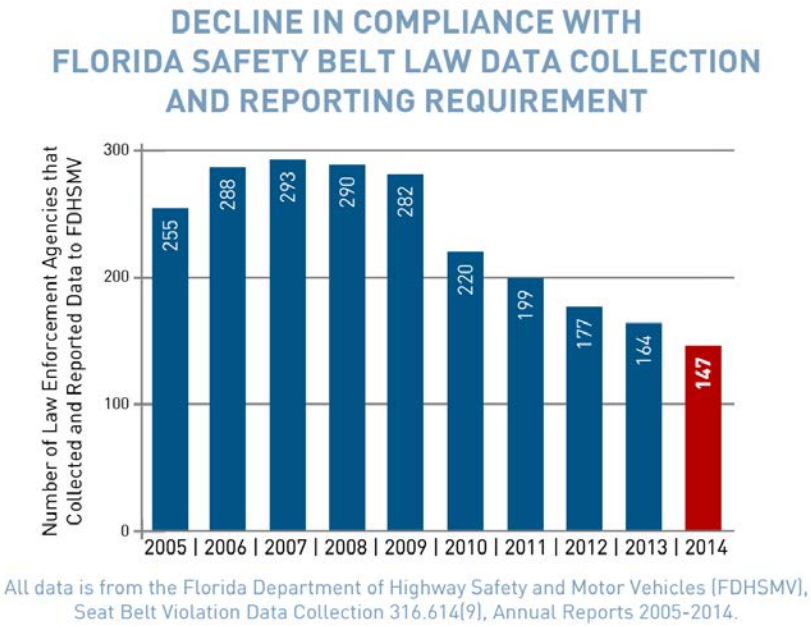
* 2011 is the most recent year that this agency reported seatbelt citation data to the FDHSMV.

These racial disparities raise serious concerns that law enforcement engage in racial profiling when enforcing the Florida Safety Belt Law.

Differences in seatbelt-wearing behavior between Black and white people in Florida, as documented by statewide and national studies, DO NOT explain the racial disparities in seatbelt citation rates identified in this report.



A number of law enforcement agencies fail to collect and report seatbelt citation data to state officials as required by the Florida Safety Belt Law, impeding the law's goal of helping to identify agencies that may engage in racial profiling.



RECOMMENDATIONS

1. INVESTIGATION

County Commissions charged with oversight responsibility and the Florida Attorney General's Office of Civil Rights must investigate law enforcement agencies whose implementation of the Florida Safety Belt Law has led to large racial disparities, including the **Sheriff's Offices for Escambia, Palm Beach, Orange,** and **Broward Counties** to determine the cause and what measures should be taken to promote fair and impartial policing.

2. ENFORCEMENT

Not all law enforcement agencies comply with the Florida Safety Belt Law's clear requirement to report annually to state officials the race and ethnicity of people stopped and cited for seatbelt offenses. **The Florida Legislature** should enact legislation to create consequences for law enforcement agencies that fail to comply with the statute's reporting requirement, including the **City of Miami Police Department**, the **City of Tampa Police Department**, the **Jacksonville Sheriff's Office**, and the **Escambia County Sheriff's Office**.

3. TRANSPARENCY

Law enforcement agencies should collect, make available to the public, and analyze data on the race and ethnicity of civilians and the basis and outcome of encounters for **all traffic and pedestrian stops, frisks, searches, citations, summons, and arrests**. This transparency measure will help identify and help eliminate racial profiling in all police-civilian encounters—not just those involving Florida Safety Belt Law enforcement.

4. SUPERVISION

Law enforcement agencies should **analyze the seatbelt citation data** they collect and report to the Florida Department of Highway Safety and Motor Vehicles and ensure that **supervising officers monitor racial disparities** in their supervisees' enforcement of the Florida Safety Belt Law. They should also provide **testing on implicit bias** and **training on bias-free policing** to all officers, and retrain officers whose stop and citation practices result in large racial disparities.

I. INTRODUCTION

This report analyzes data on Florida Safety Belt Law enforcement, which is collected by law enforcement agencies across the state and provided to the Florida Department of Highway Safety and Motor Vehicles for publication in an annual report.[1] It identifies sizable and statistically significant disparities in the rates at which white and Black motorists across the state are stopped and issued seatbelt citations.[2] It also identifies specific law enforcement agencies whose enforcement of the Safety Belt Law has created racial disparities that exceed the average statewide racial disparity, as well as agencies that violate the law's data collection and reporting requirement.

These findings contribute to concerns about racial profiling—the targeting of people for humiliating and often frightening detentions, interrogations, and searches without evidence of criminal activity and based on the individuals' perceived race, ethnicity, nationality or religion. This report's findings underscore the need for policy reforms to help identify and address racial profiling, including expanded data collection and publication as well as enhanced training and supervision on bias-free policing.

Recent events have underscored the concern of communities across Florida that racial profiling is a problem in our state. In 2013 and 2014, media disclosed shocking reports that the Miami Gardens Police Department conducted thousands of illegal stops, frisks, searches, and arrests between 2008 and 2013 under a racially-motivated quota system that directed officers to target Black men between the ages of fifteen and thirty.[3] Those reports led to a civil rights lawsuit in federal court and disclosed that Miami Gardens police officers had even subjected Black children to police-civilian encounters.[4] Also in 2013, an ACLU report analyzing 2010 data from the Federal Bureau of Investigation's Uniform Crime Reporting Program and the United States Census Bureau revealed that Black people in Florida were 4.2 times more likely to be arrested for marijuana possession than white people—despite the fact that the federal government has documented that Black and white people use marijuana at comparable rates.[5]

Media reports have raised additional public concerns about the ticketing of Black people for low-level offenses at rates far out of proportion to their population figures. An investigation into the Fort Lauderdale Police Department's enforcement of a bicycle registration law from 2010 to 2013 found that 86% of citations were issued to Black people,[6] who constituted only 29% of the Fort Lauderdale population in 2013.[7] In April 2015, a *Tampa Bay Times* investigation revealed that 79% of Tampa Police Department bicycle citations issued in the previous twelve years were given to Black people, who comprised only about a quarter of the Tampa population during the time.[8] A CBS Miami report examined 44,860 marijuana cases

closed between 2010 and 2014 in Miami-Dade County and found that 55% of the cases involved Black defendants, even though Black people made up less than 20% of the county's population.[9]

Public outcry concerning the ticketing of Black people for low-level offenses at rates far out of proportion to their population figures stems from the possibility that racial profiling by police who conduct pedestrian and traffic stops is one cause of these racial disparities. This concern is particularly heightened when evidence shows that white and Black people engage in the prohibited conduct at closely comparable rates, as is the case with marijuana possession.[10]

THE FLORIDA SAFETY BELT LAW

The Florida Safety Belt Law was enacted in 1986 to grant law enforcement officers the authority to stop and cite a driver for a violation of Florida's safety belt requirements. The statute was initially a "secondary enforcement" law, which permitted a law enforcement officer to stop and cite a motorist only after observing another legal violation.[11]

Concerns about racial profiling in traffic enforcement led to the amendment of the Florida Safety Belt Law in 2005 to require "each law enforcement agency" to "adopt departmental policies to prohibit the practice of racial profiling" and to record the race and ethnicity of all individuals cited pursuant to the statute.[12] The law continues to require that all law enforcement agencies maintain such policies and provide, on an annual basis, information about the race and ethnicity of people issued seatbelt citations to the Governor, President of the Senate, and Speaker of the House of Representatives. This requirement is carried out through annual reports to the Florida Department of Highway Safety and Motor Vehicles (FDHSMV).[13]

In 2009, the Florida Safety Belt Law was further amended to permit "primary enforcement," which allowed law enforcement officers to stop and cite drivers solely for violating safety belt requirements, in order to promote safety by deterring people from failing to wear seatbelts. The amendment was passed despite concerns expressed by some legislators, including the Florida Conference of Black State Legislators and the ACLU of Florida, that primary enforcement of seatbelt requirements would further open the door to racially motivated traffic stops.[14] In enacting the amendment over these objections, the Florida Legislature appeared to rely on the Florida Safety Belt Law's pre-existing requirements for law enforcement agencies to adopt policies prohibiting racial profiling and to annually collect and report race and ethnicity data concerning seatbelt citations to state authorities.

Since 2005, the FDHSMV has published annual reports compiling the seatbelt citation data submitted by law enforcement agencies across the state pursuant to the Florida Safety Belt Law. The reports are publicly available on the FDHSMV website to "provide lawmakers, partners and stakeholders, the media, and citizens with important facts and valuable information related to public safety and motor services."[15] The data may be analyzed to identify racial disparities in the enforcement of Florida's Safety Belt Law against white and Black motorists, and thereby help to inform the public debate about racial profiling by Florida law enforcement.

II. FINDINGS

Finding #1:

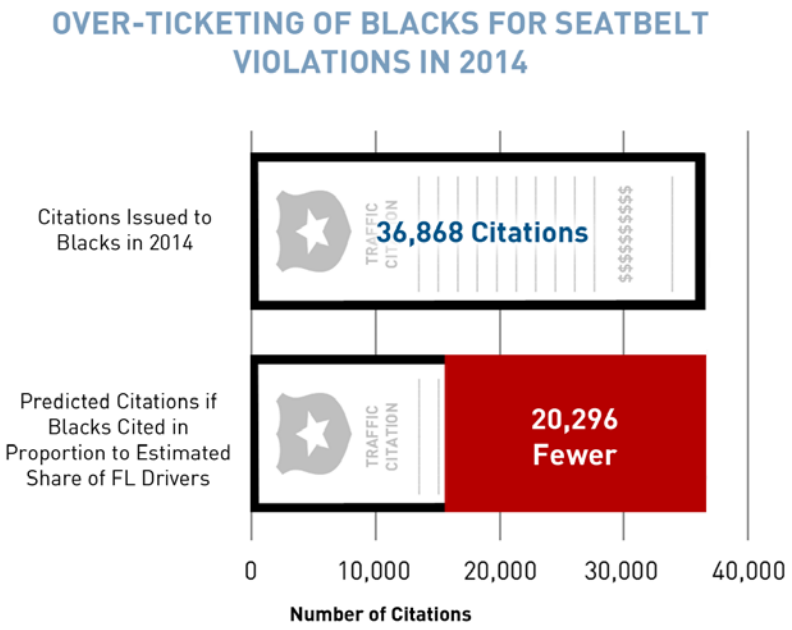
IN 2014, BLACK PEOPLE WERE STOPPED AND ISSUED SEATBELT TICKETS BY LAW ENFORCEMENT ACROSS FLORIDA **FAR OUT OF PROPORTION** TO THEIR ESTIMATED REPRESENTATION AMONG DRIVERS.

Non-Hispanic Black people made up 21.9% of all seatbelt citation recipients in 2014, based on data reported by the 147 law enforcement agencies that submitted seatbelt citation data to the Florida Department of Highway Safety and Motor Vehicles. 36,838 out of a total of 168,199 seatbelt citations issued by county sheriff's offices, municipal police departments, state law enforcement agencies, and state university law enforcement agencies across Florida, were issued to people whom law enforcement officers identified as non-Hispanic Blacks.[16]

A reasonable estimate of the racial composition of drivers on Florida roads, however, suggests that **significantly fewer seatbelt citations should have been issued to non-Hispanic Blacks**.

According to data from the U.S. Census Bureau's American Community Survey (ACS) Public Use Microdata Sample (PUMS), in 2014, non-Hispanic Black people made up only 13.5% of the estimated statewide population of driving age (15 to 85 years old) living in a household with access to at least one vehicle.[17] While there is no public data that records the exact racial and ethnic breakdown of all drivers on Florida roads in any given year, ACS/PUMS data provides a reasonable approximation.

If non-Hispanic Black people had been cited for seatbelt violations in proportion to their share of the estimated Florida driving age population with access to a vehicle in the household, they would have received **20,296** fewer citations in 2014.



Finding #2:

IN 2014, LAW ENFORCEMENT OFFICERS ACROSS FLORIDA STOPPED AND TICKETED BLACK MOTORISTS FOR SEATBELT VIOLATIONS **NEARLY TWICE AS OFTEN** AS WHITE MOTORISTS.

