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Tragic traffic stop for dangling air freshener fuels debate over police enforcement of 'nanny laws'

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Daunte Wright called his mother moments before he was fatally shot to say police had pulled him over for an air freshener dangling from his rearview mirror, a puzzlingly innocuous offense that nevertheless escalated into a tragic encounter with police.

Libertarians and social justice activists count Mr. Wright, 20, as the latest victim of unintended consequences from police enforcing an ever-growing litany of “nanny” laws — rules, ordinances and requirements that include prohibitions on wearing baggy pants, making it illegal to sell loose cigarettes or drive a car with just one license plate.

Cutting back on police interactions with the public, they argue, especially interactions rooted in minor infractions, will decrease the number of encounters that turn violent and deadly.

Police officials and politicians maintain that it is critical to crack down on smaller offenses. They insist that targeting petty crimes can prevent more serious violent acts and note that traffic stops over minor offenses have ensnared sex traffickers, violent felons and even Oklahoma City bomber Timothy McVeigh.

Both sides of the issue have seized on Mr. Wright's death to make their case.

Police in Brooklyn Center, Minnesota, said Mr. Wright was stopped for driving with expired tags. Only after he was pulled over did Officer Kim Potter notice the air freshener dangling from the mirror — which is also a violation, Chief Tim Gannon said.

At the time of the incident, Wright had an open arrest warrant for an attempted armed robbery. Mr. Wright and another man were accused of choking and robbing a woman at gunpoint in 2019, although the case was still pending when he died.

His bail was revoked in July. Police said he possessed a firearm and failed to keep in touch with a probation officer.

Betsy Brantner Smith, a spokesperson for the National Police Association, said that if the incident with Mr. Wright had not escalated, then the stop would have taken an accused criminal off the streets.

“We would have had back in custody a violent offender who was already accused of aggravated robbery against a woman and gun offenses, which is what we are talking about today,” she said.

Tanya Faison, the founder of Black Lives Matter Sacramento, sees it differently. In her view, minor traffic offenses allow revenue-hungry jurisdictions to fill their coffers at the expense of Black people.

“City councils and state legislatures are looking at revenue generation, and they are not empathetic to what happens to Black people,” she said. “Then you bring in law enforcement officers who have a lot of racial biases.”

Mr. Wright is one in a long line of unarmed Black men in recent years who have died as a result of a police encounter over a petty offense.

In 2019, police in Shreveport, Louisiana, stopped Anthony Childs, 31, for wearing saggy pants, which had been outlawed in the town since 2007.

Childs ran from the officer and was hit three times with bullets. A coroner’s report said Childs appeared to have died from a self-inflicted gunshot wound to the chest and had three nonlethal wounds from bullets fired by the officer.

The Shreveport City Council ultimately abolished the law. Police data showed it resulted in the arrests of 699 Black men and 12 White men.

Another highly publicized incident occurred in 2014 when New York Police Department officers stopped Eric Garner on a charge of illegally selling loose cigarettes to people who wanted to avoid the city’s high taxes on tobacco products.

Garner died after an officer subdued him with a chokehold, though the department had banned the maneuver.

Tommy Yancy, an Iraq and Afghanistan war veteran suffering from post-traumatic stress disorder, died in 2014 after he was stopped for driving without a front license plate, which is against the law in California. He did have a back license plate, press reports said.

The problem is twofold, critics charge. First, city councils and legislatures enact laws criminalizing trivial conduct. Those laws then set up potentially violent interactions between police officers tasked with enforcing those laws and people who violate them.

“Are we in the land of the free if we can be pulled over for hanging a tiny tree from our rearview mirror?” said Sean Themea, interim president for Young Americans for Liberty, which advocates for libertarian causes. “All bad laws can and will be enforced at the barrel of a gun.”

Clark Neily, senior vice president for criminal justice at the conservative Cato Institute, said politicians should not shoulder all the blame. Police unions have fought to keep some of these laws on the books because the laws give officers the leeway to stop someone for a minor violation and search for more serious offenses such as illegal possession of drugs or firearms.

“All these low-grade infractions provide an opportunity for the police to engage in a fishing expedition,” he said. “Some people try to run or fight back, and everything changes.”

Ms. Brantner Smith said that is unfair. She said traffic stops for offenses such as broken taillights or objects dangling from a rearview mirror are critical investigative tools used by law enforcement to stop and investigate crimes.

“What those laws do is create probable cause,” she said. “If legislatures want to take them away, that takes away investigative opportunities law enforcement has to prevent crime.”

Critics say the arrests largely net people who have committed misdemeanors rather than take violent felons off the streets.

Roughly 80% of the 10.5 million arrests made every year are for misdemeanor and low-level offenses, according to the Vera Institute for Justice, a nonprofit research and policy organization.

While overall arrests declined by 25% from 1980 to 2016, misdemeanor arrests grew, the institute concluded.

“A misdemeanor arrest can be devastating with the loss of a job or the loss of child custody,” Mr. Neily said. “It is astonishing how destructive a misdemeanor is, and we don’t even ask ourselves if it is worth it.”

Dangling objects from one’s rearview mirror is one of the more controversial misdemeanors. After Mr. Wright’s death, the American Civil Liberties Union of Minnesota called for a repeal of the law.

“We have concerns that police appear to have used dangling air fresheners as an excuse for making a pretextual stop, something police do too often to target Black people,” the group said in a statement.

In September 2018, two Black men in Chicago were pulled over for having an air freshener hanging from their rearview mirror. During the stop, guns were discovered in the vehicle and each Black man was charged with a firearms violation.

The men sued. They argued that the air freshener was not probable cause to pull them over. A federal appeals court last year said the stop was legitimate because police had a “reasonable suspicion” that the air freshener obstructed their view. Both were sentenced to prison.

A law that went into effect last month in Virginia requires police officers to have justification besides a “dangling object” to make a traffic stop.

The cycle of legislatures criminalizing behaviors that fall upon the police to enforce will be hard to break, analysts said.

But Mr. Neily said progress has been made in recent years and noted that Shreveport repealed its saggy pants law and Virginia has tightened rules on traffic stops. Still, he warned that legislatures need to make a greater commitment to reducing interactions between citizens and law enforcement.

Mr. Thermea, however, argued that the revenue generated through these offenses might be too lucrative for lawmakers to pass up.

“Some of these politicians are claiming they support criminal justice reform, but just create more incentives to trample on the rights of citizens when it comes to collecting more revenue for their projects,” he said.