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# BEYOND THE TICKET



Recommendations for a More Equitable Traffic  
Enforcement System





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Hawai'i Appleseed is committed to a more socially and economically just Hawai'i, where everyone has genuine opportunities to achieve economic security and fulfill their potential. We change systems to address inequity and foster greater opportunity by conducting data analysis and research to address income inequality, educating policymakers and the public, engaging in collaborative problem solving and coalition building, and advocating for policy and systems change.

The work of Hawai'i Appleseed is about people. The issues we work on—housing, food, wages, mobility, the state budget and taxation, and racial and indigenous equity—are important because they ensure people have access to shelter, sustenance, and the means to survive and thrive individually and collectively. Addressing these issues requires the knowledge and expertise of the people that have first-hand experience and live with the adverse consequences of our flawed systems.

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# GLOSSARY OF TERMS

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**Traffic citation**, also colloquially known as a traffic ticket, describes the legal document issued by law enforcement to a driver for violating traffic laws. Citations typically require the recipient to either pay a fine, appear in court, or take other specified actions, depending on the violation.

**Traffic fines and fees** describe money-owed for traffic citations. While these terms are often lumped together, they do have slightly different meanings. Traffic fines are monetary penalties imposed for violations of traffic laws, while fees are charges that are assessed for services related to traffic offenses, such as court costs. The key difference is that fines are punitive in nature, where fees are typically administrative charges associated with handling the violation.

**Traffic crime** describes serious violations of traffic laws that may result in criminal charges, such as driving under the influence (DUI) or vehicular manslaughter. These offenses often carry more severe penalties, such as incarceration, compared to traffic infractions.

**Traffic infraction** describes a minor violation of traffic laws that is typically punishable by a fine rather than criminal penalties.

**Traffic violation** describes any breach of laws or regulations governing vehicle operation on public roads. Violations can range from minor infractions to serious crimes and may lead to fines, points on a driver's record, or legal repercussions.

**Minor or non-serious traffic infractions** describe a traffic violation that does not impose public safety risks, such as a dead taillight or failing to signal. These citations usually result in fines but do not typically carry criminal charges.

**Criminal-legal system** describes the framework of laws, institutions, and processes established to maintain and enforce laws. It includes law enforcement agencies, courts, and correctional facilities. Increasingly this term is being used in place of the "criminal justice system", recognizing that instead of advancing justice, our current system has harmed many communities.

# EXECUTIVE SUMMARY

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**EACH DAY** in the United States, an estimated 50,000 Americans are pulled over by the police while driving, making traffic stops the single most common way that people interact with the criminal-legal system.<sup>1</sup> It's not just drivers. While there is far less data on interactions between police and other, non-driving roadway users, we know that pedestrians and bicyclists also interact with police in most cities.

Our current system of traffic enforcement gives out harsh penalties for offenses that pose little risk to the public. In this report, Hawai'i Appleseed refers to these offenses as "minor" or "non-serious" infractions. The focus on these minor offenses means less attention and resources are given to shifts in street design, which do a far better job of improving roadway safety and advancing transportation equity.

Roadway safety advocates have long championed police enforcement as a tool to hold dangerous drivers accountable. However, there is growing recognition that this approach is ineffective at improving roadway safety. It can also lead to cycles of debt, damaging court records and, in some cases, violent interactions with police, arrests and incarceration. National data shows that communities of color bear the brunt of these impacts, particularly violent policing.<sup>2</sup>

This report examines the negative impacts of traffic enforcement, the prevalence of minor traffic violations in Hawai'i, and how traffic enforcement is funded. The report includes recommendations for a more equitable approach to traffic enforcement, including:

- Requiring the police to collect demographic data for all stops, not just arrests;
- Eliminating unnecessary enforcement of pedestrians and bicyclists;
- Reclassifying certain minor traffic infractions as "secondary violations" that cannot be used as pretextual stops;



- Automatically sealing traffic infraction records when cases are closed;
- Creating a fines/fees system that is income-based instead of relying on flat fees; and
- Exploring the establishment of non-police first responder teams whose mission is traffic and road safety, not criminal law enforcement.

To inform this policy report, the team relied upon three key research methodologies: review of existing literature and studies; review of traffic citations in Hawai'i; and interviews with individuals who have received traffic citations in Hawai'i.

An interactive story map complements the report, showcasing the unequal enforcement of jaywalking laws and the stories of those impacted by traffic enforcement. The storymap is publicly accessible and is available at [hiappleseed.org/shifting-focus-safe-roads-not-tickets](https://hiappleseed.org/shifting-focus-safe-roads-not-tickets).

