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NOTE
**KANSAS V. GLOVER: GRANTING LAW ENFORCEMENT
FURTHER DISCRETION TO CONDUCT INVESTIGATORY
STOPS**

NICOLE FULLEM*

In *Kansas v. Glover*,¹ the Supreme Court of the United States analyzed the reasonable suspicion doctrine and considered “whether a police officer violates the Fourth Amendment by initiating an investigative traffic stop after running a vehicle’s license plate and learning that the registered owner of that vehicle has a revoked driver’s license.”² The Court’s decision turned on whether it was common sense to assume that the driver of a vehicle is also its registered owner.³ The Court held that, for purposes of an investigatory stop, there is a presumption that the registered owner of a vehicle is driving the vehicle.⁴

In what could have been an opportunity to clarify the reasonable suspicion doctrine, the Court instead further blurred the line of reasonable suspicion by departing from precedent and failing to balance the governmental intrusion of a traffic stop against an individual’s Fourth Amendment privacy interest.⁵ Although the Court correctly acknowledged that officers may rely on commonsense inferences, the Court wrongfully ignored law enforcement’s primary responsibility—investigating potential criminal activity and traffic violations—and inevitably discouraged law enforcement officers from doing so.⁶ Most importantly, the Court failed to

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1. 140 S. Ct. 1183 (2020).
2. *Id.* at 1186.
3. *Id.* at 1189.
4. *Id.* at 1186.
5. *See infra* Section IV.A.
6. *See infra* Section IV.B.

recognize the negative implications its ruling has on disadvantaged communities.⁷ Ultimately, *Glover* further erodes the Fourth Amendment.⁸

I. THE CASE

On April 28, 2016, Deputy Mark Mehrer was patrolling in Douglas County, Kansas when he observed a 1995 Chevrolet truck.⁹ Although Mehrer did not observe any traffic infractions, he decided to run the Kansas license plate.¹⁰ After running the plate through the Kansas Department of Revenue's file service, he learned that the truck was registered to an individual with a revoked driver's license, Charles Glover, Jr.¹¹ Mehrer did not attempt to identify the driver of the truck but, instead, he assumed that the registered owner of the truck was also the driver.¹² Subsequently, he initiated a traffic stop based solely on the information that he learned through the file service—the registered owner's driver's license had been revoked.¹³ The traffic stop confirmed that Glover was driving the vehicle with a revoked license, and Glover was charged with driving as a habitual violator.¹⁴ Glover filed a motion to suppress all evidence seized during the stop, reasoning that Mehrer lacked reasonable suspicion of criminal activity in violation of his Fourth Amendment rights.¹⁵

The Kansas trial court granted Glover's motion to suppress all evidence seized during the stop.¹⁶ The State appealed, and the Kansas Court of Appeals reversed, finding that Mehrer properly initiated the stop because

7. See *infra* Section IV.C.

8. See *infra* Section IV.A–IV.C.

9. *Glover*, 140 S. Ct. at 1187.

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.* at 1186–87; see KAN. STAT. ANN. § 8-285(a)(3) (2021) (“The term ‘habitual violator’ means any resident or nonresident person who, within the immediately preceding five years, has been convicted in this or any other state: (a) Three or more times of: . . . (3) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by [Section] 8-262, and amendments thereto, or while such person’s privilege to obtain a driver’s license is suspended or revoked pursuant to [Section] 8-252a, and amendments thereto, or, as prohibited by any ordinance of any city in this state, any resolution of any county in this state or any law of another state which is in substantial conformity with those statutes . . .”).

15. *Glover*, 140 S. Ct. at 1187.