The seatbelt citation data reported annually by law enforcement agencies to the Florida Department of Highway Safety and Motor Vehicles can be used to calculate race-specific seatbelt citation rates across the state of Florida. This analysis involves dividing the total number of seatbelt citations issued to a racial group in a given year, as reported by the FDHSMV, by an estimate of the race-specific resident driving population of Florida based on U.S. Census ACS/PUMS data. *See infra* Section IV. Methodology, Data and Sources, 23.

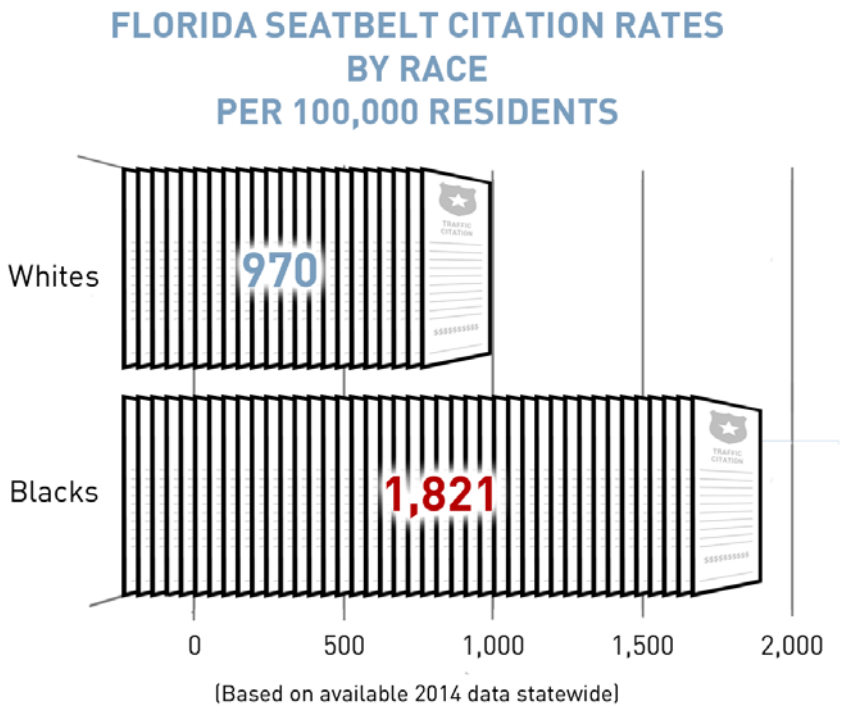
This analysis reveals that in 2014, non-Hispanic Black people were issued seatbelt citations at a rate of 1,821 per 100,000 resident drivers, while the citation rate for non-Hispanic white people was 970 per 100,000 resident drivers. *See infra* Section V. Calculations, 32.

As a result, in 2014, **law enforcement officers across Florida stopped and cited Black motorists for seatbelt violations 1.9 times more often than white motorists.** *See infra* Section V. Calculations, 34.

What does this mean?

In layman's terms, this means that after factoring each racial group's share of the estimated Florida resident population of driving age with access to at least one vehicle in their household, **Black motorists were NEARLY TWICE as likely to be stopped and issued a seatbelt ticket than white motorists in 2014.**

This racial disparity is highly significant in statistical terms. Even after taking into account sampling error in the U.S. Census ACS/PUMS data used to calculate seatbelt citation rates, **the chances are less than 1 out of 1,000 that the ratio of the Black seatbelt citation rate to the white seatbelt citation rate is less than 1.85 to 1**. *See infra* Section V. Calculations, 34.



Finding #3:

RACIAL DISPARITIES IN FLORIDA SAFETY BELT LAW ENFORCEMENT ARE PERSISTENT.

Racial disparities in seatbelt citation rates across Florida are not a new phenomenon. 199 law enforcement agencies provided 2011 seatbelt citation data to the FDHSMV.[18] Analysis of the data shows that law enforcement officers across Florida stopped and issued seatbelt citations

to non-Hispanic Black people at a rate of 3,172 per 100,000 resident drivers, and to non-Hispanic white people at a rate of 1,543 per 100,000 resident drivers. *See infra* Section V. Calculations, 33.

As a result, in 2011, **law enforcement officers across Florida stopped and cited Black motorists for seatbelt violations 2.1 times more often than white motorists.** *See infra* Section V. Calculations, 34.

Even after taking the sampling error associated with the estimate of resident drivers of each race into account, **in 2011 the statewide Black citation rate was MORE THAN TWICE the statewide white citation rate.** *See infra* Section V. Calculations, 33.

This finding shows that sizable racial disparities in Florida seatbelt citation rates are a persistent problem.

Finding #4:

ANY DIFFERENCES IN SEATBELT USE BY WHITE AND BLACK PEOPLE **DO NOT EXPLAIN** WHY FLORIDA LAW ENFORCEMENT OFFICERS STOPPED AND TICKETED BLACK MOTORISTS FOR SEATBELT VIOLATIONS AT **NEARLY TWICE THE RATE** OF WHITE PEOPLE IN 2014.

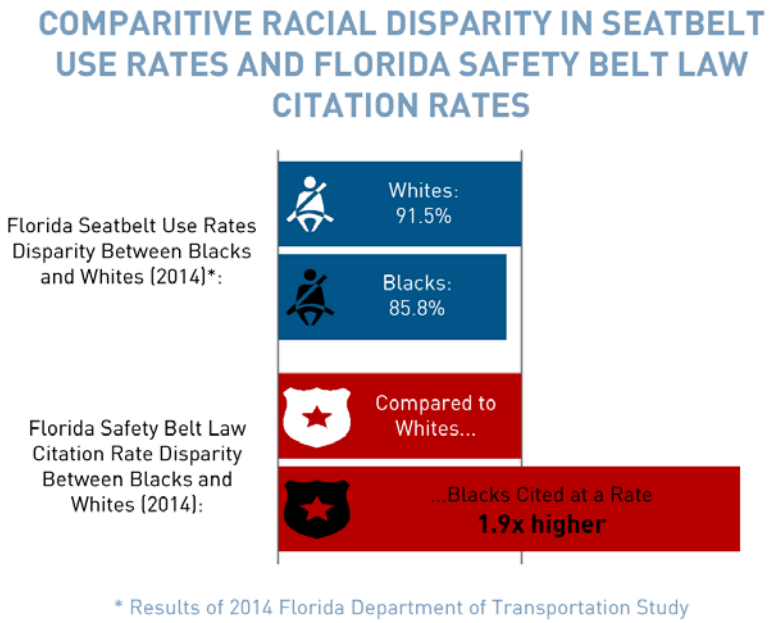
Statewide studies document relatively minor differences in the failure to wear seatbelts between white and Black people in Florida. The Florida Department of Transportation (FDOT) conducts an annual observational study on seat belt use in Florida. The 2014 FDOT study found that Black people wore seat belts at a rate approximately five to six percentage points below that of white people, although usage rates in both groups increased following a campaign to encourage seatbelt use.[19] Accordingly, 91.5% of white people and 85.8% of Black people were observed to wear seat belts in the study.[20]

National studies similarly document disparities in the seat belt usage rates of Black and white people in the range of three to nine percentage points. The National Highway Traffic Safety Administration (NHTSA) has conducted two major surveys of seat belt use nationwide: the National Occupant Protection Use Survey (NOPUS), and the Motor Vehicle Occupant Safety Survey (MVOSS). The 2013 NOPUS, an observational study, found that the rate of seat belt use by Black people fluctuated from five to nine percentage points lower than that of white people.[21] The 2007 MVOSS, a telephone survey administered to a random sample of approximately 6,000 people aged 16 years and older, found a disparity in the rate of seat belt use of approximately three to five percentage points between Black and white respondents.[22]

Studies from other states similarly document a five to six percentage point gap in seat belt usage by white and Black people.[23]

Observational and survey data on seat belt use are both susceptible to error.[24] But even if the 2014 FDOT study accurately measured that Black people in Florida wear seat belts at a rate five to six percentage points lower than whites, that disparity does not explain why law enforcement officers across Florida stopped and cited Black motorists for seat belt offenses at **NEARLY DOUBLE** the rate of white motorists. Nor do the findings of the national studies discussed above explain that disparity

For differences in seatbelt use to explain the statistically significant racial disparities in citation rates documented by this report, Black people in Florida would have to wear seatbelts at a rate **nearly forty-five percentage points lower** than white people. No evidence supports such a finding.



Finding #5:

CERTAIN LAW ENFORCEMENT AGENCIES' ENFORCEMENT OF THE FLORIDA SAFETY BELT LAW HAS RESULTED IN RACIAL DISPARITIES THAT **EXCEED EVEN THE STATEWIDE AVERAGE RACIAL DISPARITY**.

Law enforcement agencies across Florida collectively stopped and cited Black motorists **1.9 times** more often than white motorists in 2014, and **2.1 times** more often than white motorists in 2011. We calculated citation rates for a sample of specific law enforcement agencies to determine whether these statewide disparities were consistent throughout Florida. To conduct this analysis, we used the same methods employed to calculate the statewide racial disparity in seatbelt citation rates. *See infra* Section IV: Methodology, Data, and Sources, 22–30.

The law enforcement agencies identified in the chart below stopped and ticketed non-Hispanic whites and non-Hispanic Black motorists at rates that **resulted in racial disparities that met or exceeded** the statewide racial disparity for the year the data was collected.

Law Enforcement Agencies that Met or Exceeded the Statewide Racial Disparity in Seatbelt Citations

In 2011, Black motorists were Stopped and Cited for Seatbelt Offenses:

4.0 times more often than white motorists by the **Escambia County Sheriff's Office**—a disparity **ALMOST DOUBLE** the 2011 statewide racial disparity of 2.1.

In 2014, Black motorists were Stopped and Cited for Seatbelt Offenses:

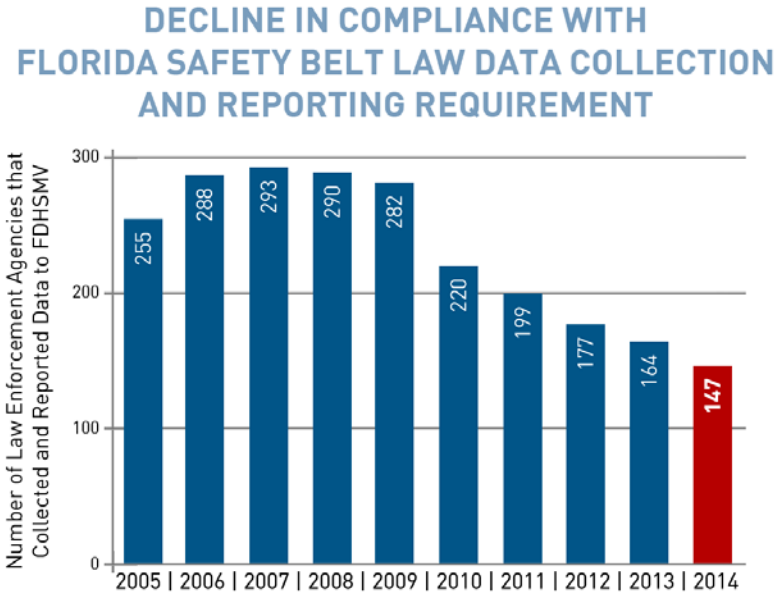
3.0 times more often than white motorists by the **Palm Beach County Sheriff's Office**;
2.8 times more often than white motorists by the **Orange County Sheriff's Office**;
1.9 times more often than white motorists by the **Broward County Sheriff's Office**;
as compared to the statewide racial disparity of 1.9.

The sheriff's offices serving the counties of Escambia, Palm Beach, Orange, and Broward span all corners of the state of Florida. Each enforces seatbelt requirements in a manner that resulted in sizable and statistically significant racial disparity that is <u>even larger than, or at least equal to,</u> the relevant statewide racial disparity in seatbelt citations. This finding calls into question whether these agencies apply the Florida Safety Belt Law fairly, and necessitates further investigation into these agencies' enforcement practices.

