



816.221.2166



FAX 888.446.3287



www.theMIP.org

MIDWEST INNOCENCE PROJECT



3619 BROADWAY BLVD., #2 • KANSAS CITY, MO 64111

March 22, 2021

Mayor Quinton Lucas and
Members of the City Council
KCMO City Hall
414 E. 12th Street, Kansas City, MO 64106

Dear Mayor Lucas and Members of the City Council:

I am the Executive Director of the Midwest Innocence Project (MIP), a non-profit organization based in Kansas City that works to exonerate individuals convicted of crimes they did not commit within a 5-state region (MO, KS, IA, NE, and AR). I write to express MIP's full support of decriminalizing biking and walking in Kansas City. While the racial disparities in enforcement of pedestrian crimes such as jaywalking are well-documented,¹ the impact of disparate ticketing practices also leads to wrongful convictions as individuals who would never have otherwise become a suspect in a crime are considered because of their long history of minor or negligible offenses. In addition, a repeal of such unnecessary ordinances will benefit public safety as it will free up law enforcement resources to address critical issues in the city, like gun violence, and ensure that victims and their families receive justice. Further, the repeal will not harm public safety or shield negligent pedestrians from civil liability. For all these reasons, outlined more fully below, we support a full repeal.

- **Minor violations and over-policing have led to wrongful incarcerations.** Take for example the case of Thomas McGowan,² who spent 23 years in prison in Texas after a traumatized victim picked him in a problematic photo lineup. McGowan was only included in that lineup after he was photographed after a minor traffic violation—he was not a suspect. Without that violation, he would not have been included in the photo array and would not have been subject to the erroneous identification, which cost him decades of his life. Mr. McGowan's conviction was ultimately only overturned after DNA testing in 2008 proved he had not committed the crime.

Similarly, Charles Jackson³ was pulled over and arrested for a traffic violation in Ohio, and, like Mr. McGowan, was placed in a photo lineup where a victim identified him as the perpetrator of the crime. Mr. Jackson was convicted of murder and attempted murder, but was later exonerated after significant police and prosecutorial misconduct came to light. While not the intent of such tickets, traffic

¹ See Gersh Kuntzman, "NYPD's Racial Bias in 'Jaywalking' Tickets Continues into 2020," *StreetsBlog NYC*, available at <https://nyc.streetsblog.org/2020/05/07/nypds-racial-bias-in-jaywalking-tickets-continues-into-2020/> (finding 99% of jaywalking tickets were distributed to Black or Latinx people); Topher Sanders and Kate Rabinowitz, "Walking While Black: Jacksonville's enforcement of pedestrian violations raises concerns that it's another example of racial profiling," *ProPublica*, available at <https://features.propublica.org/walking-while-black/jacksonville-pedestrian-violations-racial-profiling/> (Noting 78% of all tickets written for "walking in the roadway where sidewalks are provided" were issued to Black people.)

² *Thomas McGowan*, INNOCENCE PROJECT, available at <https://innocenceproject.org/cases/thomas-mcgowan/>.

³ *Charles Jackson: Other Cuyahoga County Exonerations*, NATIONAL REGISTRY OF EXONERATIONS, available at <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5605>.



816.221.2166



FAX 888.446.3287



www.theMIP.org



3619 BROADWAY BLVD., #2 • KANSAS CITY, MO 64111

violations like jaywalking can put innocent individuals in a situation where they are vulnerable to eyewitness misidentifications for much more serious and unrelated crimes.

- **Kansas City is better served by reallocating police resources used on enforcing jaywalking and dirty bike laws.** Police resources are already stretched thin, particularly as gun violence has increased in the city over time. Eliminating the jaywalking ordinance will allow police to spend their time on data-driven efforts to keep our communities safe. In addition, the elimination of unnecessary laws that often result in disproportional enforcement in Black communities will also prevent the further erosion of trust between police and the community.
- **Criminalizing jaywalking does not keep Kansas City safe.** Instead of showing that streets are safer due to jaywalking ordinances, many studies indicate that for Black and Latinx residents, jaywalking ordinances keep the streets less safe from police brutality.⁴ Further, KCPD has failed to provide sufficient data to give a clear picture of how the jaywalking ordinance impacts pedestrian-related car accidents in Kansas City. More data-driven methods, such as road diets that reduce both the number of lanes and the speed of drivers, have already proven effective at curbing pedestrian-related traffic accidents.⁵
- **Unsafe jaywalker can still be held accountable through the civil court system.** The police department has argued that the jaywalking ordinance must remain on the books to hold pedestrians accountable in crashes caused by jaywalking, however, an assignment of guilt by the police is not required for a civil suit, nor are they dispositive even when they do exist. Instead, personal injury firms and insurance companies have ample resources to investigate who is at fault should a pedestrian cause a car accident, and it is up to the jury or judge, not the police, to determine culpability.

In short, there is no social interest in maintaining any part of these laws, including Sec. 70-783 – *Crossing at points other than crosswalks*, which should be fully repealed. Indeed, jaywalking ordinances are becoming increasingly unpopular as it becomes clear that they create more problems than they solve.⁶ Further, beyond wrongful convictions, minor infractions, like jaywalking or having a dirty bike, can have major and long-lasting impact on the financial stability of individuals, families, and entire communities.⁷

⁴ See, e.g., [Arwa Mahdawi, “The US’s jaywalking laws target people of color. They should be abolished,” *Guardian* \(Jun. 17, 2020\).](#)

⁵ [Charlie Keegan, “Stats from KCPD show number of pedestrian-involved traffic crashes rose in 2018,” *KSHB Kansas City* \(Feb. 15, 2019\).](#)

⁶ See [Adam Tuss, “Virginia Decriminalizes Jaywalking,” *NBC Washington* \(Jan. 5, 2021\)](#). Virginia was the first state to eliminate fines for jaywalking. The Virginia law also prevents any evidence obtained by a police officer after stopping a pedestrian for jaywalking from being introduced in court, recognizing that police stops for minor traffic infractions negatively impact individual civil rights. See [H.B. 5058, 2020 Gen. Assemb., Spec. Sess. \(Va. 2020\)](#).

⁷ See e.g., Joseph Shapiro, “In Ferguson, Court Fines and Fees Fuel Anger,” *NPR*, available at <https://www.npr.org/2014/08/25/343143937/in-ferguson-court-fines-and-fees-fuel-anger>



816.221.2166



FAX 888.446.3287



www.theMIP.org

MIDWEST INNOCENCE PROJECT



3619 BROADWAY BLVD., #2 • KANSAS CITY, MO 64111

This Council has made significant efforts to improve our city for bikers and walkers. The Midwest Innocence Project fully supports these attempts and urges the council to decriminalize walking and biking, including a full repeal of Sec. 70-783.

Sincerely,

Tricia Rojo Bushnell
Executive Director
Midwest Innocence Project