



October 13, 2017

**By Hand Delivery**

Francis V. Kenneally, Clerk  
Supreme Judicial Court for the Commonwealth  
John Adams Courthouse  
One Pemberton Square, Rm 1-400  
Boston, MA 02108

Re: Notice of Supplemental Authorities under Rule 16(1)  
*Commonwealth v. Buckley*, SJC-12344

Dear Clerk Kenneally:

Amici the American Civil Liberties Union of Massachusetts, Inc., and the Massachusetts Association of Criminal Defense Lawyers submit this letter under Rule 16(1) of the Massachusetts Rules of Appellate Procedure to address comments made at oral argument on October 5, 2017, about the effect of pretextual traffic stops on public safety. Most significant, and most concerning, Justice Lowy stated that pretext stops “save lives.”

Amici are unaware of any study finding, *on net*, that this is true. Pretextual traffic stops are often triggered by racial profiling or a preconceived suspicion about an unknown operator of a motor vehicle. Beyond the dignitary harms that routinely occur during pretextual traffic stops,<sup>1</sup> numerous lives have been extinguished, rather than saved, by apparently pretextual traffic stops. These include the lives of Sandra Bland, Philando Castile,

---

<sup>1</sup> See Br. of the Committee for Public Counsel Services and Massachusetts Association of Criminal Defense Lawyers at 19 - 23.

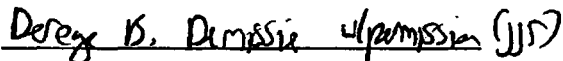
Clerk Francis V. Kenneally  
October 12, 2017  
Page 2

Samuel DuBose, and Walter Scott. A partial list of Black people killed during pretext stops has been enclosed with this letter.<sup>2</sup>

Indeed, on the very day that this case was argued, it was reported that police in Salt Lake City shot and killed an unarmed Black man named Patrick Harmon after stopping him for cycling without a light.<sup>3</sup>

Amici respectfully submit that, in assessing whether pretext stops actually save lives, these Black lives matter.

Sincerely,



Derege B. Demissie, BBO #637544  
**MASSACHUSETTS ASSOCIATION OF  
CRIMINAL DEFENSE LAWYERS**  
Demissie & Church  
929 Massachusetts Ave., Ste 01  
Cambridge, MA 02139  
(617) 354-3944  
dd@demissiechurch.com



Matthew R. Segal, BBO #654489  
Rahsaan D. Hall, BBO #645369  
Jessie J. Rossman, BBO #670685  
Carlton E. Williams, BBO #600973  
**AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF MASSACHUSETTS,  
INC.**  
211 Congress Street  
Boston, MA 02110  
617-482-3170  
msegal@aclum.org

cc: counsel of record (by first-class mail)

---

<sup>2</sup> See also Br. of ACLU of Massachusetts, Inc., at 20 - 22.

<sup>3</sup> Sam Levin, *Video shows Utah police fatally shooting man from behind as he fled*, The Guardian (Oct. 5, 2017), at <https://www.theguardian.com/us-news/2017/oct/05/patrick-harmon-utah-police-shooting>.

**Black Men and Women Recently Killed by Police During a Traffic Stop**

<b>Name</b>	<b>Date</b>	<b>Location</b>	<b>Reported Reason for Traffic Stop</b>
Patrick Harmon	Aug. 13, 2017	Salt Lake City, Utah	Tiffany Frandsen, <i>District Attorney asks FBI to review police shooting of Patrick Harmon</i> , THE SALT LAKE TRIBUNE (Oct. 11, 2017), <a href="http://www.sltrib.com/news/2017/10/10/fbi-to-review-police-shooting-of-patrick-harmon/">http://www.sltrib.com/news/2017/10/10/fbi-to-review-police-shooting-of-patrick-harmon/</a> (riding a bicycle without proper red light fixture, shot while running away)
Luke Stewart	Mar. 13, 2017	Cleveland, Ohio	Cory Shaffer, <i>Family of man killed by Euclid police officer 'angry and disappointed;' chief calls for peace</i> , CLEVELAND.COM (Aug. 30, 2017) <a href="http://www.cleveland.com/metro/index.ssf/2017/08/family_of_man_killed_by_euclid.html">http://www.cleveland.com/metro/index.ssf/2017/08/family_of_man_killed_by_euclid.html</a> (investigating a report of a "suspicious vehicle" parked on side of road)
Mark Guirguis	Jan. 1, 2017	Allen, Texas	Valarie Wigglesworth, <i>Texas Rangers investigating fatal New Year's shooting of Plano man by Allen police</i> , DALLAS MORNING NEWS (Jan. 30, 2017) <a href="https://www.dallasnews.com/news/crime/2017/01/03/texas-rangers-investigating-fatal-new-years-shooting-plano-man-allen-police">https://www.dallasnews.com/news/crime/2017/01/03/texas-rangers-investigating-fatal-new-years-shooting-plano-man-allen-police</a> (police called to investigate "suspicious behavior," attempted a traffic stop, shot at vehicle when it did not stop)