Finding #6:

LAW ENFORCEMENT AGENCIES' **FAILURE TO REPORT SEATBELT CITATION DATA** TO STATE AUTHORITIES **AS REQUIRED BY LAW** UNDERSCORES CONCERN ABOUT RACIAL DISPARITIES IN SAFETY BELT LAW ENFORCEMENT.

Since 2005, the Florida Safety Belt Law has required that **all** law enforcement agencies collect and report the race and ethnicity of seatbelt citation recipients to the Governor, President of the Senate, and Speaker of the House of Representatives. This requirement is carried out through annual reports to the FDHSMV.[25] A number of law enforcement agencies regularly fail to follow this clear directive. In 2007, 293 law enforcement agencies reported data to the FDHSMV, marking the highest rate of compliance since the Florida Safety Belt Law's data collection and reporting provision went into effect. In contrast, by 2014, the number of reporting agencies had fallen to an all-time low of 147.[26]



All data is from the Florida Department of Highway Safety and Motor Vehicles (FDHSMV), Seat Belt Violation Data Collection 316.614(9), Annual Reports 2005-2014.

Among the law enforcement agencies that violate the Florida Safety Belt Law's requirement to collect and report seatbelt citation data are those serving Florida's second (Miami) and third (Tampa) largest cities.

TAMPA POLICE DEPARTMENT (TPD): TPD seatbelt citation data appears in only the FDHSMV annual report reporting data from across Florida for 2005—the year the Florida Safety Belt Law's data collection and reporting requirement went into effect. This shows that TPD has consistently failed to comply with the Florida Safety Belt Law's data collection and reporting requirements.[27]

In response to an ACLU public records request for all records and data maintained or shared with the FDHSMV pursuant to the Florida Safety Belt Law,[28] the Tampa Police Department disclosed only the number of seatbelt citations it issued in 2014 to people identified as white, Black, Hispanic, or "other" race.[29]

In 2014, Tampa police officers issued **575** seatbelt citations to Black motorists and **549** seatbelt citations to white motorists. TPD officers stopped and issued more seatbelt citations to Black motorists than white motorists despite the fact that Black people made up only 23% of the Tampa population in 2014.[30]

Although dataset limitations prevent a reliable calculation of the racial disparity in 2014 TPD seatbelt citation rates,[31] even the raw numbers disclosed by TPD raises serious concerns. Reported numbers show that Black motorists are stopped and cited far out of proportion to their basic population figures, despite the lack of any evidence suggesting that Black people make up a greater proportion of Tampa drivers or that Black people in Tampa commit seatbelt violations at significantly higher rates than white people.

The TPD's own data therefore raises questions about the source of the racial disparity in 2014 TPD seatbelt citations and why TPD has failed to report seatbelt citation data to state authorities as required by law since 2005.

The City of Miami Police Department (MPD) failed to report data to the FDHSMV in 2005, 2009, 2012, 2013, and 2014. In response to an ACLU public records request for MPD seatbelt citation data for 2005, 2009, 2012, and 2013. MPD responded that it has "no record pertaining to annual reports on Seat Belt Violation Data Collection."[32] The FDHSMV 2014 Report on seatbelt citation data does not include *any* information from MPD. Nor did the City of Miami disclose any 2014 data to the ACLU.

MPD's response to the ACLU's public records request raises concerns about whether data on the agency's 2014 enforcement of the Florida Safety Belt Law would show racial disparities in citation rates that are larger than the estimated statewide disparity, and why MPD has failed to comply with the law's data collection and reporting requirements.

Similarly, the **Escambia County Sheriff's Office** and the **Jacksonville Sheriff's Office**, which serves Duval County, have failed to report seatbelt citation data to the FDHSMV since 2011. Yet, the 2011 data reported by the Escambia County Sheriff's Office reveals that the agency's stopped and issued seatbelt citations to Black people **FOUR TIMES** as often as white people—a racial disparity that is **ALMOST DOUBLE** the statewide racial disparity of 2.1 for 2011.

Although dataset limitations prevent a reliable calculation of the racial disparity in the Jacksonville Sheriff's Office's 2011 seatbelt citation rates, even the raw data reported raises concerns.[33] In 2011, the Jacksonville Sheriff's Office issued **2,855** seatbelt citations to Black people—far more than the **2,307** seatbelt citations issued to white people—despite the fact that Black people made up only 29% of the Duval County population in 2011.[34]

The failure of each of these law enforcement agencies to collect and report seatbelt citation data is a violation of the Florida Safety Belt Law. When that violation is accompanied by the fact that analysis of the data that is disclosed reveals dramatic racial disparities in the rates at which these agencies stop and ticket Black and white people for seatbelt offenses, there is an even greater need for investigation.

III. RECOMMENDATIONS

Racial disparities in citation rates do not prove, without additional information, that law enforcement officers have engaged in racial profiling. Nevertheless, the racial disparities in Florida's statewide seatbelt citation rates and the rates of specific law enforcement agencies documented in this report require investigation and action for three reasons.

#1 Racial disparities in seatbelt citation rates may result from racial profiling, particularly when white and Black people engage in the prohibited conduct at closely comparable rates.

As discussed above, the Florida Department of Transportation's 2014 study of seatbelt use found only a five to six percentage point difference in the rates at which white and Black people wear seat belts. That disparity in seatbelt use does not explain what analysis of 2014 statewide seatbelt citation data reveals: that Black motorists were stopped and ticketed for seatbelt offenses nearly twice as often as white motorists, even when accounting for their estimated representation in the driving-age population living in a household with access to a vehicle.

The existence of such a large and statistically significant racial disparity in statewide seatbelt citation rates—and the more dramatic racial disparities in specific law enforcement agencies' seatbelt citation rates—demonstrates the need for investigation into police practices to determine whether officers are targeting Black motorists for the encounters that result in seatbelt citations in part, or even primarily, because of their race.

#2 Racial disparities in seatbelt citation rates raise concerns about the impact of disproportionate police encounters, ticketing, and fines on people of color.

Fostering public safety by promoting seatbelt use is important. But stopping and ticketing Black motorists for seatbelt citations at rates that **far exceed** that of white motorists and that are not explained by any documented differences in seat belt use, suggests that communities of color may disproportionately and unfairly bear the stigmatic harm and financial cost of Florida Safety Belt Law enforcement.

A federal judge recognized the stigmatic harm stemming from high rates of stops of Blacks and Latinos when addressing the New York Police Department's stop-and-frisk program, which disproportionately impacted these communities: "While it is true that any one stop is a limited intrusion in duration and deprivation of liberty, each stop is also a demeaning and

humiliating experience. No one should live in fear of being stopped whenever he leaves his home to go about the activities of daily life."[35]

There are also real financial costs to the disproportionate enforcement of seatbelt requirements against Black motorists. The cost of a safety belt violation in Florida can be as high as $60.[36] For those unable to pay, a seatbelt citation can lead to additional penalties, including a driver's license suspension pursuant to Florida law.[37]

The financial burden of paying for fines associated with seatbelt citations hits communities of color particularly hard because of the gap in white and Black household wealth—the difference between the net worth (assets minus debts) of a typical white household and a typical Black household. The racial wealth gap is a longstanding problem, and has even been widening in recent years. In 2014, a Pew Research Center study found that the median wealth of white households was 13 times the median wealth of Black households in 2013—the highest racial wealth gap documented since 1989.[38]

The disproportionate stopping and ticketing of Black motorists for seatbelt citations—as well as other traffic and low-level offenses—exacerbates the already widening racial wealth gap by disproportionately imposing fines on Black households in comparison to white households. Moreover, because of the racial wealth gap, a greater proportion of Black motorists, in comparison to white motorists, may have difficulty paying seatbelt fines, and thereby face a higher risk of driver's license suspension for nonpayment, additional tickets and fines for driving on a suspended license, and a resulting cycle of tickets, debt and jail from which it may be difficult to break free.

#3 Even routine police stops of civilians can dramatically escalate, subjecting those disproportionately targeted for Florida Safety Belt Law enforcement to the risk of further harm.

Tragic events in Florida and throughout the country illustrate that police-civilian encounters—even traffic stops concerning minor infractions—carry a grave risk of escalation.

In 2014, Arthur Green Jr., a diabetic man, died in the custody of Tampa Police officers following a traffic stop in which he was handcuffed.[39] In 2015, Walter Scott and Samuel Dubose were shot and killed by police officers in South Carolina and Cincinnati following traffic stops for minor traffic infractions (driving a car with a broken taillight, driving a car missing a front license plate).[40] Also in 2015, Sandra Bland was pulled over in Prairie View, Texas for a minor traffic violation that escalated, leading to her arrest, jailing, and subsequent death.[41]

The Washington Post's compilation of a database tracking deadly police shootings reveals that traffic stops were one of the most common precursors to a fatal police shooting of a Black person in 2015.[42]

Racial disparities in seatbelt citation rates clearly call for serious response and policy reforms to determine whether racial profiling is taking place and, if so, to eliminate it. In light of the sizable racial disparities in Florida Safety Belt Law enforcement identified in this report, the ACLU and the ACLU of Florida issue the following recommendations.

RECOMMENDATION #1:
INVESTIGATION

This report documents sizable and statistically significant disparities in the rates at which the Sheriff's Offices for Escambia, Palm Beach, Orange and Broward Counties issued seatbelt citations to non-Hispanic white and non-Hispanic Black motorists —rates that met or exceeded the already sizable statewide racial disparity in seatbelt citation rates of Florida law enforcement agencies overall. These county-level disparities raise particular concern about whether these sheriff's offices engage in racial profiling because any differences in seatbelt usage rates as documented by the state and national studies discussed above fail to explain the size of the racial disparities in citation rates identified in this report.

The relevant **County and City Commissions** charged with oversight responsibility and the **Florida Attorney General's Office of Civil Rights** must investigate law enforcement agencies whose implementation of the Florida Safety Belt Law has led to large racial disparities, including the **Sheriff's Offices for Escambia, Palm Beach, Orange,** and **Broward Counties**. Their investigations should determine whether officers engage in racial profiling in traffic enforcement, whether stops conducted to enforce seatbelt requirements are adequately supported by individualized and articulable evidence to support reasonable suspicion that an offense has occurred, whether testing on implicit bias and training on bias-free policing is adequate, and whether the agencies adequately monitor and address racial disparities in the practices of specific officers.

RECOMMENDATION #2:
ENFORCEMENT

All law enforcement agencies must comply with the Florida Safety Belt Law's requirement to collect and report to state authorities the race and ethnicity of people ticketed for safety belt

violations. This requirement was instituted to inform the public by identifying racial disparities in traffic enforcement that may signal the existence of racial profiling. The data that has been collected and reported in 2011 and 2014 demonstrate sizable, statistically significant, and persistent racial disparities in seatbelt law enforcement. Yet, 52 fewer agencies reported seatbelt citation data to state authorities in 2014 than in 2011, undermining the Florida Safety Belt Law's data reporting provision, which seeks to help inform the public about potential indicators of racial profiling in traffic enforcement.

The Florida Legislature should enact legislation to create consequences for law enforcement agencies that fail to comply with the Florida Safety Belt Law's data collection and reporting requirement. This includes the police departments that serve Florida's second and third largest cities—**the City of Miami Police Department** and the **Tampa Police Department**—as well as the **Escambia County Sheriff's Office** and the **Jacksonville Sheriff's Office**.

RECOMMENDATION #3:
TRANSPARENCY

Law enforcement agencies should collect, report, and analyze race and ethnicity data for **ALL traffic and pedestrian stops, frisks, searches, citations, summons,** and **arrests** to identify and help eliminate racial profiling in all police-civilian encounters—not just those involving enforcement of Florida's Safety Belt Law.

The disclosure of seatbelt citation data pursuant to the Florida Safety Belt Law has already helped inform the debate about racial profiling in Florida by permitting analysis that identifies troubling racial disparities in seatbelt law enforcement. The disclosure of data more broadly on police-civilian encounters, including traffic and pedestrian stops, frisks, and searches, will help identify the causes of these racial disparities, as has the disclosure of such data by law enforcement agencies across the country.