16. *Id.* The trial court found that the officer lacked reasonable suspicion to believe the driver of the vehicle was the vehicle’s owner whose license was revoked. *State v. Glover*, 422 P.3d 64, 67 (Kan. 2018), *rev’d sub nom.*, *Kansas v. Glover*, 140 S. Ct. 1183 (2020). The trial court judge relied on human experience and found that it “was not ‘reasonable for an officer to infer that the registered owner of a vehicle is also the driver of the vehicle absent any information to the contrary.’” *Id.*

“there were specific and articulable facts from which the officer’s commonsense inference gave rise to a reasonable suspicion that the driver was committing a violation.”¹⁷ Glover appealed, and the Kansas Supreme Court reversed the Kansas Court of Appeals’ ruling, explaining that Mehrer did not have reasonable suspicion because his assumption that Glover was driving the vehicle amounted to “only a hunch” that Glover was engaging in criminal activity.¹⁸ The court reasoned that Mehrer had some reason to think Glover was driving the vehicle, but he needed reasonable suspicion that Glover was, in fact, the individual driving the vehicle.¹⁹ The court rejected the State’s “owner-is-the-driver presumption . . . because it relieves the State of its burden by eliminating the officer’s need to develop specific and articulable facts to satisfy the State’s burden on the determinative issue of whether the registered owner is driving the vehicle, not whether the vehicle is being driven.”²⁰ The Supreme Court of the United States granted certiorari to determine “whether a police officer violates the Fourth Amendment by initiating an investigative traffic stop after running a vehicle’s license plate and learning the registered owner has a revoked driver’s license.”²¹

II. LEGAL BACKGROUND

*Terry v. Ohio*²² was the first case to establish the reasonable suspicion doctrine.²³ In this decision, the Court recognized that some brief police intrusions were not subject to the warrant requirement and the probable cause standard normally required by the Fourth Amendment.²⁴ The Court emphasized reasonable suspicion varies depending on the facts and

17. *State v. Glover*, 400 P.3d 182, 188 (Kan. Ct. App. 2017), *rev’d*, 422 P.3d 64 (Kan. 2018), *rev’d sub nom.*, *Kansas v. Glover*, 140 S. Ct. 1183 (2020). Specifically, the Kansas Court of Appeals held that “a law enforcement officer has reasonable suspicion to initiate a stop of a vehicle to investigate whether the driver has a valid driver’s license if, when viewed in conjunction with all of the other information available to the officer at the time of the stop, the officer knows the registered owner of the vehicle has a suspended license and the officer is unaware of any other evidence or circumstances from which an inference could be drawn that the registered owner is not the driver of the vehicle.” *Id.*

18. *Glover*, 422 P.3d at 66. The trial court reasoned that the State “must affirmatively produce evidence showing the officer rationally inferred criminal activity based on specific and articulable facts.” *Id.* at 72.

19. *Id.* at 68.

20. *Id.* at 70.

21. *Kansas v. Glover*, 140 S. Ct. 1183, 1186 (2020).

22. 392 U.S. 1 (1968).

23. *See id.* at 30–31 (holding the search is reasonable under the Fourth Amendment if an “officer observes unusual conduct which leads [them] reasonably to conclude in light of [their] experience that criminal activity may be afoot”).

24. *See id.* at 20 (“But we deal here with an entire rubric of police conduct—necessarily swift action predicated upon the on-the-spot observations of the officer on the beat—which historically has not been, and as a practical matter could not be, subjected to the warrant procedure.”).

circumstances surrounding each individual case.²⁵ After *Terry*, lower courts developed a broad definition of what the reasonable suspicion standard requires.²⁶ Section II.A discusses the Fourth Amendment and the reasonable suspicion exception to the warrant requirement.²⁷ Section II.B analyzes the development of the reasonable suspicion standard in the courts.²⁸ Finally, Section II.C looks at the continuing conflict between the Fourth Amendment's individual privacy interest and an officer's public safety interest.²⁹

A. The Reasonable Suspicion Exception

The Fourth Amendment, in part, protects individuals from unreasonable searches and seizures.³⁰ It requires law enforcement officers to either have a search warrant or, in the absence of a warrant, conduct the search “within a specific exception to the warrant requirement.”³¹ However, as the Court acknowledged in *Terry*, a brief warrantless search or seizure supported only by a police officer's “on-the-spot observations” is not categorically prohibited if it is reasonable.³² Specifically, the Court noted the distinction between a search and seizure and a *Terry* Stop and *Terry* Frisk.³³ The *Terry* Stop is a brief investigative detention of an individual when there is reasonable suspicion that criminal activity is afoot.³⁴ Subsequently, if an officer has reasonable suspicion that an individual “may be armed and presently dangerous,” then an officer may conduct a limited search, which is known as a *Terry* Frisk.³⁵ The Court made clear that “police can stop and briefly detain a person for investigative purposes if the officer has a reasonable suspicion supported by articulable facts that criminal activity ‘may be afoot,’ even if the officer lacks probable cause.”³⁶