# IMPACTS OF TRAFFIC ENFORCEMENT

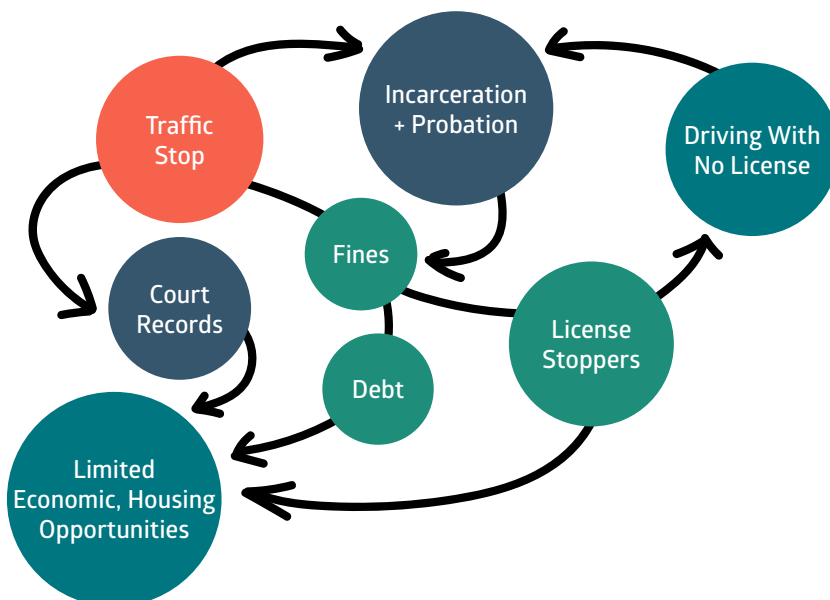
Driving can have serious consequences for people both inside and outside of vehicles. According to the U.S. Department of Transportation, there were more than 42,000 traffic fatalities in the United States in 2022.<sup>3</sup> As such, all drivers hold an immense responsibility, and serious traffic offenses that have the possibility of causing harm—such as speeding and intoxicated driving—warrant some level of enforcement.

However, equitable traffic enforcement requires a clear distinction to be made between serious violations, and minor, or non-serious infractions. When used in the report, these terms mean traffic infractions that pose little to no threat to public safety. Examples include failing to renew a vehicle registration or crossing the road without using a crosswalk. While technically infractions, these behaviors do not significantly endanger other road users.

In some cases, minor traffic infractions carry heavier penalties than serious traffic violations, and can further entrench individuals within cycles of poverty and criminalization. The disconnect between certain traffic laws and public safety is exemplified in a statement made by Randy Petersen, a former police officer in Texas, who stated:

*“During my 21 years as a police officer ... I never found an air freshener dangling from a rearview mirror to be the cause of highway carnage ... much of the traffic code criminalizes things that do not contribute much to roadway safety, which is almost universally the reason given for their enforcement.”<sup>4</sup>*

**Figure 1.** How Traffic Stops Can Lead to Cycles of Poverty



**Figure 1:** Traffic stops can catalyze a web of negative impacts that affect individuals’ social and economic wellbeing. While traffic fines and court records are the most common outcomes of traffic enforcement, for some, routine traffic stops can also lead to suspended licenses, probation, and even incarceration. These outcomes are often interdependent, and can lead to further cycles of criminalization.





## **Police Interactions, Pretextual Stops, and Violence**

At a minimum, most people experience some form of stress as a result of traffic stops. We heard this countless times during our interviews. For example, one interviewee described feeling “vulnerable and powerless” when stopped by a police officer for riding a bike on a sidewalk.

However, in some cases, a minor traffic violation can be used by police as an opportunity to investigate more serious crimes, such as possession of drugs. This is referred to as a ‘pretextual’ stop. Police often reason that pretextual stops are needed to root out more dangerous crime, however, according to one study only 1 percent of traffic stops yield a search where contraband is found.<sup>5</sup>

Implicit biases can play a large role in pretextual stops. For example, according to one study, Black drivers are searched about 1.5 to 2 times as often as white drivers, while they are less likely to be carrying drugs, guns, or other illegal contraband, compared to their white peers.<sup>6</sup>

The consequences of pretextual stops can be profound leading, in some cases, to fines, searches and arrests. Moreover, when minor traffic stops lead to more serious situations with police officers, individuals are prone to become defensive or anxious. This behavior can be misinterpreted by officers and in some cases, this can escalate into confrontations.

While there are few local examples of pretextual traffic stops turning violent, there are countless national examples of high-profile incidents that demonstrate how routine traffic stops can also result in physical altercations or, in extreme cases, fatalities. These national incidents also shed light to the fact that communities of color have disproportionately borne the brunt of such violence.

One prominent example includes Philando Castile who was shot and killed by police in St. Paul in 2016 after being pulled over for a broken taillight.<sup>7</sup> This was one of the many interactions that Philando Castile had with the police. In the 13 years prior to the shooting, Castile had been stopped by police 49 times for minor traffic infractions, most of which were dismissed.<sup>8</sup>

Tragically, Castile is one of many who have been killed during traffic stops. Nationally, between 2017 and 2021, an estimated 400 drivers and passengers—none of whom were stopped for a violent crime and none of whom were armed—were killed by police. Black individuals make up a disproportionate number of the unarmed drivers killed by police.<sup>9</sup>

## Court Records

Because traffic citations are filed by the state court in Hawai'i, an individual's citations record is available publicly online via eCourt Kokua.<sup>10</sup> Even if the traffic ticket is paid, the citation remains public information unless the defendant makes a request to the court to expunge and/or seal the record. Since most minor and non-serious traffic infractions are considered civil cases, they cannot be expunged from a person's public record, as expungement can only occur for criminal cases. Examples of criminal traffic misdemeanors include intoxicated driving, reckless driving, and driving without a license.