For example, the collection and publication of New York Police Department (NYPD) data on all stops, frisks, and searches conducted between 2004 and 2009 permitted expert analysis, which determined that the racial composition of New York neighborhoods was the main factor determining stop rates, exceeding the role of crime, social conditions, and the allocation of police resources.[43] Expert analysis also found that although Blacks and Hispanics were disproportionately stopped, police seized weapons or contraband more often in stops of whites than in stops of Blacks or Hispanics.[44] These findings helped inform a federal court's 2013 ruling that the NYPD engaged in a pattern and practice of racial profiling and unconstitutional stops, and decision to order policy reforms.[45]

Similarly, in 2014 and 2015, expert analysis of Boston Police Department (BPD) data on 2007-2010 police-civilian encounters revealed that even after controlling for crime and other social factors, BPD officers were more likely to initiate encounters in neighborhoods with higher concentrations of Black people.[46] As a result of public debate and advocacy informed by these disclosures, BPD announced reforms in 2015 to improve training on bias-free policing, to pilot the use of body-worn cameras, and to make police-civilian encounter data publicly-available on a regular basis.[47] In early 2016, BPD disclosed data on 2011-2015 police-civilian encounters.[48]

In 2015, review of 250 randomly selected Chicago Police Department (CPD) field contact cards for stops conducted in 2012 and 2013 revealed that Black Chicagoans were subjected to 72% of all stops, yet constituted just 32% of the city's population at the time.[49] Advocacy supported by a report analyzing CPD stop data brought about a settlement to reform CPD stop-and-frisk practices, including by requiring an independent evaluation of police practices and procedures, improved data collection, and additional training for officers.[50]

Time and time again, the disclosure of information about police-civilian encounters, including the race and ethnicity of the civilian, the reason for the encounter, and the outcome of the encounter, help to identify racial profiling and unsupported stops, frisks, and searches. The existence of sizable and statistically significant racial disparities in Florida seatbelt citation rates calls for the collection and publication of such data by Florida law enforcement agencies.

RECOMMENDATION #4:
SUPERVISION

The Florida Legislature enacted the Florida Safety Belt Law's data collection and reporting requirement to help inform the public about which law enforcement agencies may engage in racial profiling in traffic enforcement. Yet, there is no indication that any of the law enforcement agencies that reported data to the FDHSMV, or even FDHSMV itself, analyzed seatbelt citation data to determine whether enforcement of seatbelt requirements has led to racial disparities.

Law enforcement agencies should **analyze the seatbelt citation data** they collect and report to FDHSMV and ensure that **supervising officers monitor racial disparities** in their supervisees' enforcement of the Florida Safety Belt Law. Agencies should provide **testing on implicit bias** and **training on bias-free policing** to all officers, and **retrain officers** whose stop and citation practices result in large racial disparities.

IV. METHODOLOGY, DATA, & SOURCES

This report calculates disparities in the rates at which all Florida law enforcement agencies combined issued seatbelt citations to white and Black motorists in 2014 and 2011. It also calculates racial disparities in seatbelt citation rates for a sample of large law enforcement agencies from across the state in order to determine whether the 2014 statewide disparity is consistent across Florida.

We selected a sample of county sheriff's offices for analysis because resource constraints prohibited calculating race-specific citation rates for every law enforcement agency that reported data in 2014. We focused on county sheriff's offices because the U.S. Census Bureau's ACS/PUMS data provide a reasonable estimate of the resident driver population by race for certain counties—the territories over which sheriff's offices exercise jurisdiction—thereby permitting the calculation of seatbelt citation rates for white and Black motorists by those county sheriff's offices. Through this method of selection, we decided to analyze seatbelt citation rates for the following law enforcement agencies based on the most recent data provided to the Florida Department of Highway Safety and Motor Vehicles: the Escambia County Sheriff's Office (2011 data); the Palm Beach County Sheriff's Office (2014 data), the Orange County Sheriff's Office (2014 data), and the Broward County Sheriff's Office (2014 data).

Dr. Ralph B. Taylor assisted in programming, calculations, and preparing sections of the report.[51]

DESCRIPTION VERSUS CAUSAL ANALYSIS

This report documents sizable and statistically significant disparities in the rates at which Florida law enforcement agencies overall and specific law enforcement agencies issued seatbelt citations to non-Hispanic white and non-Hispanic Black motorists in 2011 and 2014. It raises questions about the cause(s) of the disparities in light of the finding of state and national studies that document only a five to nine percentage point difference in the rate at which white and Black people use seatbelts. This report does not, however, identify or isolate the cause(s) of racial disparities in Florida seatbelt citation rates.

A causal analysis would require, at the very least, consideration of variables other than race and seatbelt use that might impact seatbelt citation rates, such as driving quantity, driving quality, and driving location.[52] This kind of empirical analysis is generally conducted through use of multivariate regression analysis, which allows researchers to control for many factors that may contribute to seatbelt citation rates and to estimate the individual impact of each.[53]

Further, in many instances causal analysis is likely to require a different type of research design that goes beyond acquiring cross-sectional data. The racial disparities identified in this report invite further analysis through use of such methods.

METHODOLOGY

In order to calculate racial disparities in race-specific Florida statewide seatbelt citation rates and the race-specific seatbelt citation rates for particular law enforcement agencies, we first calculated seatbelt citation rates for each of the jurisdictions of interest.

The "seatbelt citation rate" is calculated by dividing the number of seatbelt citations issued to a racial group (e.g., non-Hispanic whites) in a given year and in a given jurisdiction by the resident driving population of that racial group in the same geographic area. The latter is divided by 100,000 to create citation rates per 100,000 resident drivers.

For example, in order to calculate the Palm Beach County Sheriff's Office's (PBCSO) seatbelt citation rates for whites and Blacks, we used the following equations:

$$\text{2014 PBCSO Seatbelt Citation Rate for non-Hispanic whites residents} = \frac{\text{No. of seatbelt citations issued by PBCSO in 2014 to non-Hispanic whites}}{\text{2014 ACS/PUMS 1-year estimate of number of non-Hispanic whites in PBC of 15 to 85 years of age, living in a household with access to at least one vehicle}} \times 100{,}000$$

$$\text{2014 PBCSO Seatbelt Citation Rate for non-Hispanic Blacks residents} = \frac{\text{No. seatbelt citations issued by PBCSO in 2014 to non-Hispanic Blacks}}{\text{2014 ACS/PUMS 1-year estimate of number of non-Hispanic Blacks in PBC of 15 to 85 years of age, living in a household with access to at least one vehicle}} \times 100{,}000$$

The rate calculations thus compare the race-specific counts of seatbelt citations by law enforcement agencies against a benchmark consisting of an estimate of the race-specific number of residents of driving age living in a household with access to at least one vehicle in the area of interest based on 1-year ACS/PUMS data. This benchmark was selected in order to help develop a racial profile of the people who should be at risk of being issued a seatbelt citation by police in a given jurisdiction, assuming no bias. Use of this benchmark permits a higher quality estimation of race-specific citation rates (and disparities between those rates)

than rates derived from race-specific population figures in the geographic areas of interest.[54] This is because not all members of the non-Hispanic white or non-Hispanic Black resident population are among the driving population that may be stopped and ticketed for a seatbelt citation in a given jurisdiction. Using a benchmark of the race-specific population of driving age (15 to 85 years old) living in a household with access to at least one vehicle, as estimated by 1-year ACS/PUMS data, provides a better estimate of the size of the race-specific driving population that may be stopped and ticketed in the geographic area of interest.

For example, perhaps officers of the Palm Beach County Sheriff's Office stop and cite non-Hispanic Blacks for seatbelt violations at a higher rate than non-Hispanic whites in part because there are more non-Hispanic Blacks than non-Hispanic whites driving on Palm Beach County roads—a factor that is influenced by the size of each population that is of driving age and that has access to a vehicle to drive. If non-Hispanic Blacks are over-represented in the population of drivers on Palm Beach County roads, they more likely to be stopped and issued a seatbelt citation. Using ACS/PUMS data to identify the population figures for non-Hispanic Blacks and non-Hispanic whites of driving age (15 to 85 years old) who report living in a household with access to at least one vehicle in each of the geographic areas studied helps account for these factors.[55]

After obtaining the race-specific seatbelt citation rates for each of the law enforcement agencies of interest—Florida statewide, Escambia County Sheriff's Office, Palm Beach County Sheriff's Office, Orange County Sheriff's Office, and Broward County Sheriff's Office—we calculated the racial disparity by dividing the higher citation rate by the lower rate. In each case, the Black citation rate was higher than the white citation rate. The result of the calculation is a number that represents the number of times more often the relevant law enforcement agency stopped and issued seatbelt citations to Blacks as compared to whites. For example:

$$\text{Racial Disparity in PBCSO 2014 Seatbelt Citation Rates} = \frac{\text{PBCSO 2014 Seatbelt Citation Rate for non-Hispanic Blacks}}{\text{PBCSO 2014 Seatbelt Citation Rate for non-Hispanic whites}}$$

DATA AND SOURCES

A. Florida Department of Highway Safety and Motor Vehicles Seat Belt Violation Reports

The numerators for the seatbelt citation rate calculations were drawn from data published in 2014 and 2011 reports of the Florida Department of Highway Safety and Motor Vehicles, which are available on the FDHSMV website and compile seatbelt citation data reported by law enforcement across the state.[56] In 2014, 147 law enforcement agencies reported seatbelt

citation data to FDHSMV.[57] In 2011, 199 law enforcement agencies reported data to the state agency.[58] The numerators for the rate calculations for the Sheriff's Offices for Palm Beach, Broward, and Orange Counties are drawn from data published in the FDHSMV 2014 Report. The numerator for the rate calculations for the Escambia County Sheriff's Office was drawn from data published in the FDHSMV 2011 Report because the Escambia County Sheriff's Office failed to reported seatbelt citation data to the FDHSMV after that year.

B. 1-Year American Community Survey Public Use Microdata Sample Data Files

The denominators for the rate calculations are estimates of the race-specific resident driver populations in the areas served by the law enforcement agencies studied, and were derived through use of the U.S. Census Bureau's American Community Survey (ACS) one-year Public Use Microdata Sample (PUMS) data files.

The PUMS data files are a subset of the American Community Survey, which is an ongoing survey that provides population information on a yearly basis.[59] The U.S. Census Bureau produces the ACS/PUMS files so that data users can create custom tables containing information about individuals or housing units sampled in the American Community Survey that are not available through pretabulated (or summary) ACS data products.[60] ACS/PUMS data files include records with individual response information, including responses to a question about household vehicle access. The 1-year ACS/PUMS files are accessible via American FactFinder, the Census Bureau's FTP site, and DataFerrett.[61]

To derive estimates of the race-specific resident driver population in each of the areas of interest, we downloaded 2014 and 2011 ACS 1-year PUMS files containing data on individuals and households in Florida through the American FactFinder website.[62] The data files were extracted and imported into Stata for analysis.

We separately analyzed 2014 and 2011 data using Stata (v. 14). We first merged the person and household data files for 2014 ACS 1-year PUMS data for Florida into one file. In the merged file, each record corresponds to an individual and contains information about the individual's household, including the number of vehicles available for the household. Within this merged data file, we selected the appropriate geography (e.g., the entire state of Florida), and asked the program to provide, after taking survey design and sampling error into account, the total number of white non-Hispanic residents of driving age (15 to 85 years old) with access to at least one vehicle in the household. The same was done for non-Hispanic Blacks in the same geographic area. We followed the same methodology to secure denominators for white and Black 2011 statewide seatbelt citation rate calculations.

In order to obtain the denominators for the rate calculations for the Sheriff's Offices for Palm Beach County, Orange County, and Broward County, we used 2014 1-year ACS/PUMS data files to identify the number of non-Hispanic whites of driving age with access to at least one vehicle in the household, and the number of non-Hispanic Blacks of driving age with access to at least one vehicle in the household. We were able to do this by selecting the records in the data file corresponding to particular Public Use Microdata Areas (PUMAs) that fall within each county.