25. *See id.* at 30 (“Each case of this sort will, of course, have to be decided on its own facts.”).

26. *See infra* Section II.B.

27. *See infra* Section II.A.

28. *See infra* Section II.B.

29. *See infra* Section II.C.

30. *See* U.S. CONST. amend. IV (“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no [w]arrants shall issue, but upon probable cause, supported by [o]ath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”).

31. *Riley v. California*, 573 U.S. 373, 382 (2014).

32. *Terry v. Ohio*, 392 U.S. 1, 20 (1968).

33. *Id.* at 16.

34. *Id.* at 30. The Court found that *Terry* stops are less invasive than a seizure. *Id.* at 16.

35. *Id.* at 30. The Court distinguished *Terry* frisks from a search. *Id.* at 16.

36. *United States v. Sokolow*, 490 U.S. 1, 7 (1989) (quoting *Terry*, 392 U.S. at 30). The *Terry* Court held that a search is reasonable under the Fourth Amendment “where a police officer observes unusual conduct which leads [them] reasonably to conclude in light of [their] experience that

Thus, the standard introduced in *Terry*, known as the “reasonable suspicion” standard, is less demanding than the probable cause standard that is discussed in the text of the Fourth Amendment.³⁷ Reasonable suspicion “can be established with information that is different in quantity or content than” probable cause and “can arise from information that is less reliable than” what is required for probable cause.³⁸ While reasonable suspicion need not be shown by a preponderance of the evidence, the level of suspicion must be more than an “inchoate and unparticularized suspicion or ‘hunch.’”³⁹ Although the reasonable suspicion standard is less than the probable cause standard, the police conduct is still “tested by the Fourth Amendment’s general proscription against unreasonable searches and seizures.”⁴⁰ Thus, the concepts behind the warrant procedure and the requirement of probable cause are still relevant in the reasonableness context.⁴¹

The reasonableness assessment balances the weight of the government’s interest, supported by rational inferences from specific and articulable facts, and a citizen’s constitutionally protected interests.⁴² The facts must be judged against an objective standard—a simple good faith part on the officer is not enough.⁴³ Like probable cause, the inferences underlying a reasonable suspicion must be supported by “probabilities” and other understandings of common experience.⁴⁴ Thus, although the reasonableness standard is lower than the probable cause standard, both standards depend upon the facts of each case.⁴⁵ There is no categorical rule.⁴⁶

When a court assesses whether an officer had the requisite reasonable suspicion to seize a driver, the court consistently relies on the “totality of the circumstances—the whole picture.”⁴⁷ A court does not analyze each individual circumstance separately because each fact, individually, might

criminal activity may be afoot . . . and where nothing in the initial stages of the encounter serves to dispel [their] reasonable fear for [their] own or others’ safety[.]” *Terry*, 392 U.S. at 30.

37. *Terry*, 392 U.S. at 30.

38. *Alabama v. White*, 496 U.S. 325, 330 (1990).

39. *Terry*, 392 U.S. at 27.

40. *Id.* at 20.

41. *Id.*

42. *Id.* at 21.

43. *Id.* at 21–22. The objective standard asks, “would the facts available to the officer at the moment of the seizure or the search ‘warrant a man of reasonable caution in the belief’ that the action taken was appropriate?” *Id.* (quoting *Carroll v. United States*, 267 U.S. 132, 162 (1925)).

44. *United States v. Cortez*, 449 U.S. 411, 418 (1981).

45. *Illinois v. Gates*, 462 U.S. 213, 232 (1983).