Traffic cases are expunged and/or sealed in Hawai'i on a case-by-case basis. Based on information provided on the Hawai'i Court Records website, requests to seal or expunge traffic cases are typically only granted if the case was acquitted, the charges were dismissed, or the conviction was overturned.<sup>11</sup> The length of time that traffic citations stay on a person's record vary state by state. Some states allow drivers to attend traffic school in exchange for having violations removed from their driving record.

The evergreen nature of traffic court records can have negative implications as sometimes eCourt Kokua is used by employers and landlords to conduct background checks on prospective applicants. This can also impact a person's ability to receive affordable car insurance. Many individuals interviewed for this report shared that they had paid their traffic citations, primarily so that they would not show up on their record, believing the citations would be removed from the public record once the citation had been paid.

## Fines and Debt

Unpaid tickets are typically sent to debt collectors, which can lead to damage to an individual's credit score. Debt collectors can also add collection fees and interest to the original ticket amount, which can make it even more challenging to pay the ticket off. If left unpaid, debt can lead to legal consequences (such as potential court appearances and wage garnishment), difficulty in obtaining government services (such as vehicle registration), as well as negative impacts to employment and housing opportunities, as some employers and landlords conduct credit checks as part of the application process.

Traffic fines can exacerbate economic hardship, pushing families deeper into debt and making it more difficult for them to meet basic needs. For example, a 2018 Alabama Appleseed report found that 38 percent of people with fines for violations such as low-level vehicle infractions and non-payment of exorbitant court fees ended up committing more serious crimes, such as selling drugs, illegal sex work, or robbery, to raise the needed money.<sup>12</sup> This reflects a troubling cycle where minor infractions can escalate into more serious criminal behavior, driven by financial desperation.

## License Stoppers

When a person does not pay their traffic ticket, a "stopper" can be put on a person's driving or car record, which stops the person from obtaining or renewing their license or car registration.<sup>13</sup> In 2020, the American Civil Liberties Union (ACLU) estimated that a staggering 38 percent of Hawai'i drivers (358, 067 people) had a stopper on their license or car registration. According to *The Washington Post*, compared to other states, in 2017 Hawai'i had among the highest percentage of its over 18 population with suspended license for debt or related reasons.<sup>14</sup>

Removing a person's ability to drive imposes mobility barriers, making it more difficult to access basic services, and travel to school or work. This is particularly true in Hawai'i, where an estimated 67 percent of workers commute by driving alone.<sup>15</sup> Given the economic importance of driving to many residents, some people with license stoppers choose to continue to drive, availing themselves to further criminal penalties for driving without a license.

## ENFORCEMENT IMPACTS



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In 2020, the ACLU advocated for reform to Hawai'i's laws regarding license stoppers, resulting in the passage of Act 59 (2020).<sup>16</sup> Under this law, any traffic citation issued from November, 2020 onward does not generate license stoppers. However, the fines for these traffic citations can still be sent to collection agencies if not paid, and the citation fines still remain on a person's record.

Those who had license stoppers from traffic infraction that occurred prior to November 2020 may request for the court to lift their stopper. Notably, this reform only applies to civil traffic citations. License stoppers can still be applied when fees for criminal traffic misdemeanors go unpaid. This includes driving without a license, which in many cases occurs due to the presence of a license stopper.

### Probation and Incarceration

According to the Prison Policy Institute, as of 2023 there were nearly 24,000 Hawai'i residents incarcerated or under community supervision as of 2023.<sup>17</sup> Moreover, an estimated 15,000 different people are admitted to Hawai'i's jails each year.<sup>18</sup> The state's combined jail and prison population has increased by 670 percent over the last four decades.<sup>19</sup> Hawai'i, along with the rest of the United States, locks up a higher percentage of its residents than almost any other democratic country on Earth.<sup>20</sup>

While national data indicates that a small percentage of the incarcerated population were arrested solely for traffic crimes, it is unclear how prevalent pretextual traffic stops are in sending individuals to jail and prison.



# Lessons from Impacted Individuals

To better understand the negative impacts caused by traffic enforcement, we interviewed people who have received citations for jaywalking and other minor traffic infractions.

## Key Takeaways from Interviews

- A majority of interviewees were immigrants and/or transplants to Hawai'i, and many were not aware of Hawai'i's unique traffic laws, particularly laws pertaining to pedestrians and bicyclists.
- Many interviewees were filled with a deep sense of shame and guilt about being cited.
- Over half of interviewees dealt with financial hardship due to citation fees.
- A recurring emotion interviewees felt during police encounters was fear and anxiety of possible escalation.
- Most interviewees said they paid their traffic ticket out of fear of it tarnishing their legal record, though most did not know that traffic tickets remain on the record even after being paid.
- Interviewees wished for more awareness of local traffic laws and that there were less severe consequences for minor traffic infractions.