The U.S. Census Bureau uses Public Use Microdata Areas (PUMAs) as the intra-state geographic units for collecting PUMS data.[63] PUMAs cover the entire territory of the United States (and U.S. territories), and do not cross state lines. We used the U.S. Census Bureau's TIGERweb mapping utility to identify PUMAs that align with the territorial boundaries of each of the counties of interest—Escambia, Palm Beach, Orange and Broward.[64] For each county, we were able to identify the specific PUMAs that together covered the entire population contained within the county's political boundaries. This meant that 1-year ACS/PUMS data could be used to estimate the number of race-specific residents of driving age living in a household with access to at least one vehicle in each county of interest.[65]

SURVEY WEIGHTING AND ERROR ESTIMATION IN 1-YEAR ACS/PUMS DATA

A. Survey Weighting

The ACS/PUMS microdata sets are individual-level records that are in effect a sample of a sample. The sample of households from which PUMS households are sampled are the American Community Survey. All individuals in an ACS-sampled household which is sampled for inclusion in the PUMS are reported as person level records in the PUMS data.

Because the PUMS uses a complex, multi-stage sampling design, individual PUMS records must be re-weighted to counterbalance sampling decisions in order to obtain accurate population estimates.[66] Person-level estimates from ACS/PUMS data will be representative of the population from which they were sampled (putting aside non-sampling errors), if the estimates are weighted using the weight variable "PWGTP: Person's weight for generating statistics on individuals (such as age)."

B. Sampling Error

All samples contain sampling error. In a properly executed survey sampling design, those errors will be random and will not bias the estimates derived from the survey. But sampling error creates uncertainty when the researcher wishes to make inferences back to the

population from which the surveyed individuals/households were sampled. In other words, the uncertainty around a population parameter obtained from a representative sample, like the ACS/PUMS, must be captured. One way to do so is by determining a confidence interval, which is a calculation that expresses the degree of uncertainty represented in a data sample.

Because 1-year ACS/PUMS data were generated from a complex sampling design, estimation of the uncertainty arising from sampling errors associated with these estimates requires special treatment. The U.S. Census Bureau recommends approximating direct standard errors for population estimates obtained through use of 1-year ACS/PUMS data files by using their replicate weights.[67] To facilitate this approximation, eighty replicate weights are attached to each record in a 1-year ACS/PUMS data file. Each of these eighty sets of weights represents an independent estimate of each person's weight using a balanced repeated replication (BRR) technique.[68]

Stata (v. 14), the analysis program used here, permits using these replicate weights to make appropriate survey-based estimates and the sampling error around those estimates, by survey setting the data first—in essence telling the program about the survey sampling design—and second, reminding the program that survey-adjusted estimates are requested when specific commands are invoked.[69] The eighty replicate weights are used to make 80 estimates of the sample statistic requested, and the standard error based on those 80 estimates is reported. Estimates of standard errors and confidence intervals which do *not* take the survey design into account can under-estimate the standard errors associated with a sample statistic.

To generate the race-specific population totals for residents of driving age living in a household with access to at least one vehicle in each of the geographic areas of interest (the denominator for seatbelt citation rate calculations), the Stata command "svy: total" was used. This command specifies the probability level for the confidence intervals at 99.9%.

This means, assuming no non-sampling error, that the population number sought is likely to lie within the interval provided 999 times out of 1,000. The chance that the population number is outside the confidence interval provided (again assuming no non-sampling error) is less than one in a thousand.

The confidence intervals associated with the denominator derived from 1-year ACS/PUMS data files are simply multiples of the standard errors reported. For example:

> The upper limit of the 99.9% confidence interval (99.9% UCL) =
> Driving-age Population Estimate + 3.2905*(standard error of estimate).

The lower limit of the 99.9% confidence level (99.9%LCL) =
Driving-age Population Estimate – 3.2905*(standard error of estimate).

C. Non-Sampling Error Concerns at the State and County Levels

As discussed, the denominators used for the seatbelt citation rate calculations are estimates of the race-specific resident population of driving age living in households with access to at least one vehicle. At the state level, use of this denominator has two limitations that are not related to possible sampling error in the 1-year ACS/PUMS data from which these estimates are derived. For the reasons explained below, the first limitation suggests that this report might underestimate racial disparities in seatbelt citation rates, while the impact of the second is unquantifiable based on the available information.

1. Vehicles Per Household

First, the denominator used assumes that exposure to risk of receiving a seatbelt violation is the same for all members of the non-seatbelt-using driving population regardless of the number of vehicles to which each member of that group has access in his/her household. It seems plausible, all else equal, that those members of the non-seatbelt-using driving population with access to more vehicles in their respective households will drive more miles per year, and thus be at greater risk of receiving a seatbelt violation from a law enforcement officer.

The assumption described above is not problematic, however, as long as violations of that assumption are race neutral.

The violations of that assumption, however, may not be race neutral. The fraction of white people in the group of interest with access to more than one vehicle in their household might be higher than it is for Black people in the group of interest. If, net of other factors among the driving and non-seatbelt-using population, such a difference in vehicle access exists and translates to exposure to the risk of receiving a citation, the race differences seen in this report might underestimate racial disproportionality in seatbelt citation rates.

Differences by race in the number of vehicles accessible within driving households do appear in the dataset. In 2014, among the black non-Hispanic resident driving population, the percent with access to only one car was 36.7 percent (survey weighted). That same year, among the white non-Hispanic resident driving population, the comparable figure was 30.9 percent (survey weighted). This means that the fraction of resident white non-Hispanics of driving age with access to more than one vehicle was larger (69.1 percent) than the comparable fraction of

resident Black non-Hispanics of driving age (63.3 percent). Roughly the same differences were seen using the 2011 data.

If this same race difference applies to non-seatbelt-using drivers, and if other determinants of miles driven besides numbers of vehicles are racially neutral for these same resident drivers—an assumption that cannot be tested with these data—this difference might mean that the racial discrepancies noted in this report are low estimates.

2. Racial Mix of Non-Resident Drivers

For each jurisdiction of interest—the state of Florida, Escambia County, Palm Beach County, Orange County, and Broward County—the denominator is based on resident race-specific driving populations. These denominators do not capture the impact of non-resident drivers who receive seatbelt citations while traveling in each area of interest.

This limitation becomes problematic only to the extent that the racial mix of non-resident drivers receiving seatbelt citations while driving in the jurisdiction of interest differs markedly from the racial mix of drivers receiving seatbelt citations who reside within the jurisdiction of interest. A marked discrepancy between the racial mix of out-of-jurisdiction, non-seatbelt-wearing drivers and the in-jurisdiction racial mix means that the two race-specific resident-based denominators used for seatbelt citation rate calculations may differ in the adequacy with which they capture the population at risk.

There is no way to quantify the impact of this limitation of the data used for the denominator in the seatbelt citation rate calculations, or the extent to which it is problematic, given the data sources used here. Nevertheless, this limitation is potentially more problematic at the level of seatbelt citation rate calculations for county sheriff's offices than for the state of Florida as a whole.

LACK OF ADEQUATE DATA ON LATINO DRIVERS

This report addresses disparities in the rate at which law enforcement agencies issued seatbelt citations to people identified as non-Hispanic white and non-Hispanic Black by law enforcement officers. It does not analyze seatbelt citation data regarding Latinos, who are referred to as "Hispanic" in the seatbelt citation data reported by law enforcement agencies to the FDHSMV pursuant to the Florida Safety Belt Law.

Data concerning the race and ethnicity of recipients of seat belt citations rely on the observation of law enforcement officers who issue the citations, rather than self-identification

by the individuals cited. As a result, there is a risk that law enforcement officers improperly identify the race or ethnicity of the person cited for a seatbelt violation. This risk is particularly high with respect to Latinos, who are often misidentified as non-Hispanic white or non-Hispanic Black. The likely underreporting of citations issued to Latinos makes it difficult to calculate seatbelt citation rates for Latinos and to assess any disparities between that rate and the seatbelt citation rate for non-Hispanic white people.

Accordingly, this report focused on analyzing seatbelt citation rates for motorists identified by law enforcement officers in their own data as non-Hispanic white and non-Hispanic Black. Nevertheless, the recommendations offered to further investigate and address the sizable and statistically significant racial disparities in white/Black seatbelt citation rates across Florida and by specific law enforcement agencies would benefit all communities, including Latinos, as well as the public at large.

V. CALCULATIONS

2014 Percentage of Non-Hispanic Blacks Among Florida Resident Drivers

		Lower Bound of 99.9% Confidence Interval	Upper Bound of 99.9% Confidence Interval
Number of non-Hispanic Black Florida residents aged 15 to 85 years old in household with access to 1+ vehicle in 2014*	2,022,816 (SE 9,749)	2,013,067	2,032,565
Total Number of Florida residents (of any race) aged 15 to 85 years old in household with access to 1+ vehicle in 2014*	14,943,584 (SE 17,866)	14,925,718	14,961,450
Percentage of Florida residents aged 15 to 85 years old in household with access to 1+ vehicle in 2014 consisting of non-Hispanic Blacks*	13.54%	13.48%	13.56%

SE = Standard Error
* Estimate Based on 2014 1-year ACS/PUMS data file for Florida.

2014 Overrepresentation of non-Hispanic Blacks in Statewide Seatbelt Citations

	Actual Seatbelt Citations Issued*	Expected Value Based on Representation of non-Hispanic Blacks Among Florida Resident Driver Population at 13.5%	Difference Between Actual and Expected Citation Numbers	99.9% Confidence Interval**
Total Number Seatbelt Citations Issued Across Florida in 2014	168,199			
Total Number Seatbelt Citations Issued Across Florida to non-Hispanic Blacks in 2014	36,838	22,707	20,296	20,099 to 20,494

* Department of Highway Safety and Motor Vehicles, Seat Belt Violation Data Collection 316.614(9), *F.S. Annual Report 2014*
**99.9% Confidence Interval = the interval within which the population estimate is likely to lie 999 times out of 1,000, assuming no non-sampling error

2014 Seatbelt Citation Rates

	Non-Hispanic whites			**Non-Hispanic Blacks**		
	Numerator (number of seatbelt citations issued in 2014)*	Denominator (number of residents aged 15 to 85 years old in household with access to 1+ vehicle in 2014)**	Seatbelt Citation Rate per 100,000 Residents	Numerator (number of seatbelt citations issued in 2014)*	Denominator (number of residents aged 15 to 85 years old in household with access to 1+ vehicle in 2014)**	Seatbelt Citation Rate per 100,000 Residents
State of Florida	85,368 (total issued by all reporting agencies)	8,797,997 (SE 10,974)	970 (99.9% CI: 966 to 975)	36,838 (total issued by all reporting agencies)	2,022,816 (SE 9,749)	1821 (99.9% CI: 1,792 to 1852)
Palm Beach County Sheriff's Office	1,487	643,016 (SE 3,122)	231 (99.9% CI: 228 to 235)	1,118	163,337 (SE 2,933)	685 (99.9% CI: 645 to 729)
Orange County Sheriff's Office	2,692	422,060 (SE 2,511)	638 (99.9% CI: 625 to 651)	3,011	167,551 (SE 3,157)	1,797 (99.9% CI: 1,688 to 1,921)
Broward County Sheriff's Office	1,205	588,017 (SE 2,891)	205 (99.9% CI: 202 to 208)	1,357	348,903 (SE 4,358)	389 (99.9% CI: 373 to 406)

SE = Standard Error
99.9% CI = 99.9% Confidence Interval (i.e., the interval within which the population estimate is likely to lie 999 times out of 1,000, assuming no non-sampling error)
* Department of Highway Safety and Motor Vehicles, Seat Belt Violation Data Collection 316.614(9), *F.S. Annual Report 2014*
** Estimate Based on 2014 1-year ACS/PUMS data file for Florida.