46. *Id.*

47. *Cortez*, 449 U.S. at 417; *see also id.* at 419 (holding that the trial court considered all the circumstances, including the officer’s familiarity with the area, his knowledge of the practice of those who smuggle aliens, and the clues that had developed for two months); *United States v. Arvizu*, 534 U.S. 266, 277 (2002) (explaining all the facts taken together warranted the conclusion that the individual was smuggling narcotics).

warrant a conclusion of innocent behavior, but taken together the facts might suggest criminal activity.⁴⁸ Consideration of all of the facts matter because some actions may appear innocent “at a certain time or in a certain place,” but may also signal “criminal activity under different circumstances.”⁴⁹ Accordingly, to determine whether reasonable suspicion exists, a court must look at all the facts taken together.⁵⁰

When considering the totality of the circumstances, the Court recognizes that officers may draw inferences from their professional experience and common sense.⁵¹ The Court has emphasized that police officers may draw inferences that might otherwise “elude an untrained person” due to their investigatory expertise.⁵² Likewise, an officer’s expertise may make some inferences unreasonable that would otherwise appear reasonable to a layperson.⁵³ Additionally, the Court has explained that the reasonableness assessment may be based on an officer’s commonsense judgments.⁵⁴ An officer’s reasonable suspicion does not need to be correct—it only needs to have been reached by a “reasonably prudent man” in the police officer’s position.⁵⁵ This assessment may include an

48. *Ransome v. State*, 373 Md. 99, 104, 816 A.2d 901, 904 (Md. 2003); *see also Illinois v. Wardlow*, 528 U.S. 119, 125 (2000) (agreeing an individual’s flight from officers is not necessarily indicative of ongoing criminal activity and by itself may be lawful); *Terry*, 392 U.S. at 6, 22 (observing that the facts individually supported innocent behavior but taken together, they suggested that the individuals were casing the store for a robbery).

49. *United States v. Branch*, 537 F.3d 328, 336 (4th Cir. 2008); *see Arvizu*, 534 U.S. at 275–76 (noting that a defendant’s behavior may be completely normal in one situation, while completely unusual in another circumstance).

50. *Cortez*, 449 U.S. at 417.

51. *Arvizu*, 534 U.S. at 273.

52. *Cortez*, 449 U.S. at 418.

53. *See Terry*, 392 U.S. at 5 (explaining that the officer had many years of experience and developed routine habits of observation over the years); *Cortez*, 449 U.S. at 419 (noting that it was of critical importance that the officers were familiar with the crossing point and based on their experience they were aware that it was common practice for persons to lead aliens through the desert to be picked up by a vehicle); *United States v. McCoy*, 513 F.3d 405, 414 (4th Cir. 2008) (“[T]he reasonable suspicion determination demands that facts—whether seemingly innocent or obviously incriminating—be assessed in light of their effect on the respective officer’s perception of the situation at hand.”).

54. *See Navarette v. California*, 572 U.S. 393, 402 (2014) (concluding that it is common sense to find that certain driving behaviors are sound indicia of drunk driving); *see also Illinois v. Wardlow*, 528 U.S. 119, 124–25 (2000) (holding the officer was justified in using their common-sense judgment of inferring that the individual was engaging in criminal activity when they fled the area of heavy narcotics and demonstrated nervous, evasive behavior).

55. *Terry*, 392 U.S. at 27; *see Ornelas v. United States*, 517 U.S. 690, 696 (1996) (citations omitted) (explaining reasonable suspicion “as ‘a particularized and objective basis’ for suspecting the person stopped of criminal activity . . . and probable cause to search as existing where the known facts and circumstances are sufficient to warrant a man of reasonable prudence in the belief that contraband or evidence of a crime will be found”).

officer's "commonsense judgments and inferences about human behavior."⁵⁶ Ultimately, when the Court determines whether an officer "acted reasonably in such circumstances, due weight must be given, not to his inchoate and unparticularized suspicion or 'hunch,' but to the specific reasonable inferences which he is entitled to draw from the facts in light of his experience."⁵⁷