## Common Stories We Heard



### Jaywalking to Save Time:

Mark was running late for a meeting and the pedestrian crossing signal was taking too long to change, so he decided to cross the street during the “Don’t Walk” signal to save time. However, an officer stopped him and issued a citation for jaywalking. Mark was aware of the law but didn't think the laws were strictly enforced, especially since he was not interfering with traffic. He felt anxious, confused, and defensive during the police encounter. He also felt disappointed with himself for not being more careful.

After receiving the ticket, Mark decided to pay the fine online to avoid the hassle of going to court. He also didn't want the ticket to hinder his traffic record, though he didn't know that the citation would remain on his record, even after it was paid. The ticket was an extra challenge for Mark, forcing him to rearrange his budget to accommodate the fine.



### Forgetting To Renew a Vehicle Registration:

Jenny was on her way to work when she was pulled over by the police. After Jenny provided her license, registration, and insurance, the police officer found that her vehicle registration was three months expired. Busy with work and taking care of her children, Jenny had forgotten to renew her vehicle registration. She was ashamed and confused about what she needed to do, and had to speak to another officer for guidance. Jenny completed the necessary tasks to renew her registration, but it took her nearly a month. She was left with a financial hardship that negatively impacted her family.



## Funding Traffic Enforcement

Traffic enforcement is primarily funded through county general funds, which includes revenue from property taxes, local government taxes, and state funding allocations. Additional resources are provided by federal grants. A key distributor of this federal funding is the National Highway Traffic Safety Administration (NHTSA). To receive these funds, the Hawai'i Department of Transportation (HDOT) must submit an annual highway safety plan outlining efforts to reduce traffic fatalities through education and police enforcement, as well as an annual report summarizing the outcomes of its efforts.

While the NHTSA funds generally support enforcement of more serious traffic crimes, such as speeding and driving under the influence (DUI), in Hawai'i these funds are also provided to the Honolulu Police Department (HPD) to carry out overtime enforcement of pedestrian and bicycle violations. For example, in federal fiscal year (FFY) 2020, HPD documented 6,905 pedestrian and bicycle citations, 2,258 of which were grant-funded.<sup>21</sup>

Use of these federal funds has come under recent scrutiny. In 2024, the ACLU of Hawai'i filed a lawsuit against HPD claiming that the agency had used DUI check points to carry out unlawful arrests, as a means to justify receipt of federal grant money.<sup>22</sup> In a letter to HPD, the ACLU Hawai'i documents that in 2022 and 2023 there were at least 70 individuals who blew 0.000 and were still arrested for DUI by HPD officers.<sup>23</sup>

At a national-level, advocates are calling on the U.S. Department of Transportation to hold police agencies accountable to performing effective and equitable enforcement. To achieve this, the Center for American Progress notes that it is important for data collection and performance metrics to move beyond just the number of traffic stops and citations, and also include demographics of individuals stopped by police, and incident-level characteristics of traffic stops.<sup>24</sup>



# MINOR TRAFFIC VIOLATIONS IN HAWAI‘I

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Traffic laws vary from jurisdiction to jurisdiction. In Hawai‘i, the state traffic code provides a baseline of traffic laws that all roadway users must follow. County governments can impose additional traffic regulations. Notably, while county governments generally do not have the authority to create regulations that contradict with the state traffic code, the level to which certain traffic laws are enforced can differ greatly between counties.

The following discussion of traffic violations in Hawai‘i only includes examples of minor violations found in the state traffic code. It is not comprehensive of all minor traffic infractions, and does not include county-specific regulations. While the minor vehicle, pedestrian, and bicycle-related violations discussed in the following section differ greatly in description and penalties, the common thread they share is that they pose minimal impact to public safety.

While we do not know the full extent to which these minor traffic violations are enforced in Hawai‘i, according to one national study, more than 46 percent of traffic stops in the U.S. are for minor technical violations.<sup>25</sup>

## MINOR VIOLATIONS

### Minor Vehicle Violations

The majority of non-serious driving infractions in Hawai'i relate to vehicle operation, maintenance and compliance. For example, the operation of a vehicle or moped without a certificate of inspection (HRS§286-25) can result in a fine of up to \$100. Individuals with noisy or altered motorcycle/moped mufflers can receive similar penalties. Steeper penalties can occur for driving with tinted windows (HRS§291-21.5), and playing music too loudly (HRS§342F-9).

Penalties increase exponentially when vehicle registration or licensing is involved. While most minor traffic violations discussed in this report are categorized as civil traffic violations in Hawai'i, the act of driving without a license can carry criminal penalties.

Hawai'i has among the strictest laws in the nation for driving without a license, which for a first-time offense can include up to 30 days in jail and/or a fine up to \$1,000.<sup>26</sup> Penalties were also recently increased for multiple offenses. Under Act 212 (2024), driving without a valid license can now result in a Class C felony, if the offenses occurred within 5 years of each other.<sup>27</sup>

Hawai'i law does not currently distinguish between individuals driving with an expired license (i.e., those who have previously passed driving licensure but have not properly renewed their license) and individuals who have no previous driving training and/or licensure. This report recognizes the latter as a serious traffic offense, but the former as a minor offense. This is based on the understanding that some individuals cannot renew their license due to traffic fines and fees, or in some cases, forget to renew their license on time.