2011 Seatbelt Citation Rates

	Non-Hispanic Whites			**Non-Hispanic Blacks**		
	Numerator (number of seatbelt citations issued in 2011)*	Denominator (number of residents aged 15 to 85 years old in household with access to 1+ vehicle in 2014)**	Citation Rate per 100,000 Residents	Numerator (number of seatbelt citations issued in 2011)*	Denominator (number of residents aged 15 to 85 years old in household with access to 1+ vehicle in 2014)**	Citation Rate per 100,000 Residents
State of Florida	133,727 (total issued by all reporting agencies)	8,667,254 (SE 10,908)	1543 (99.9% CI: 1536 to 1550)	59,720 (total issued by all reporting agencies)	1,882,495 (SE 10,312)	3172 (99.9% CI: 3,114 to 3,233)
Escambia County Sheriff's Office	199	148,893 (SE 1,588)	134 (99.9% CI: 129 to 139)	229	42,409 (SE 975)	540 (99.9% CI: 501 to 586)

SE = Standard Error
99.9% CI = 99.9% Confidence Interval (i.e., the interval within which the population estimate is likely to lie 999 times out of 1,000, assuming no non-sampling error)
* Department of Highway Safety and Motor Vehicles, Seat Belt Violation Data Collection 316.614(9), *F.S. Annual Report 2011*
** Estimate Based on 1-year 2011 ACS/PUMS data file for Florida.

2014 Racial Disparity Analysis

	Seatbelt Citation Rate per 100,000 residents		**Disparity Between non-Hispanic white and non-Hispanic Black Seatbelt Citation Rates**	**99.9% Confidence Interval for Racial Disparity Indicator based on Standard Errors for Denominator**
	Non-Hispanic whites	Non-Hispanic Blacks		
State of Florida	970	1821	1.88	1.85 to 1.90
Palm Beach County Sheriff's Office	231	685	2.96	2.83 to 3.10
Orange County Sheriff's Office	638	1797	2.82	2.70 to 2.95
Broward County Sheriff's Office	205	389	1.90	1.85 to 1.95

2011 Racial Disparity Analysis

	Seatbelt Citation Rate per 100,000 residents		**Disparity Between non-Hispanic white and non-Hispanic Black Seatbelt Citation Rates**	**99.9% Confidence Interval for Racial Disparity Indicator based on Standard Errors for Denominator**
	Non-Hispanic whites	Non-Hispanic Blacks		
State of Florida	1543	3172	2.06	2.03 to 2.09
Escambia County Sheriff's Office	134	540	4.04	3.88 to 4.22

[1] Fla. Stat. Ann. § 316.614 (9) (West 2015).

[2] This report addresses disparities in the rate at which law enforcement agencies issued seatbelt citations to people identified as "non-Hispanic white" and "non-Hispanic Black" by law enforcement officers. It does not analyze data regarding Latinos, who are referred to as "Hispanic" in the seatbelt citation data reported by law enforcement agencies pursuant to the Florida Safety Belt Law. *See infra* Section IV. Methodology, Data & Sources at 29-30.

[3] Daniel Lieberman, *Bullies With Badges? Store Owner Films Police Arresting Employee*, FUSION, Nov. 25, 2013, http://fusion.net/story/4180/bullies-with-badges-store-owner-films-police-arresting-employee/; Alice Brennan & Dan Lieberman, *Florida City's 'Stop and Frisk' Nabs Thousands of Kids, Finds 5-Year-Olds 'Suspicious',* FUSION, http://fusion.net/story/5568/florida-citys-stop-frisk-nabs-thousands-of-kids-finds-5-year-olds-suspicious/ (last visited Nov. 28, 2015).

[4] *See* Complaint at 22–24, *Sampson v. City of Miami Gardens*, No. 1:13-cv-24312 (S.D. Fla. Nov. 27, 2013); Morgan Whitaker, *Police Sued for Alleged Racial Profiling, Stop and Frisk*, MSNBC.COM, Dec. 6, 2013, http://www.msnbc.com/politicsnation/police-sued-alleged-racial-profiling.

[5] AMERICAN CIVIL LIBERTIES UNION, THE WAR ON MARIJUANA IN BLACK AND WHITE 144 (2013), https://www.aclu.org/sites/default/files/field_document/1114413-mj-report-rfs-rel1.pdf (discussing racial disparities in marijuana possession arrest rates across Florida); *id*. at 66-68 (discussing data from the National Household Survey on Drug Abuse and Health documenting that whites and Blacks use marijuana at similar rates).

[6] Kyle Swenson, *Biking While Black Is a Crime*, MIAMI NEW TIMES, Oct. 31, 2013, http://www.miaminewtimes.com/2013-10-31/news/biking-while-black-fort-lauderdale/full/.

[7] In 2013, Fort Lauderdale's population was 172,374, according to a 1-year estimate from the American Community Survey. U.S. Census Bureau; American Community Survey, 2013 American Community Survey 1-Year Estimates, Table DP05; generated by Nina Papachristou using American FactFinder; http://factfinder2.census.gov; (Dec. 2, 2015).

[8] Alexandra Zayas & Kameel Stanley, *How Riding Your Bike Can Land You In Trouble With the Cops—If You're Black*, TAMPA BAY TIMES, Apr. 17, 2015, http://www.tampabay.com/news/publicsafety/how-riding-your-bike-can-land-you-in-trouble-with-the-cops---if-youre-black/2225966; Kameel Stanley, *Some in Tampa Want Assurance Federal Bike Ticket Review Will Be Thorough*, TAMPA BAY TIMES, May 11, 2015, http://www.tampabay.com/news/publicsafety/some-in-tampa-want-assurance-federal-bike-ticket-review-will-be-thorough/2229232; Noah Pransky, *Black Arrest Numbers Off-The-Charts in Tampa*, WTSP.COM, May 6, 2015, http://www.wtsp.com/story/news/investigations/2015/05/05/majority-of-tampa-arrests-are-black-people/26940149/; *Justice Probe Welcome, But Tampa Police Should Change Now*, TAMPA BAY TIMES, Apr. 23, 2015, http://www.tampabay.com/opinion/editorials/editorial-justice-probe-welcome-but-tampa-police-should-change-now/2226780.

[9] Jim DeFede, *Race Matters: Marijuana Cases Flood Court System*, CBS MIAMI, June 29, 2015, http://miami.cbslocal.com/2015/06/29/race-matters-marijuana-cases-flood-court-system/.

[10] A 2014 survey of individuals over the age of 12 by the U.S. Department of Health & Human Services Substance Abuse and Mental Health Services Administration estimated that 15.7% of Blacks and 13.7% of whites had used marijuana at some point in the past year. Results from the 2014 National Survey on Drug Use and Health: Detailed Tables, Table 1.24B (Marijuana Use in Lifetime, Past Year, and Past Month among Persons Aged 12 or Older, by Demographic Characteristics: Percentages, 2013 and 2014) (2014), http://www.samhsa.gov/data/sites/default/files/NSDUH-DetTabs2014/NSDUH-DetTabs2014.htm#tab1-24b.

[11] *See* Fla. Stat. Ann. § 316.614(9) (West 1987).

[12] Fla. Stat. Ann. § 316.614(9) (West 2015).

[13] *Id.*

[14] *See* Jessie-Lynne Kerr, *New Florida Seat Belt Law Begins Tuesday in Florida*, JACKSONVILLE.COM, June 29, 2009, http://jacksonville.com/news/metro/2009-06-29/story/new_florida_seat_belt_law_begins_tuesday_in_florida (quoting Representative Audrey Gibson: "I do have an issue with racial profiling not only of blacks but also of brown minorities, and I understand that seat belts save lives," she said. "But I view this as a primary stop bill, not a primary seat belt law, so let's call it what it really is."]; Matthew L. Wald, *U.S. Presses States for Strict Seat Belt Laws,* N.Y. TIMES, Mar. 5, 2004, http://www.nytimes.com/2004/03/05/us/us-presses-states-for-strict-seat-belt-laws.html (quoting concerns of Florida Senate president James E. King, Jr. that primary enforcement of seatbelt requirements had led to racial profiling in Pennsylvania).

[15] Florida Highway Safety and Motor Vehicles Website, http://www.flhsmv.gov/resource-center/cabinet-and-legislature-reports/ (listing "Seat Belt Violation Reports" from 2005 to 2014).

[16] Department of Highway Safety and Motor Vehicles, Seat Belt Violation Data Collection 316.614(9), *F.S. Annual Report 2014.*, http://www.flhsmv.gov/html/pdf/sbv2014.pdf [hereinafter "FDHSMV 2014 Report").

[17] According to U.S. Census ACS/PUMS data, an estimated 14,943,584 people (Standard Error 17,866) in Florida were of driving age (aged 15 to 85 years old) and living in a household with access to at least one vehicle in 2014. Of that figure, an estimated 2,022,816 people (Standard Error 9,749) were non-Hispanic Blacks. Accordingly, non-Hispanic Blacks made up an estimated 13.5% of the 2014 Florida population of driving age and living in a household with access to at least one vehicle, with a 99.9% confidence interval of 13.5% to 13.6%. See Section V. Calculations.

[18] Department of Highway Safety and Motor Vehicles, Seat Belt Violation Data Collection 316.614(9), F.S. Annual Report 2011, http://www.flhsmv.gov/html/pdf/SBV2011.pdf [hereinafter "FDHSMV 2011 Report").

[19] The June 2014 Final Report sampled 165 randomly selected controlled roads and freeway exits across 15 counties. Observers recorded front seat drivers and outboard passengers' seat belt use, as well as their sex, age, race, and type of vehicle. FLA. DEP'T OF TRANSP., JUNE 2014 SEAT BELT USE IN FLORIDA: FINAL REPORT 8 (2014), http://www.floridaoprc.ce.ufl.edu/Document.asp?DocID=465 (last visited Jan. 16, 2016). FDOT observed that in April/May 2014, prior to the campaign, 89.6% of white people observed wore seat belts and 83.9% of Black people observed wore seat belts. *Id.* at 16.

[20] *Id.* at 16.

[21] NAT'L HIGHWAY TRAFFIC SAFETY ADMIN., OCCUPANT RESTRAINT USE IN 2013: RESULTS FROM THE NATIONAL OCCUPANT PROTECTION USE SURVEY CONTROLLED INTERSECTION STUDY 4 (2015), http://www-nrd.nhtsa.dot.gov/Pubs/812080.pdf. The NOPUS study was conducted by observing vehicle occupants at controlled intersections, and recording seat belt use for occupants 8 years of age and older in both front and rear seats. *Id.*

[22] When asked how often respondents wore seatbelts, 84 percent of Blacks reported using their seat belts "all of the time," as compared to 87 percent of Whites. NAT'L HIGHWAY TRAFFIC SAFETY ADMIN., 2007 MOTOR VEHICLE OCCUPANT SAFETY SURVEY, VOLUME 2: SEAT BELT REPORT 15 (2008), http://www.nhtsa.gov/DOT/NHTSA/Traffic%20Injury%20Control/Articles/Associated%20Files/810975.pdf. When the interviewers followed up this question by asking subjects when was the last time they did not wear a seat belt while driving, a number of respondents who had just reported "all of the time" use responded that the last time they did not wear their seat belt was yesterday or that very morning. *Id.* at 22. When respondents who conceded to not wearing their seat belt in the past day or week while driving were subtracted from the "all of the time" category, the usage rate among both blacks (77%) and whites (82%) declined, and the differential between the two groups increased to 5 percentage points. *Id.* at 23.

[23] A 2014 observational survey of seat belt use in Ohio found that Whites were belted 85.7% of the time, and African Americans were belted 80.9% of the time. Robert L. Seufert et al., *Observational Survey of Seat Belt Use in Ohio* 24 (2014), http://www.highwaysafetyoffice.ohio.gov/Reports/2014ObservationSurvey.pdf. A 2014 observational study in Rhode Island found that seat belt use "did not differ greatly by race." Katherine A. Raboin & Neil K. Chaudhary, *2014 Seat Belt Use in Rhode Island* 11 (2014), http://www.dot.ri.gov/documents/community/safety/2014_Seat_Belt_Usage.pdf. Among drivers, Whites were belted 86.3% of the time while African Americans were belted 85.2% of the time; among passengers, Whites were belted 88.4% of the time while African Americans were belted 85.5% of the time. Alexander Weiss, *Illinois Traffic Stop Statistics Act Report for the Year 2004*, NORTHWESTERN UNIV. CTR. FOR PUB. SAFETY, IL. DEP'T OF TRANSP., 30 (2005), http://www.idot.illinois.gov/Assets/uploads/files/Transportation-System/Reports/Safety/Traffic-Stop-Studies/2004/2004%20Illinois%20Traffic%20Stop%20Summary.pdf. In both studies, the researchers qualified their findings by noting that the observations for non-White passengers were limited to a small sample size.