B. Development of the Reasonable Suspicion Doctrine in the Courts after Terry v. Ohio

The facts in *Terry* prompted the Court to hold that an officer can stop an individual if there is reasonable suspicion that criminal activity is afoot and the officer can articulate the facts that caused the officer's suspicion.⁵⁸ Although the reasonable suspicion standard is lower than probable cause, courts have recognized that the reasonable suspicion standard is not *carte blanche* for law enforcement officers.⁵⁹

Officers must point to and explain specific facts to demonstrate suspicion that criminal activity is afoot.⁶⁰ Thus, the courts must consider the inferences drawn from the officer and not substitute the courts judgment on the facts.⁶¹ The officer must be able to articulate some type of logic that the court can defer to,⁶² particularly in situations where an individual might perceive the activity to be suspicious in one situation but completely innocent

56. *Wardlow*, 528 U.S. at 125.

57. *Terry*, 392 U.S. at 27.

58. *Id.* at 21. The officer observed two individuals standing together on the street corner for an extended period of time. *Id.* at 23. The officer was unable to say exactly what drew his eye to these two people, but he had thirty-nine years of experience and was assigned to patrol this area for shoplifters and pickpockets for almost thirty years. *Id.* at 5. Based on his experience and the foregoing observations, the officer suspected the two individuals of robbing the store and feared they may have a gun. *Id.* at 6.

59. *Crosby v. State*, 408 Md. 490, 508, 970 A.2d 894, 904 (Md. 2009).

60. *See United States v. Cortez*, 449 U.S. 411, 419 (1981) (concluding the officers had reasonable suspicion when they articulated multiple facts and clues that supported the deductions and inferences drawn about the individuals); *see also United States v. Foster*, 634 F.3d 243, 248 (4th Cir. 2011) ("The Government must also be able to either articulate why a particular behavior is suspicious or logically demonstrate, given the surrounding circumstances, that the behavior is likely to be indicative of some more sinister activity than may appear at first glance."); *see also Crosby*, 408 Md. at 508, 970 A.2d at 904 (explaining the officer must be able to articulate "how the observed conduct, when viewed in the context of all of the other circumstances known to the officer" indicated criminal activity was afoot).

61. *See United States v. McCoy*, 513 F.3d 405, 414 (4th Cir. 2008) (holding that the trial court did not give "'due weight' to the inferences drawn by" the officer and instead "substituted its 'innocent' take on the facts for" the officers' perspective).

62. *See Ransome v. State*, 373 Md. 99, 111, 816 A.2d 901, 908 (Md. 2003) ("[I]f the officer seeks to justify a Fourth Amendment intrusion based on that conduct, the officer ordinarily must offer some explanation of why he or she regarded the conduct as suspicious; otherwise, there is no ability to review the officer's action.").

in another situation.⁶³ Without any logic to defer to, the court does not have the ability to review the officer's actions.⁶⁴ Consequently, the Court has declined to find reasonable suspicion in circumstances where the officer cannot articulate facts to justify the investigatory stop.⁶⁵ In *Delaware v. Prouse*,⁶⁶ the officer stopped an automobile, smelled marijuana smoke while approaching the vehicle, and seized the marijuana, which was in plain view on the car floor.⁶⁷ The officer's only explanation for pulling the individual over was "to check the driver's license and registration."⁶⁸ The Court held that pulling over a vehicle and detaining its driver to verify the driver's compliance with licensing and registration laws, without facts suggesting a violation of the law, is "unreasonable under the Fourth Amendment."⁶⁹

When looking at the totality of the circumstances, courts must not view "each individual circumstance for separate consideration" because one factor, by itself, may constitute completely innocent behavior.⁷⁰ Only when the court looks at facts and inferences in conjunction with other factors may they amount to reasonable suspicion.⁷¹ In *Illinois v. Wardlow*,⁷² an individual fled on foot after seeing police officers patrolling in an area known for heavy narcotics trafficking.⁷³ The Court recognized that there may be innocent reasons for an individual to flee police and an individual's presence in an area of heavy narcotics trafficking, alone, is not enough to support reasonable

63. See *United States v. Arvizu*, 534 U.S. 266, 276 (2002) (explaining the officer is entitled to make the assessment in light of his training and experience when the situation indicates behavior that an officer could interpret differently depending on the surrounding circumstances).