### Pedestrian Violations

There are numerous violations in Hawai'i that can penalize pedestrians for how, when, and where they cross the road. Generally these are referred to as jaywalking laws.

Jaywalking is typically understood as the act of crossing the street outside of a crosswalk or against the don't-walk sign. However, in Hawai'i, jaywalking laws include a confusing set of violations such as crossing the street on the count-down timer (HRS§291C-33), disobeying the instructions of a traffic-control device (HRS§291C-71), and not using the right half of crosswalks (HRS§291C-75).

As discussed in Hawai'i Appleseed's 2024 "Freedom to Walk" report, law enforcement in Hawai'i is heavy-handed toward jaywalking. For example, from 2018 to 2023, there were over 5,000 jaywalking tickets given per year on average (not including tickets given to juveniles).<sup>28</sup> In comparison, data shows that 9,833 jaywalking citations were issued across Washington state from 2000 to 2023, which averages about 428 citations per year.<sup>29</sup> This means that only six jaywalking citations are given for every 100,000 people in Washington state. Comparatively, a staggering 349 jaywalking citations are given for every 100,000 people in Hawai'i.

### Bicycle Violations

Similar to pedestrians, bicyclists can also be penalized for how they navigate the roadway. For example, bicyclists can be fined for riding on the sidewalks in business districts (HRS§291C-148(b)) or improperly riding using roadways and bikeways (HRS291C-145).

Additionally, bicyclists can be penalized for missing a bicycle lamp and other equipment (HRS§291C-147), having an unregistered bicycle (HRS§249-14), and defacing a bicycle's serial number (HRS§293-1).



# Hawai'i's Unequal Enforcement of Jaywalking Laws

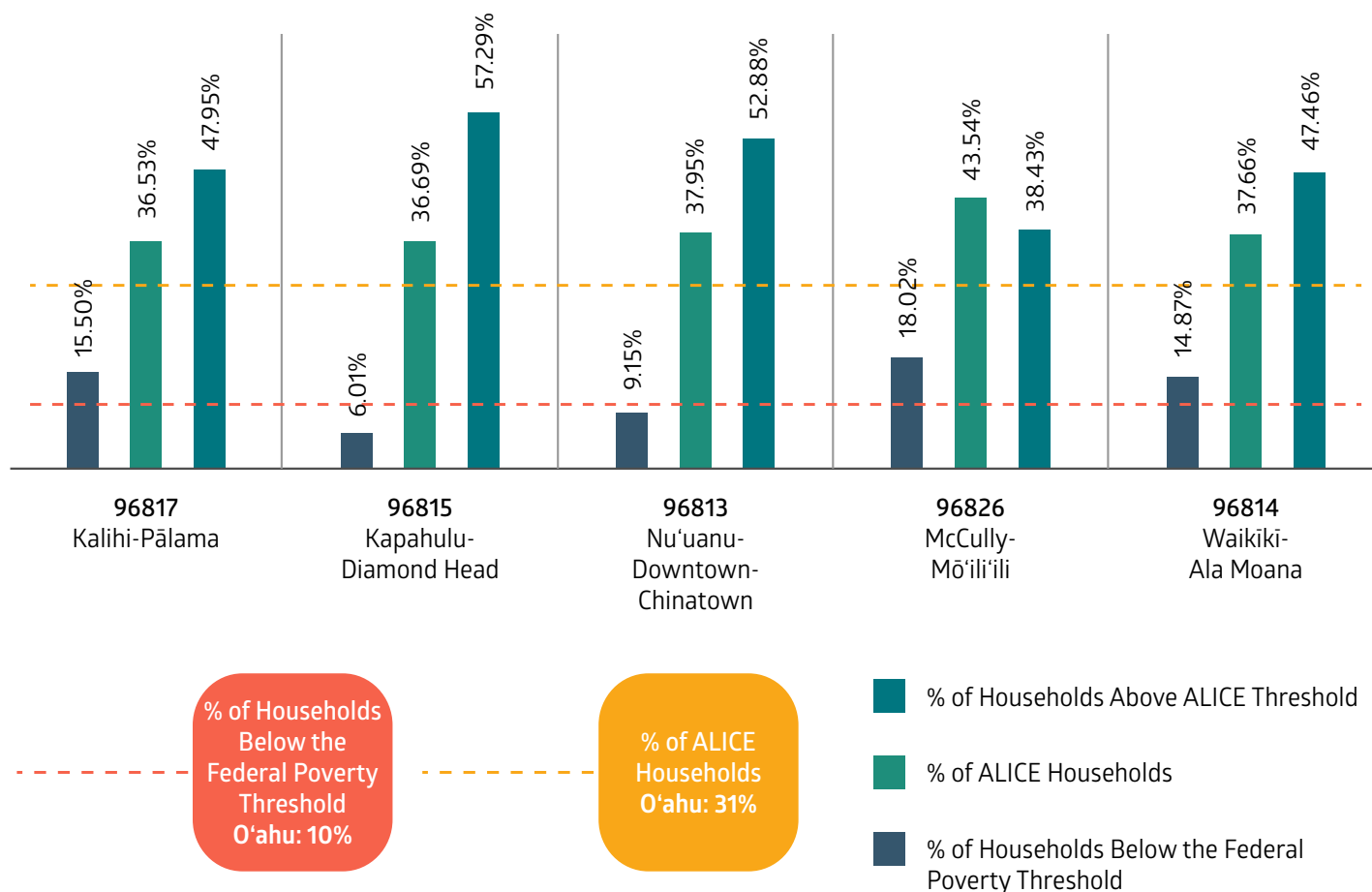
Hawai'i Appleseed recently mapped the location of jaywalking citations given in Hawai'i (2018 to 2023). We found that nearly all tickets (over 99 percent) were given out by HPD on the island of O'ahu.