[24] In observational studies, researchers are required to determine the race and ethnicity of drivers that are in motion. Aside from the general risk that perceptions of race are subjective, the speed at which observational observers must identify the race of subjects in motion creates an added layer of potential error. Self-reported data through questionnaires and interviews, may not reflect actual seat belt usage rates because drivers who do not use seat belts may be less likely to respond honestly, or respond at all. *See, e.g.*, WEISS, *supra* note 23 at 30.

[25] Fla. Stat. Ann. § 316.614(9) (West 2015).

[26] *Compare* Department of Highway Safety and Motor Vehicles, Seat Belt Violation Data Collection 316.614(9), *F.S. Annual Report 2007*, *with* Department of Highway Safety and Motor Vehicles, Seat Belt Violation Data Collection 316.614(9), *F.S. Annual Report 2014*.

[27] Department of Highway Safety and Motor Vehicles, Seat Belt Violation Data Collection 316.614(9), *F.S. Annual Reports 2005-2014*.

[28] Letter from Nusrat Choudhury, Staff Attorney, ACLU, to Police Chief Eric Ward, Tampa Police Department, (July 2, 2015) at 3 (on file with author).

[29] Letter from Kirby C. Rainsberger, Senior Assistant City Attorney, City of Tampa, to Nusrat Choudhury, Staff Attorney, ACLU, (July 20, 2015) at 2 (on file with author).

[30] U.S. Census Bureau; American Community Survey, American Community Survey 2014 1-year Estimate; Table DP05; generated by Nina Papachristou; using American FactFinder; http://factfinder2.census.gov (Jan. 19, 2016).

[31] The U.S. Census's 2014 1-year ACS/PUMS data does not provide a reasonable estimate of the race-specific resident driver population of the City of Tampa in 2014 as it did for Palm Beach, Orange, and Broward Counties due to a spatial mismatch between the territorial limits of the City of Tampa, in which TPD exercises law enforcement jurisdiction, and the Public Use Microdata Areas (PUMAs) from which ACS/PUMS data is drawn. Using the U.S. Census's TIGERweb mapping utility, we discovered that several of the PUMAs that include territory within the Tampa city limits also included sizable resident populations of immediately adjacent municipalities. As a result, PUMAs encompassing the territory of the City of Tampa fail to align closely with city limits and do not permit using ACS/PUMS data to estimate the race-specific population of resident drivers in Tampa.

[32] E-mail from Kimberlyn Duncan, Records Custodian/Supervisor, City of Miami Police Department to Nusrat Jahan Choudhury, Staff Attorney, ACLU, (July 28, 2015, 9:46 EST) (on file with author).

[33] The U.S. Census's 2014 1-year ACS/PUMS data does not provide a reasonable estimate of the race-specific resident driver population of the Duval County due to a spatial mismatch between the territorial limits of the county, in which the Jacksonville Sheriff's Office exercises law enforcement jurisdiction, and the relevant PUMAs from which 2011 1-year ACS/PUMS data is derived. As with the City of Tampa, the PUMA geographies relevant to Duval County fail to align closely with the county limits in a manner that would permit estimating the race-specific population of drivers in Duval County.

[34] U.S. Census Bureau; American Community Survey, American Community Survey 2011 1-Year Estimate; Table DP05; generated by Nina Papachristou; using American FactFinder; http://factfinder2.census.gov (Jan. 19, 2016).

[35] *Floyd v. City of New York*, 959 F. Supp. 2d 540, 557 (S.D.N.Y. 2013), *dismissed* (2d Cir. Sept. 25, 2013).

[36] *Florida Mandatory Seat Belt Laws*, Florida DMV Online Guide, http://www.dmvflorida.org/seat-belt-laws.shtml (last visited July 29, 2015); *see also* Fla. Stat. Ann. § 316.614 (8) ("Any person who violates the provisions of this section commits a nonmoving violation, punishable as provided in chapter 318."); Fla. Stat. Ann. § 318.18 (2) (listing penalty for nonmoving traffic violations).

[37] *See* Fla. Stat. Ann. § 318.15 (1)(a) ("If a person fails to comply with the civil penalties provided in § 318.18 within the time period specified . . . fails to enter into or comply with the terms of a penalty payment plan with the clerk of the court . . . fails to attend driver improvement school, or fails to appear at a scheduled hearing, the clerk of the court shall notify the Department of Highway Safety and Motor Vehicles of such failure within 10 days after such failure. Upon receipt of such notice, the department shall immediately issue an order suspending the driver license and privilege to drive of such person effective 20 days after the date the order of suspension is mailed . . . ."); *see also* Radley Balko, *The Criminalization of Poverty*, WASH. POST, May 23, 2014, https://www.washingtonpost.com/news/the-watch/wp/2014/05/23/the-criminalization-of-poverty/; Sam Sanders, *Study Finds the Poor Subject to Unfair Fines, Driver's License Suspensions*, NPR, Apr. 9, 2015, http://www.npr.org/sections/thetwo-way/2015/04/09/398576196/study-find-the-poor-subject-to-unfair-fines-drivers-license-suspensions.

[38] Rakesh Kochhar & Richard Fry, *Wealth Inequality Has Widened Along Racial, Ethnic Lines Since End of Great Recession* PEW RESEARCH CENTER, Dec. 12, 2014, http://www.pewresearch.org/fact-tank/2014/12/12/racial-wealth-gaps-great-recession/.

[39] Keith Morelli, *Tampa Police Reviewing Death of Diabetic Driver*, TAMPA BAY TIMES, Apr. 17, 2014, http://tbo.com/news/crime/tampa-police-reviewing-officers-in-death-of-diabetic-driver-20140417/.

[40] Michael S. Schmidt and Matt Apuzzo, *South Carolina Officer is Charged with Murder of Walter Scott*, N.Y. TIMES, Apr. 7, 2015, http://www.nytimes.com/2015/04/08/us/south-carolina-officer-is-charged-with-murder-in-black-mans-death.html (officer indicted for shooting Walter Scott after stopping him for a broken taillight); Richard Pérez-Peña, *University of Cincinnati Officer Indicted in Fatal Shooting of Driver*, N.Y. TIMES, July 29, 2015, http://www.nytimes.com/2015/07/30/us/university-of-cincinnati-officer-indicted-in-shooting-death-of-motorist.html?emc=edit_na_20150729&nlid=53860164&ref=cta&_r=0 (Samuel Dubose shot and killed by officer during traffic stop); *see, e.g.*, Jack Hitt, *Police Shootings Won't Stop Unless We Also Stop Shaking Down Black People*, MOTHER JONES (Sept./Oct. 2015), http://www.motherjones.com/politics/2015/07/police-shootings-traffic-stops-excessive-fines (discussing police violence during traffic stops).

[41] Jaeah Lee, *The Texas County Where Sandra Bland Died Is Fraught With Racial Tensions*, MOTHER JONES, Jul. 17, 2015, http://www.motherjones.com/politics/2015/07/texas-waller-county-sandra-bland-racial-tensions. Bland later died in custody. *Id.*

[42] Wesley Lowery, *A Disproportionate Number of Black Victims in Fatal Traffic Stops*, WASH. POST., Dec. 24, 2015, https://www.washingtonpost.com/national/a-disproportionate-number-of-black-victims-in-fatal-traffic-stops/2015/12/24/c29717e2-a344-11e5-9c4e-be37f66848bb_story.html.

[43] Report of Jeffrey Fagan, PhD, *Floyd v. City of New York*, No. 08 Civ. 01034 (SAS) 39 (S.D.N.Y. Oct. 15, 2010), http://ccrjustice.org/files/Expert_Report_JeffreyFagan.pdf (last visited Jan. 19, 2016).

[44] Police seized non-weapon contraband in only 1.8% of stops of Blacks and 1.7% of stops of Hispanics, whereas they did so in 2.3% of the stops of whites. Police seized weapons in only 1.0% of stops of Blacks and 1.1% of stops of Hispanics, whereas they did so in 1.4% of stops of whites. *See id.*; *Second Supplemental Report of Jeffrey Fagan, Ph.D.*, *Floyd v. City of New York*, No. 08 Civ. 01034 (SAS) at 35 (Nov. 29, 2012), http://www.ccrjustice.org/files/FaganSecondSupplementalReport.pdf.

[45] *Floyd v. City of New York*, 959 F. Supp. 2d 540, 561–63, 589, 667 (Aug. 12, 2013).

[46] Jeffrey Fagan, et. al, Final Report, An Analysis of Race and Ethnicity Patterns in Boston Police Department Field Interrogation, Observation, Frisk, and/or Search Reports (June 15, 2015), https://s3.amazonaws.com/s3.documentcloud.org/documents/2158964/full-boston-police-analysis-on-race-and-ethnicity.pdf ("[T]he analyses revealed that the percentage of Black and Hispanic residents in Boston neighborhoods were also significant predictors of increased FIO activity after controlling for crime and other social factors."); American Civil Liberties Union of Massachusetts & American Civil Liberties Union, Black, Brown and Targeted: A Report on Boston Police Department Street Encounters from 2007-2010 7–9 (October 2014), https://aclum.org/app/uploads/2015/06/reports-black-brown-and-targeted.pdf.

[47] American Civil Liberties Union of Massachusetts, Ending Racist Stop and Frisk, https://aclum.org/our-work/aclum-issues/racial-justice/ending-racist-stop-and-frisk/ (last visited Jan. 19, 2016).

[48] Alison Manning, *Boston Police Data Shows Black Men Were Stopped Most Often*, boston.com (Jan. 16, 2016), http://www.boston.com/news/local/massachusetts/2016/01/19/boston-police-data-shows-black-men-were-stopped-most-often/4eT2npQZnhVuASnQWWPOqN/story.html.

[49] American Civil Liberties Union of Illinois, Stop and Frisk in Chicago 6, 9 (March 2015), http://www.aclu-il.org/wp-content/uploads/2015/03/ACLU_StopandFrisk_6.pdf.

[50] American Civil Liberties Union of Illinois, *Stop and Frisk Settlement*, http://www.aclu-il.org/stop-and-frisk-settlement/ (last visited Jan. 19, 2016).

[51] At Temple University, Dr. Ralph B. Taylor is a professor in the Department of Criminal Justice, and a member of the Center for Security and Crime Science (affiliations provided for identification purposes only).

[52] *See* Lorie Fridell, *By the Numbers: A Guide for Analyzing Race Data from Vehicle Stops*, Police Executive Research Forum 10 (2005), http://www.justice.utah.gov/Documents/Research/Race/PERF%20by%20the%20Numbers.pdf; Lorie A. Fridell, *Understanding Race Data From Vehicle Stops: A Stakeholder's Guide*, Police Executive Research Forum 74 (2005), http://www.policeforum.org/assets/docs/Free_Online_Documents/Racially-Biased_Policing/understanding%20race%20data%20from%20vehicle%20stops%20-%20a%20stakeholders%20guide%202005.pdf.

[53] *See* Fridell, *Understanding Race Data From Vehicle Stops: A Stakeholder's Guide*, supra note 52 at 72–74.

[54] *See* Fridell, *Understanding Race Data From Vehicle Stops: A Stakeholder's Guide*, *supra* note 52 at 7 (discussing the deficiency of using race-specific resident population figures as a benchmark against which to understand police stop data).

[55] *See, e.g.*, Weiss, *supra* note 23 , at 24–33; (discussing considerations relevant in developing an appropriate benchmark for analyzing racial disparities in traffic stops); *see also* Fridell, *By the Numbers: A Guide for Analyzing Race Data from Vehicle Stops*, *supra* note 51, at 7–11; 75–88.

[56] Florida Highway Safety and Motor Vehicles, *Cabinet and Legislature Reports & Statistics*, http://www.flhsmv.gov/resource-center/cabinet-and-legislature-reports/ (listing "Seat Belt Violation Reports" from 2005-2014) (last visited Dec. 7, 2015).

[57] FDHSMV 2014 Report, *supra* note 26.

[58] FDHSMV 2011 Report, *supra* note 18.