64. *Ransome*, 373 Md. at 111, 816 A.2d at 908.

65. See *Brown v. Texas*, 443 U.S. 47, 52 (1979) (declining to find reasonable suspicion when the officer "was unable to point to any facts supporting" their conclusion that the situation appeared suspicious); see also *Delaware v. Prouse*, 440 U.S. 648, 663 (1979) (explaining individuals traveling "on public roadways may not for that reason alone have their travel and privacy interfered with at the unbridled discretion of police officers"); *United States v. Williams*, 808 F.3d 238, 252–53 (4th Cir. 2015) (holding reasonable suspicion did not exist when "[t]he deputies neither articulated how [the suspect's] particular behavior was suspicious nor logically demonstrated that [the suspect's] behavior was indicative of some more sinister activity than appeared at first glance"); *Crosby*, 408 Md. at 515, 970 A.2d at 908 (holding that the officer's belief was unreasonable when the officer was "[w]ithout particularized and objective reasons that support[ed] a different interpretation of what he observed").

66. 440 U.S. 648 (1979).

67. *Id.* at 650.

68. *Id.*

69. *Id.* at 663.

70. *Ransome v. State*, 373 Md. 99, 104, 816 A.2d 901, 904 (Md. 2003); see also *Illinois v. Wardlow*, 528 U.S. 119, 124 (2000) ("An individual's presence in an area of expected criminal activity, standing alone, is not enough to support a reasonable, particularized suspicion that the person is committing a crime."); *United States v. Sokolow*, 490 U.S. 1, 9 (1989) ("Any one of these factors is not by itself proof of any illegal conduct and is quite consistent with innocent travel.").

71. *United States v. Perkins*, 363 F.3d 317, 321 (4th Cir. 2004).

72. 528 U.S. 119 (2000).

73. *Id.* at 121.

suspicion.⁷⁴ However, the Court considered the totality of the circumstances and noted that the location, unprovoked flight, and the individual's nervous behavior gave the officer reasonable suspicion to stop them.⁷⁵ Thus, the Court has explicitly rejected the idea that a single factor can justify reasonable suspicion for an officer to pursue an investigatory stop.⁷⁶

C. Conflict Between an Individual's Privacy Interest and an Officer's Public Safety Interest

As established in *Terry*, the reasonable suspicion doctrine balances law enforcement's intrusion on an individual's privacy against governmental safety interests.⁷⁷ One of the main governmental interests is "effective crime prevention and detection."⁷⁸ However, as the *Terry* Court explained, even a non-intrusive physical pat down is an "intrusion upon cherished personal security" worthy of protection.⁷⁹ Thus, courts must also consider the nature and quality of the intrusion on individual rights.⁸⁰ In *Prouse*, the Court balanced the governmental interest in conducting traffic stops against the individual's privacy interest.⁸¹ While recognizing the practical challenges of ensuring that all vehicles are properly inspected and that their drivers are licensed, the Court ruled that random highway inspection checks are prohibited by the Fourth Amendment.⁸² The Court agreed that states have an interest in ensuring their highway safety laws are followed to protect their citizens on roadways.⁸³ However, individuals also have a reasonable expectation of privacy when traveling in a vehicle because it is a typical and

74. *Id.* at 124–25.

75. *Id.* at 124.

76. *See* *United States v. Brignoni-Ponce*, 422 U.S. 873, 885–86 (1975) (emphasizing the officer's reliance on one factor—the Mexican ancestry of the occupants—did not justify the officer's reasonable belief that they were non-U.S. citizens); *United States v. Neff*, 681 F.3d 1134, 1141 (10th Cir. 2012) (reasoning that the decision to use a highway exit after seeing a drug checkpoint may be a valid, persuasive factor in the analysis, but standing alone it is insufficient to justify even a brief investigatory detention of a vehicle).