Generally speaking, jaywalking tickets given on O'ahu were concentrated in densely populated, low-income areas. For example, the top five zip codes in Hawai'i with the highest per capita number of jaywalking tickets are 96814 (Waikiki-Ala Moana), 96815 (Kapahulu-Diamond Head), 96817 (Kalihi-Palama), 96813 (Nu'uuanu-Downtown-Chinatown), and 96826 (McCully-Mo'ili'ili).

As shown in **Figure 2**, all of these zipcode areas have a higher percentage of Asset Limited, Income Constrained, Employed Households (ALICE) households, when compared to the O'ahu average of 31 percent.<sup>30</sup> ALICE households earn above the federal poverty level yet still face challenges in meeting their basic needs.

To view the map of jaywalking citations and learn more about who is most impacted by jaywalking citations, visit [hiappleseed.org/shifting-focus-safe-roads-not-tickets](https://hiappleseed.org/shifting-focus-safe-roads-not-tickets).

**Figure 2.** Economic Characteristics of the Top Five Jaywalking Zipcodes in Hawai'i (2018 to 2023)<sup>31</sup>



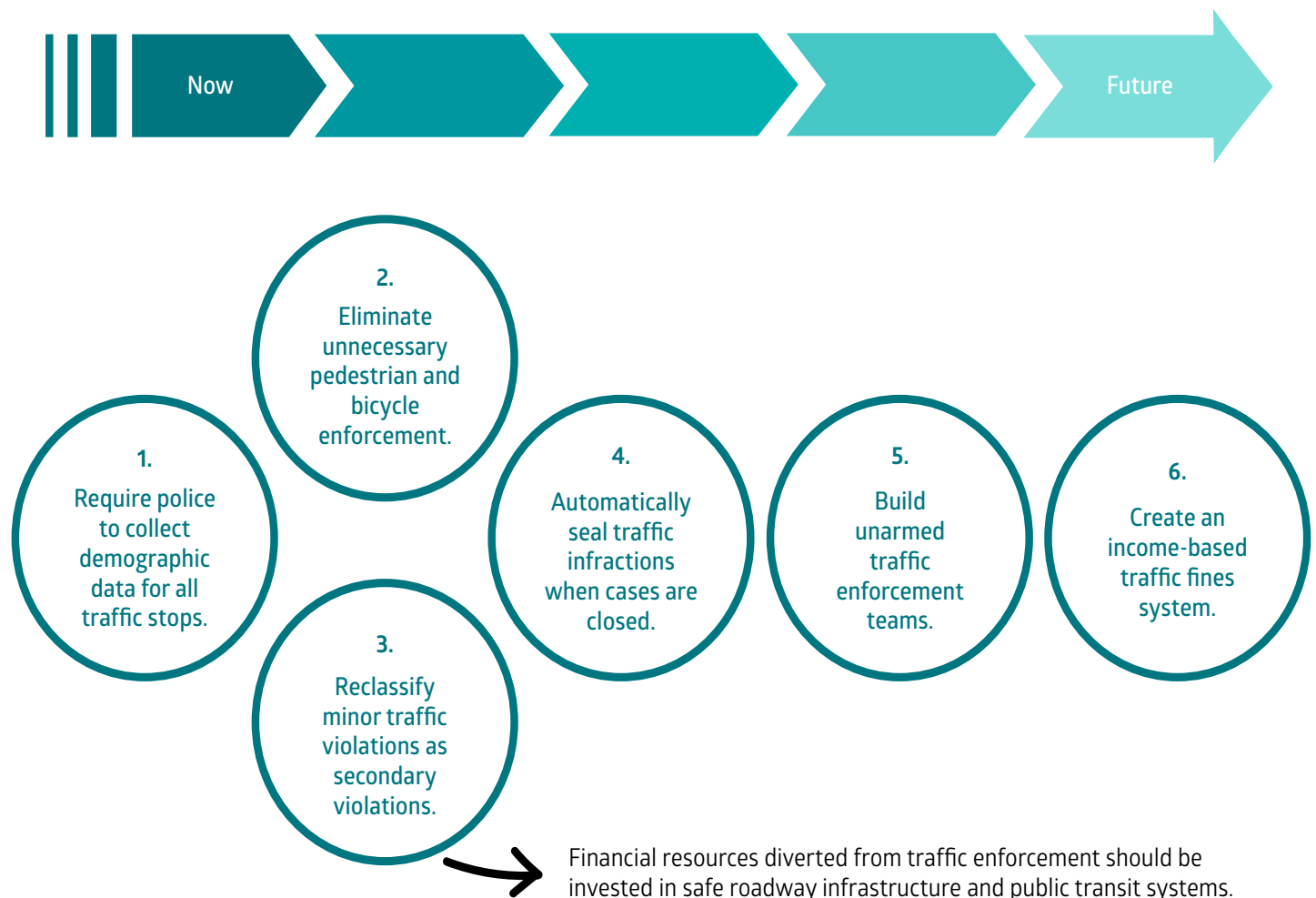
# RECOMMENDATIONS

Over-policing of minor traffic infractions has entrapped many people in cycles of poverty and criminalization. To address these social and economic issues, Hawai'i Appleseed has provided six policy recommendations to create a more equitable approach to roadway enforcement. These recommendations are also summarized in **Figure 3**.

While traffic safety strategies should focus on investing in safe roadway infrastructure and public transit systems, the recommendations in this report focus on changes to the criminal-legal system. For each recommendation, an example of where the policy has been implemented is also provided.

As shown in **Figure 3**, some of the recommendations are low-hanging fruit which should be implemented now, while others are more transformative, and will require additional time and resources to implement.

**Figure 3.** Recommendations for a More Equitable Approach to Traffic Enforcement






## 1. Require Police to Collect Demographic Data

Data collection is an essential tool to understand who is being most impacted by traffic enforcement and to combat racial biases in policing. Both at the federal and state level, current data collection of traffic enforcement is focused on the number of traffic stops and citations collected. However, this information is limited and does not demonstrate whether the enforcement is effective or equitable.<sup>32</sup>

Hawai'i Appleseed recommends expanded data collection for all traffic stops, including documentation of the demographic characteristics of the individual being stopped by the police. At a minimum, this should include the person's self-reported racial and gender identity, as well as their age.

 **Police Transparency in Washington, D.C.:** In 2016, the Council of the District of Columbia passed the Neighborhood Engagement Achieves Results Act, which requires Washington, D.C.'s Metropolitan Police Department (MPD) to keep extensive records for every stop its officers conduct.<sup>33</sup> Notably, for over 3 years, the MPD refused to implement this statute until a court ordered compliance as a result of a lawsuit.<sup>34</sup>


The ACLU of Washington, D.C. analyzed police stop data in both 2019 and 2020. In both years the MPD disproportionately stopped and searched Black people. For example, in 2020 nearly 75 percent of all people stopped by the MPD were Black, while Black people only make up 46 percent of D.C.'s population.<sup>35</sup>