**Black Men and Women Recently Killed by Police During a Traffic Stop**

<b>Name</b>	<b>Date</b>	<b>Location</b>	<b>Reported Reason for Traffic Stop</b>
Jamal Rollins	Dec. 30, 2016	West Perrine, Florida	Carli Teproff, <i>Angry crowd wants answers in police shooting that killed 21-year-old West Perrine man</i> , MIAMI HERALD (Jan. 3, 2017) <a href="http://www.miamiherald.com/news/local/community/miami-dade/west-miami-dade/article124246814.html">http://www.miamiherald.com/news/local/community/miami-dade/west-miami-dade/article124246814.html</a> (driving erratically, passenger took off running, police shot and killed Rollins, who family says was out of the car with his hands up when shot)
Deric J. Brown	Oct. 9, 2016	Syracuse, New York	Douglass Dowty, <i>Dashboard cam shows gunman open fire on Syracuse officer before being shot dead</i> , SYRACUSE.COM (Nov. 16, 2016) <a href="http://www.syracuse.com/crime/index.ssf/2016/11/su_dashboard_cam_shows_gunman_opening_fire_on_police_officer_before_being_killed.html">http://www.syracuse.com/crime/index.ssf/2016/11/su_dashboard_cam_shows_gunman_opening_fire_on_police_officer_before_being_killed.html</a> (pulled over for broken tail light, allegedly shot at police)
Carnell Snell	Oct. 1, 2016	Los Angeles, California	Kate Mather, <i>Police Commission decides officer was justified in fatally shooting 18-year-old in South L.A.</i> , L.A. TIMES (Aug. 15, 2016) <a href="http://beta.latimes.com/local/lanow/la-me-ln-lapd-carnell-snell-20170815-story.html">http://beta.latimes.com/local/lanow/la-me-ln-lapd-carnell-snell-20170815-story.html</a> (paper license plates, passenger made eye-contact and then ducked out of sight)

**Black Men and Women Recently Killed by Police During a Traffic Stop**

<b>Name</b>	<b>Date</b>	<b>Location</b>	<b>Reported Reason for Traffic Stop</b>
Philando Castile	July 6, 2016	St. Anthony, Minnesota	Mitch Smith, <i>Minnesota Officer Acquitted in Killing of Philando Castile</i> , The New York Times (Jun. 16, 2017), <a href="https://www.nytimes.com/2017/06/16/us/police-shooting-trial-philando-castile.html">https://www.nytimes.com/2017/06/16/us/police-shooting-trial-philando-castile.html</a> ; Andy Cush, <i>Cop on Apparent Police Scanner Audio Said Philando Castile Looked Like a Robbery Suspect "'Cause of the Wide-Set Nose</i> ," Gawker (Jul. 8, 2016) <a href="http://gawker.com/cop-on-apparent-police-scanner-audio-said-philando-cast-1783339741">http://gawker.com/cop-on-apparent-police-scanner-audio-said-philando-cast-1783339741</a> (pulled over for a broken taillight and because he "looked like a robbery suspect" because of his "wide-set nose")
Isaiah Core	June 23, 2016	Birmingham, Alabama	Carol Robinson, <i>Former Alabama high school star athlete shot to death by Shelby County deputy after chase in stolen SUV</i> , AL.COM (June 23, 2016) <a href="http://www.al.com/news/birmingham/index.ssf/2016/06/former_birmingham_high_school_1.html">http://www.al.com/news/birmingham/index.ssf/2016/06/former_birmingham_high_school_1.html</a> (driving suspiciously/erratically, officers attempted a traffic stop, Core did not slow down)
Doll Pierre-Louis	May 25, 2016	Miami Gardens, Florida	Charles Rabin, <i>Fatal shooting by state trooper started with a speeding driver</i> , THE MIAMI HERALD (May 26, 2016), <a href="http://www.miamiherald.com/news/local/crime/article80135837.html">http://www.miamiherald.com/news/local/crime/article80135837.html</a> (stopped for speeding, officer jumped onto hood of car, Louis slowly backed up, officer fired into the car, killing Louis)