77. *See* *Camara v. Mun. Ct.*, 387 U.S. 523, 536–37 (1967) (explaining that there is "no ready test for determining reasonableness other than by balancing the need to search [or seize] against the invasion which the search [or seizure] entails").

78. *Terry v. Ohio*, 392 U.S. 1, 22 (1968). The Supreme Court explained that this interest "underlies the recognition that a police officer may in appropriate circumstances and in an appropriate manner approach a person for purposes of investigating possibly criminal behavior even though there is no probable cause to make an arrest." *Id.*

79. *Id.* at 25.

80. *Id.* at 24.

81. *Delaware v. Prouse*, 440 U.S. 648, 654 (1979).

82. *Id.* at 658–59.

83. *Id.* at 658.

necessary mode of transportation.⁸⁴ In balancing these two interests, the Court reasoned that the state's interest in slightly improved highway safety was outweighed by the substantial privacy invasion of officers searching "every occupant of every vehicle on the roads."⁸⁵

Courts have analyzed many cases and numerous facts involving whether an officer had reasonable suspicion of criminal activity.⁸⁶ Before the *Glover* decision, the Supreme Court had only infrequently analyzed cases in which a traffic stop was initiated with very limited facts and no officer testimony.⁸⁷ Thus, the cases discussed throughout this section provide insight and guidance for specific types of inferences and factors officers may draw upon that may help guide courts in determining whether an officer has the requisite reasonable suspicion to conduct an investigatory stop.⁸⁸

III. THE COURT'S REASONING

In *Kansas v. Glover*, the Court considered whether it is reasonable under the Fourth Amendment for an officer to infer that the owner-is-the-driver and subsequently conduct an investigatory stop if a vehicle's registered owner has a revoked license.⁸⁹ The Court explained that such a scenario does not violate the Fourth Amendment and, absent information to the contrary, it is reasonable for a police officer to assume that a vehicle's registered owner is driving the vehicle.⁹⁰

The Court began by reasoning it "cannot reasonably demand scientific certainty where . . . none exists," and rather, the courts "must permit officers to make 'commonsense judgments and inferences about human behavior.'"⁹¹ Subsequently, the Court explained that Mehrer drew a commonsense inference and had more than reasonable suspicion to initiate the stop.⁹² The Court permitted this inference because of three facts: (1) Mehrer observed an individual operating a 1995 Chevrolet 1500 pickup truck with Kansas plate 295ATJ; (2) the registered owner of the truck had a revoked license; and (3)

84. *Id.* at 662. *But see* *Cardwell v. Lewis*, 417 U.S. 583, 590 (1974) (explaining there is a diminished expectation of privacy surrounding the automobile because "its function is transportation and it seldom serves as one's residence or as the repository of personal effects").

85. *Prouse*, 440 U.S. at 661.

86. *See supra* Section II.B.

87. *See supra* Section II.B.

88. *See supra* Section II.B.

89. *Kansas v. Glover*, 140 S. Ct. 1183, 1186 (2020).

90. *Id.* In other words, a police officer does not violate the Fourth Amendment when the officer initiates an investigative stop after running a vehicle's license and learning that the registered owner has a revoked license. *Id.*

91. *Id.* at 1188 (quoting *Illinois v. Wardlow*, 528 U.S. 119, 125 (2000)) (internal quotation marks omitted).

92. *Id.*

the model of the truck matched the observed vehicle.⁹³ The Court rejected the argument that the registered owner is not always the driver because that logic could apply to all reasonable inferences.⁹⁴

The Court further relied on empirical studies to reject the idea that Glover's revoked license negated a finding of reasonable suspicion.⁹⁵ These empirical studies demonstrated that drivers with revoked licenses usually continue to drive and therefore pose safety risks to pedestrians.⁹⁶ Additionally, the Court reasoned that the Kansas license-revocation scheme supports the reasonableness of Mehrer's inference that an individual may continue to drive with a revoked license because drivers have already shown disregard for the law.⁹⁷