According to the National Conference of State Legislators, as of 2021, at least 23 states and D.C. have laws regarding the collection of data when an individual is stopped by law enforcement.<sup>36</sup>

## 2. Eliminate Unnecessary Pedestrian and Bicycle Enforcement

In Hawai'i, pedestrian and bicycle enforcement has not been successful in reducing traffic deaths and injuries, and it is clear that business-as-usual will not create safer streets.

Hawai'i Appleseed recommends eliminating unnecessary pedestrian and bicycle enforcement by amending HRS§291C to state that pedestrians and bicyclists shall not be stopped by a law enforcement officer, fined, or subjected to any other penalty, for acting contrary to the traffic code, so long as they do not pose a threat of a collision with another roadway user.

 **Decriminalizing Jaywalking in California:** In 2022, California became the largest state in the nation to decriminalize jaywalking. Taking effect on January 1, 2023, the Freedom to Walk Act (AB 2147) prohibits pedestrians from being stopped or fined for crossing outside of marked crosswalks, or against a traffic signal, so long as there is no "immediate danger of a collision with a moving vehicle."<sup>37</sup>


Although some lawmakers and advocates feared decriminalizing jaywalking would lead to a public safety crisis, that has not come to fruition. While no control study has been conducted, when compared to 2022, there have actually been fewer traffic fatalities in the first 2 years following implementation of the measure.<sup>38</sup> This effort has also reduced the fines and fees faced by pedestrians.

Prior to the Freedom to Walk Act, pedestrians in California could be fined up to \$250 for jaywalking.<sup>39</sup> As of late 2024, about 60 million Americans now live in places where jaywalking has been decriminalized in some form, with New York City the latest to join the list in October, 2024.<sup>40</sup>

### 3. Reclassify Minor Traffic Violations as Secondary Violations

Enforcement of minor traffic violations can be used as pretextual stops and searches for more serious crimes. At a minimum, these stops cause fear and anxiety. In some cases, they can also lead to violent confrontations with severe legal consequences. Hawai‘i Appleseed recommends that the state explore reclassifying certain minor traffic violations as secondary violations. Citations for secondary violations can still be given, however they cannot be the sole reason that a person is stopped by the police.


As an example, if having an expired vehicle registration was reclassified as a secondary violation, police officers could not stop an individual solely for that reason. However, if an individual was stopped for another reason—such as speeding or running a red light—and then was found to also have an expired vehicle registration, then they could also be cited for that infraction (in addition to the original violation which the individual was stopped for). The collection and reporting of traffic stop data is an important next step to identify which traffic violations should be reclassified.