**Black Men and Women Recently Killed by Police During a Traffic Stop**

Name	Date	Location	Reported Reason for Traffic Stop
Ashtian Barnes	Apr. 28, 2016	Houston, Texas	The moment a Texas cop shoots a driver dead as he is dragged along the freeway while the suspect tries to escape, THE DAILY MAIL (Sept. 2, 2016), <a href="http://www.dailymail.co.uk/news/article-3771013/Grand-Jury-clears-officer-shot-dead-black-man-dragged-alongside-car-dash-cam-footage-incident-released.html">http://www.dailymail.co.uk/news/article-3771013/Grand-Jury-clears-officer-shot-dead-black-man-dragged-alongside-car-dash-cam-footage-incident-released.html</a> (stopped for unpaid tolls on a rental car)
Willie Tillman	Apr. 23, 2016	Fayetteville, Arkansas	Shawnya Meyers, Fayetteville Police: Suspect Dies Following Officer-Involved Shooting In April, KFSM 5 News (May 9, 2016), <a href="http://5news.com/2016/05/09/fayetteville-police-suspect-dies-following-officer-involved-shooting-in-april/">http://5news.com/2016/05/09/fayetteville-police-suspect-dies-following-officer-involved-shooting-in-april/</a> (driving without headlights on)
Shalamar Longer	Feb. 8, 2016	Chester, Pennsylvania	Vernon Odom, Officers justified in deadly police-involved shooting in Chester, D.A. says, ABC 6 (Feb. 10, 2016), <a href="http://6abc.com/news/da-officers-justified-in-deadly-chester-shooting/1194891/">http://6abc.com/news/da-officers-justified-in-deadly-chester-shooting/1194891/</a> (attempted stop for burned out license plate light, led to car chase, driver eventually stopped and officers allege he jumped out of the car and pointed a gun at them)
Calvin McKinnis	Dec. 14, 2015	New Orleans, Louisiana	Jonathan Bullington, Family of man killed in New Orleans police shooting: 'They're hiding something', NOLA (Dec. 15, 2015), <a href="http://www.nola.com/crime/index.ssf/2015/12/new_orleans_officer_involved_s.html">http://www.nola.com/crime/index.ssf/2015/12/new_orleans_officer_involved_s.html</a> (license plate violation)

**Black Men and Women Recently Killed by Police During a Traffic Stop**

<b>Name</b>	<b>Date</b>	<b>Location</b>	<b>Reported Reason for Traffic Stop</b>
Tyrie Cuyler	Oct. 27, 2015	Savannah, Georgia	Jan Skutch, <i>Grand jury: Savannah-Chatham police 'legally justified' in fatal October shooting</i> , SAVANNAH NOW (May 24, 2016), <a href="http://savannahnow.com/crime-courts-news/2016-05-23/grand-jury-savannah-chatham-police-legally-justified-fatal-october">http://savannahnow.com/crime-courts-news/2016-05-23/grand-jury-savannah-chatham-police-legally-justified-fatal-october</a> (traffic stop, some accounts say Cuyler attempted to flee, others do not; Cuyler allegedly shot at police)
Adriene Jamarr Ludd	Oct. 22, 2015	Carmichael, California	Mark Glover, <i>Man killed in Carmichael standoff with Sacramento County deputies identified</i> , THE SACRAMENTO BEE (Oct. 23, 2015), <a href="http://www.sacbee.com/news/local/crime/article41204820.html">http://www.sacbee.com/news/local/crime/article41204820.html</a> (expired registration, drivers did not slow down at first but eventually stopped, Ludd jumped out of car and hid behind another car, officers claim he took a 'shooting stance' so they fired at him)
Charles Bertram	Aug. 6, 2015	El Paso, Texas	EPPD, <i>Texas Rangers continue investigating officer-involved shooting</i> , EL PASO HERALD POST (Aug. 13, 2015), <a href="https://elpasoheraldpost.com/tag/el-paso-police-officer-involved-shooting/">https://elpasoheraldpost.com/tag/el-paso-police-officer-involved-shooting/</a> (broken headlight, officer thought he saw Bertram holding a gun and fired)