[59] U.S. Census Bureau, American Community Survey (ACS), *What Is the American Community Survey?*, https://www.census.gov/programs-surveys/acs/about.html (last visited Jan. 19, 2016).

[60] U.S. Census Bureau, American Community Survey (ACS), *Public Use Microdata Sample (PUMS) Documentation*, https://www.census.gov/programs-surveys/acs/technical-documentation/pums.html (last visited Jan. 19, 2016).

[61] *Id.*

[62] U.S. Census Bureau; American Community Survey, 2014 1-Year Public Use Microdata Sample Estimates; generated by Ralph B. Taylor; using American FactFinder; http://factfinder2.census.gov (Jan. 2016); U.S. Census Bureau; American Community Survey, 2011 1-Year Public Use Microdata Sample Estimates; generated by Ralph B. Taylor; using American FactFinder; http://factfinder2.census.gov (Jan. 2016).

[63] U.S. Census Bureau, Geography, *Public Use Microdata Areas (PUMAs)*, https://www.census.gov/geo/reference/puma.html (last visited Jan. 8, 2016) ("PUMAs were initially adopted by the ACS because they were the only wall-to-wall geographic entities below the state level that met the minimum population threshold of 65,000 required to disseminate ACS 1-year period estimates.").

[64] U.S. Census Bureau, TIGERweb, *TIGERweb Application*, http://tigerweb.geo.census.gov/tigerwebmain/TIGERweb_apps.html (last visited Jan. 8, 2016).

[65] The U.S. Census Bureau's geographic definition for PUMAs changed between the 2000 and 2010 census. U.S. Census Bureau, Geography, *Summary of Changes to the PUMA Criteria and Guidelines from 2000 to 2010*, https://www.census.gov/geo/reference/puma_changes.html (last visited Jan. 8, 2016). The 2010 PUMA codes ("PUMA2K12") were used to identify the PUMAs corresponding to Palm Beach County, Orange County, and Broward County in order to permit estimation of the number of race-specific residents of driving age and living in a household with access to a vehicle in each county from the 2014 1-year ACS/PUMS data files. The 2000 PUMA codes ("PUMA2k") were used to obtain 2011 1-year ACS/PUMS estimates for the number of race-specific residents of driving age and living in a household with access to a vehicle in Escambia County because the 2010 PUMA codes did not go into effect until 2012.

[66] This report uses the term "accurate" to mean appropriately taking into account sampling errors; it does not consider non-sampling errors.

[67] U.S. Census Bureau, *PUMS Accuracy of the Data* 12 (2014), http://www2.census.gov/programs-surveys/acs/tech_docs/pums/accuracy/2014AccuracyPUMS.pdf ("Replicate weights can be used to approximate what we refer to as direct standard errors. Standard errors for the published ACS tabulations are calculated using a replicate weights method. Direct standard errors will often be more accurate than generalized standard errors, although they may be more inconvenient for some users to calculate.").

[68] D.R. Judkins, *Fay's method for variance estimation*, Journal of Official Statistics 6: 223–239 (1990); P.J. McCarthy, *Replication: An approach to the analysis of data from complex surveys.*, Vital and Health Statistics, series 2. Hyattsville, MD: National Center for Health Statistics (1966).

[69] Stata. *Survey Data Reference Manual: Release 14*. College Station, TX: Statacorp (2015).

EXHIBIT B

NUSRAT CHOUDHURY
STAFF ATTORNEY
RACIAL JUSTICE PROGRAM
T/212.519.7876
NCHOUDHURY@ACLU.ORG

July 2, 2015

Transmitted via UPS

Police Chief Rodolfo Llanes
Miami Police Department
400 NW 2nd Avenue
Miami, Florida 33128

AMERICAN CIVIL LIBERTIES UNION FOUNDATION
NATIONAL OFFICE
125 BROAD STREET, 18TH FL.
NEW YORK, NY 10004-2400
T/212.549.2500
WWW.ACLU.ORG

Re: *Request for Public Records*

Chief Llanes,

The American Civil Liberties Union and the American Civil Liberties Union Foundation (collectively "ACLU")[1] and the American Civil Liberties Union of Florida, Inc. ("ACLU of Fla."),[2] submit this request under the Florida Public Records Law for Miami Police Department ("MPD") records compiled pursuant to Florida's Safety Belt Law, Fla. Stat. Ann. § 316.614(9).

Florida's Safety Belt Law requires "each law enforcement agency" to "adopt departmental policies to prohibit the practice of racial profiling" and to record the race and ethnicity of all individuals cited pursuant to this statute.[3] "All law enforcement agencies must maintain such information" and share it on an annual basis with the Florida Department of Highway Safety and Motor Vehicles ("the Department").[4] The Department publishes this data on its website in order to "provide lawmakers, partners and

[1] The American Civil Liberties Union Foundation is a 501(c)(3) organization that provides legal representation free of charge to individuals and organizations in civil rights and civil liberties cases, educates the public about the civil rights and civil liberties implications of pending and proposed state and federal legislation, provides analyses of pending and proposed legislation, directly lobbies legislators, and mobilizes its members to lobby their legislators. The American Civil Liberties Union is a separate non-profit, 501(c)(4) membership organization that educates the public about the civil liberties implications of pending and proposed state and federal legislation, provides analyses of pending and proposed legislation, directly lobbies legislators and mobilizes its members to lobby their legislators.
[2] The American Civil Liberties Union of Florida is an ACLU affiliate and seeks to protect the civil liberties and civil rights of all Florida residents.
[3] Fla. Stat. Ann. § 316.614(9).
[4] *Id.*

stakeholders, the media, and citizens with important facts and valuable information related to public safety and motor services."[5]

A review of the Department's publicly available annual reports on Seat Belt Violation Data Collection indicates that the Miami Police Department did not report racial or demographic information regarding seat belt citations to the Department for the years 2005, 2009, 2010, 2012, and 2013.

The regular collection and publication of the information required by the Florida Safety Belt Law permits data analysis to determine whether the law may be selectively enforced against racial and ethnic minorities. This reporting requirement reflects concerns expressed by legislators and the public that traffic laws in general, and safety belt laws in particular, may facilitate racial profiling.[6]

The ACLU and ACLU of Fla. therefore file this request under the Florida Public Records Law, Chapter 119, Florida Statutes, for copies of: (1) all MPD policies concerning biased policing and racial profiling, and (2) all records and data maintained and/or shared by MPD with the Department pursuant to Fla. Stat. Ann. § 316.614 (9) for the Department's 2005, 2009, 2010, 2012, 2013 annual reports on Seat Belt Violation Data Collection.

REQUEST FOR PUBLIC INTEREST FEE WAIVER

The ACLU and ACLU of Fla. request a waiver of document search, review, and duplication fees on the grounds that disclosure of the requested records will "promote public awareness and knowledge of governmental actions in order to ensure that governmental officials and agencies remain accountable to the people." *Forsberg v. Housing Authority of the City of Miami Beach,* 455 So. 2d 373, 378 (Fla. 1984).

As discussed above, MPD is required by law to maintain the policies and to collect and report the data sought in this records request. Numerous news accounts reflect considerable public interest and debate regarding the possibility that safety belt laws may be selectively enforced against people of color.[7] Disclosure of the requested records will contribute significantly to public understanding of whether the MPD engages in Florida Safety Belt Law

---

[5] Florida Highway Safety and Motor Vehicles Website, http://www.flhsmv.gov/resource-center/cabinet-and-legislature-reports/ (listing "Seat Belt Violation Reports" from 2005-2013).

[6] *See* Jessie-Lynne Kerr, *New Florida Seat Belt Law Begins Tuesday in Florida*, Jacksonville.com, Jun. 29, 2009, *available at* http://jacksonville.com/news/metro/2009-06-29/story/new_florida_seat_belt_law_begins_tuesday_in_florida (quoting Representative Audrey Gibson); *New Seat Belt Law Set to Take Effect in Florida*, wmnf.org, Jun. 10, 2009, http://www.wmnf.org/news_stories/7302 (noting opposition of American Civil Liberties Union of Florida to passage of Florida Safety Belt Law due to concerns that "expanding the authority of police to give them more grounds to pull people over could lead to racial profiling"); Matthew L. Wald, *U.S. Presses States for Strict Seat Belt Laws,* N.Y. Times, Mar. 5, 2004, *available at* http://www.nytimes.com/2004/03/05/us/us-presses-states-for-strict-seat-belt-laws.html (quoting Senate president James E. King, Jr.); Larry Copeland, *Dip in Seat Belt Use Brings Push for Laws*, USA Today, Dec. 1, 2006, *available at* http://usatoday30.usatoday.com/news/nation/2006-12-01-seatbelts_x.htm.

[7] *See supra* note 6.

enforcement practices that compromise the rights of Florida citizens to equal protection of the law and freedom from unreasonable searches and seizures.

INFORMATION ABOUT THIS REQUEST

As required by law, please acknowledge that you have received this public records request and provide an estimated timeframe in which you believe that you will be able to produce the requested records. *See* § 119.07(1)(c), Fla. Stat. ("A custodian of public records and his or her designee must acknowledge requests to inspect or copy records promptly and respond to such requests in good faith.").

If you are unable or refuse to provide part or all of the requested public records, please explain in writing and with particularity the reasons for not providing the requested public information in its entirety, as required by Section 119.07(1), Florida Statutes. If any exemption that you assert applies to only a portion of the records (as opposed to the entire record), please redact the portion you claim is exempt, provide copies of the remainder of the record or records, and detail your reasons for the modification as required by Section 119.07(1), Florida Statutes.

We request that you produce responsive materials in their entirety, including all attachments, appendices, enclosures and/or exhibits. To the extent that a response to this request would require you to provide multiple copies of identical material, the request is limited so that only one copy of the identical material is requested.

If any of the requested records are maintained in a common-format electronic-medium, please provide these records in such native electronic medium and not in paper form. For purposes of this request, common electronic-formats include (1) American Standard Code for Information Interchange ("ASCII"), (2) files formatted in one of the Microsoft Office Suite, Corel Suite, OpenOffice Suite, or IBM's Lotus Suite applications (.doc, .xls, .ppt, .mdb, .wpd, etc.), (3) a text file (.txt), or (4) hypertext markup language (.html) or similar web page language. This is the preferred format. However, if any of the requested records are only maintained or only can be produced as electronic images, for example a portable document format (.pdf), (n.b., it is possible to print documents into a PDF format either by using Acrobat Professional or a free PDF drive like pdf995.com), then as an alternative, we request this electronic-image format. *See* § 119.01(2), Fla. Stat.

Section 119.07(1)(h-i), Florida Statutes, prohibits the destruction of any of the requested records, including any which you may claim are exempt, for a period after the date on which you receive this written request. If we institute a civil action to enforce the Public Records Law with respect to the requested records, you may not dispose of the records except by court order after notice to all affected parties.

* * *

If you have any questions or need further information about the nature of the requested records, please contact Nusrat Choudhury at 212-519-7876. Please furnish all applicable records to:

Nusrat Choudhury
American Civil Liberties Union
125 Broad Street, 18th Floor
New York, NY 10004

Thank you for your prompt attention to this request.

Sincerely,

Nusrat Choudhury
American Civil Liberties Union
Racial Justice Program

Nancy Abudu
American Civil Liberties Union of Florida

EXHIBIT C

From: Duncan, Kimberlyn [mailto:Kimberlyn.Duncan@miami-police.org]
Sent: Tuesday, July 28, 2015 9:46 AM
To: Nusrat Jahan Choudhury
Subject: PRR W003953-072315

Good morning,

Please review the attached document and submit payment.

Please be advise that there are no record pertaining to annual reports on Seat Belt Violation Data Collection per your request.

Note	Created	Modified
We do not have seat belt violation data for the dates requested.	7/27/2015 10:58:00 AM by Ronald Lherisson	7/27/2015 10:58:00 AM by Ronald Lherisson

Thank you

Kimberlyn Duncan
Records Custodian/Supervisor
400 NW 2nd Avenue
Miami, FL 33128
Phone: 305-603-6478
Fax: 305-579-6635
Email: Kimberlyn.Duncan@miami-police.org