 **Philadelphia’s Driving Equality Bill:** Under the Driving Equality bill, effective since March 2022, Philadelphia reclassified eight motor vehicle violations—such as late vehicle registration, missing a single headlight or taillight, and minor bumper damage—as secondary violations.

The measure was developed in response to persistent racial disparities in Philadelphia’s traffic enforcement.<sup>41</sup> For example, from October 2018 to September 2019, an estimated 72 percent of people stopped by Philadelphia police in traffic stops were Black, although they comprise only 43 percent of the city’s population.<sup>42</sup> In the year following the implementation of the Driving Equality bill, traffic stops decreased by 6.8 percent.<sup>43</sup> Moreover, during this time period, the proportion of traffic stops made along the city’s high injury network increased by 12.3 percent.<sup>44</sup> According to the Defender Association of Philadelphia, the Driving Equality bill has had no demonstrable negative effect on public safety.<sup>45</sup>

### 4. Automatically Seal Traffic Infractions when Cases are Closed

Even after tickets are paid, traffic violations remain on an individual’s public legal record and can pose challenges to accessing future insurance, employment, or housing opportunities. Currently, only traffic infractions that carry criminal penalties can be expunged and sealed from a person’s record. Hawai‘i Appleseed recommends that the state should automatically seal certain traffic violations. This could be explored as part of Hawai‘i’s Clean Slate Expungement Task Force (enacted via Act 241 in 2024), which is charged with developing a state program to proactively expunge certain records of qualified individuals.<sup>46</sup>

 **California’s Clean Slate Laws:** Since 2022, the California Department of Justice has been required on a monthly basis to review the statewide criminal justice databases and identify persons eligible for automatic conviction record relief.<sup>47</sup> Eligible individuals include those who were sentenced to probation, and completed it without revocation, and those convicted of an infraction or a misdemeanor, including traffic infractions.

Following the passage of Senate Bill 731, which took effect in July 2023, California now automatically seals all non-serious, non-violent, and non-sexual felony convictions.<sup>48</sup> Generally, convictions are sealed after 4 years have elapsed since a completed probation or sentence.<sup>49</sup> This landmark legislation aimed to alleviate the burdens that individuals with criminal-legal records face, and has provided inspiration for similar clean slate efforts in Hawai‘i and elsewhere.

## 5. Build Unarmed Traffic Enforcement Teams

The presence of law enforcement can create stressful, hostile environments, and in some rare cases, can escalate into violent encounters. The enforcement of most traffic violations, particularly minor traffic violations, does not require armed police. Hawai'i Appleseed recommends that local law enforcement agencies build unarmed teams to carry out enforcement of minor traffic violations.

➡ **Berkley to De-Cop its Traffic Enforcement:** Berkeley, California, is poised to become the first city in the U.S. to replace police officers with unarmed employees to carry out a majority of its traffic enforcement.<sup>50</sup> The proposal, approved in 2020, sought to create a separate department for unarmed public works officials to carry out traffic enforcement.<sup>51</sup>

While the Berkeley City Council approved a budget in 2022 that would include funding for the department, it has yet to be implemented. According to the Stanford Center for Racial Justice, police opposition is a major reason for slow implementation.<sup>52</sup>

## 6. Create an Income-Based Traffic Fines System

The current system of flat fees for traffic violations disproportionately burdens low-income individuals, worsening existing inequalities and perpetuating cycles of poverty. A single traffic ticket can impose significant financial strain on those who are already struggling to make ends meet, often leading to a cascade of missed payments and debt. Notably, while most criminal legal fees in Hawai'i offer an "ability to pay" option, it remains at the judge's discretion whether to grant it or not. It is also unclear how often this option is implemented.

Hawai'i Appleseed recommends exploring the implementation of a traffic fines and fees system based on income, instead of using flat fees. This means that wealthier individuals pay more for the same violation than those with lower incomes. This not only ensures that penalties are equitable, but also maintains compliance by making fines manageable for all.

➡ **Finland's Day Fines System:** In Finland, like other Scandinavian and European countries, fines for traffic violations are based on an individual's daily income, as well as the severity of the violation. This system, known as a "day fines" system, was first created in Finland in the 1920s. When issuing traffic tickets, police have access to a central taxpayer database to determine the person's daily income.<sup>53</sup>

While Finland has made national headlines for its wealthy elites racking up exorbitantly high fines, these instances are rare. Over the last century, the day fines system has been effective in deterring traffic violations without burdening lower-income drivers.

Based on 2021 data from the World Health Organization, Finland has one of the lowest road fatality rates in the world, with only 4.2 annual traffic deaths per 1,000 people.<sup>54</sup> Comparatively, there are 14.1 annual traffic deaths per 1,000 people in the United States.<sup>55</sup>

Further research is needed to understand the potential constitutional challenges of instituting a similar day fines system in the United States, arising primarily from the Excessive Fines Clause of the Eighth Amendment of the Constitution. However, recent research from the University of Chicago Law Review indicates that these obstacles are "navigable," particularly if limits are imposed on how high fines can be.<sup>56</sup>



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