**Black Men and Women Recently Killed by Police During a Traffic Stop**

<b>Name</b>	<b>Date</b>	<b>Location</b>	<b>Reported Reason for Traffic Stop</b>
Darrius Stewart	July 17, 2015	Memphis, Tennessee	Jamiles Lartey & Ciara McCarthy, <i>Memphis teen 'was running away' when shot dead by police, witnesses say</i> , THE GUARDIAN (Dec. 16, 2015), <a href="https://www.theguardian.com/us-news/2015/dec/16/memphis-darrius-stewart-moving-away-from-police-officer-shooting-witnesses">https://www.theguardian.com/us-news/2015/dec/16/memphis-darrius-stewart-moving-away-from-police-officer-shooting-witnesses</a> (broken headlight, Stewart [passenger] was arrested on other charges, shot while fleeing from the police officer after a physical altercation)
Sandra Bland	July 10, 2015	Prairie View, Texas	Katie Rogers, <i>The Death of Sandra Bland: Questions and Answers</i> , N.Y. TIMES, July 23, 2015, <a href="https://www.nytimes.com/interactive/2015/07/23/us/23blandlisty.html">https://www.nytimes.com/interactive/2015/07/23/us/23blandlisty.html</a> (failing to signal a lane change, victim was arrested, found dead 3 days later in a jail cell)
Samuel DuBose	July 9, 2015	Cincinnati, Ohio	Richard Pérez-Peña, <i>University of Cincinnati Officer Indicted in Shooting Death of Samuel Dubose</i> , N.Y. TIMES, July 29, 2015, <a href="https://www.nytimes.com/2015/07/30/us/university-of-cincinnati-officer-indicted-in-shooting-death-of-motorist.html">https://www.nytimes.com/2015/07/30/us/university-of-cincinnati-officer-indicted-in-shooting-death-of-motorist.html</a> (missing front license plate)
Kevin Lamont Judson	July 1, 2015	McMinnville	DA clears deputy in deadly McMinnville shooting after traffic stop, releases video, KATU 2 (Jul. 15, 2015), <a href="http://katu.com/news/local/da-clears-deputy-in-deadly-mcminnville-shooting-after-traffic-stop-releases-video">http://katu.com/news/local/da-clears-deputy-in-deadly-mcminnville-shooting-after-traffic-stop-releases-video</a> (expired tag, officers shot Judson while he was allegedly fleeing the scene on foot)



**Black Men and Women Recently Killed by Police During a Traffic Stop**

<b>Name</b>	<b>Date</b>	<b>Location</b>	<b>Reported Reason for Traffic Stop</b>
Walter Scott	Apr. 4, 2015	Charleston, South Carolina	Alan Blinder, <i>Ex-Officer Who Shot Walter Scott Pleads Guilty in Charleston</i> , N.Y. TIMES, May 2, 2017, <a href="https://www.nytimes.com/2017/05/02/us/michael-slager-walter-scott-north-charleston-shooting.html?mcubz=0">https://www.nytimes.com/2017/05/02/us/michael-slager-walter-scott-north-charleston-shooting.html?mcubz=0</a> (broken taillight)

**CERTIFICATE OF SERVICE**

I, Jessie J. Rossman, hereby certify that on October 13, 2017, I caused a true and correct copy of the foregoing documents to be served on counsel of record by first-class mail, postage pre-paid, to the following:

DANIEL F. CONLEY  
For the Suffolk District  
JOHN P. ZANINI  
Legal Counsel to the  
District Attorney  
Assistant District Attorney  
CAILIN M. CAMPBELL  
Assistant District Attorney  
DAVID D. MCGOWAN  
Assistant District Attorney  
One Bulfinch Place  
Boston, MA 02114

Oren M. Sellstrom  
Oren N. Nimni  
Ivan Espinoza-Madrigal  
Lawyers' Committee for  
Civil Rights and Economic  
Justice  
61 Batterymarch Street  
5th Floor  
Boston, MA 02110

REBECCA KILEY  
COMMITTEE FOR PUBLIC COUNSEL  
SERVICES  
Public Defender Division  
44 Bromfield Street  
Boston, MA 02108

TIMOTHY J. CRUZ  
District Attorney  
Plymouth District  
MARY LEE  
Assistant District Attorney  
166 Main Street  
Brockton, MA 02301

Matthew Malm  
Wood & Nathanson, LLP  
50 Congress  
Street Suite 600  
Boston, MA 02109

Dated: October 13, 2017

  
\_\_\_\_\_  
Jessie J. Rossman