Glover raised two arguments as to why Mehrer's inference was unreasonable.⁹⁸ First, Glover argued that the inference was not grounded in Mehrer's law enforcement training or experience.⁹⁹ The Court rejected this argument, explaining that "[t]he inference that the driver of a car is its registered owner does not require any specialized training; rather, it is a reasonable inference made by ordinary people on a daily basis."¹⁰⁰ Further, "reasonable suspicion is an 'abstract' concept that cannot be reduced to 'a neat set of legal rules.'"¹⁰¹ The Court then noted the implications of requiring officers to point to specific training materials or field experiences, explaining that it would place a burden on officers and inevitably "tie a traffic stop's

93. *Id.*

94. *Id.* The Court explained that even though the registered owner of a vehicle is not always the driver of the vehicle, the reasonable suspicion inquiry does not have to be perfect because the reasonable suspicion inquiry "'falls considerably short' of [fifty-one] percent accuracy." *Id.* (quoting *United States v. Arvizu*, 534 U.S. 266, 274 (2002)).

95. *Id.*

96. *Id.*

97. *Id.* at 1188–89; see KAN. STAT. ANN. §§ 8-255(a)(1)–(4) (2021) (stating the State is authorized to revoke a person's driving privileges if the person "(1) [h]as been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways; (2) has been convicted of three or more moving traffic violations committed on separate occasions within a [twelve]-month period; (3) is incompetent to drive a motor vehicle; (4) has been convicted of a moving traffic violation, committed at a time when the person's driving privileges were restricted, suspended, or revoked").

98. *Glover*, 140 S. Ct. at 1189–90.

99. *Id.* at 1189. Glover argued that the stop was unreasonable because Mehrer did not draw upon his training or experience to develop inferences that would justify the traffic stop. *Id.*

100. *Id.* The Court stated that nothing in its Fourth Amendment precedent supports the notion that an officer can draw inferences based on knowledge gained only through law enforcement experience or training. *Id.*

101. *Id.* at 1190 (quoting *United States v. Arvizu*, 534 U.S. 266, 274 (2002)).

validity to the officer's length of service."¹⁰² Second, Glover argued that a holding for the State would "eviscerate" the Court's "specific and articulable facts" requirement by relying "exclusively on probabilities."¹⁰³ The Court denied this argument, explaining that officers are like jurors in that they may rely on probabilities in the reasonable suspicion context.¹⁰⁴ Thus, the Court concluded that combining database information provided to the officer and commonsense judgments of the officer is "fully consonant with this Court's Fourth Amendment precedents."¹⁰⁵

Lastly, the Court emphasized the narrow scope of the holding, noting that the presence of additional facts in this case might have dispelled reasonable suspicion.¹⁰⁶ The Court then concluded by clarifying that the officer's actions must be justified and courts must consider the totality of the circumstances in light of the facts of each case.¹⁰⁷ In a concurring opinion, Justice Kagan reiterated the narrow scope of the holding and reached the same conclusion as the majority by relying solely on the fact that Mehrer knew the registered owner had a tendency for breaking driving laws.¹⁰⁸ Justice Kagan further emphasized that the license revocation scheme in Kansas required "serious or repeated driving violations," and therefore, Mehrer's inference was reasonable.¹⁰⁹

In her dissenting opinion, Justice Sotomayor argued that the majority ignored key foundations of reasonable suspicion and reduced the State's burden of proof.¹¹⁰ Justice Sotomayor disagreed with the majority's view on the reasonable suspicion inquiry and instead explained that the reasonable suspicion inquiry deliberately avoids judicial common sense, does not accommodate the average person's intuition, and favors viewing "the facts through the lens of police experience and expertise."¹¹¹ Specifically, she noted "[i]t is the reasonable officer's assessment, not the ordinary person's—or judge's—judgment, that matters."¹¹² When looking at reasonable

102. *Id.* The Court noted that their reasoning does not minimize the significant role that specialized training and experience plays, but simply notes that it is not a requirement in every instance. *Id.*

103. *Id.* (internal quotation marks omitted).

104. *Id.*

105. *Id.*

106. *Id.* at 1191. Specifically, the Court explained that there may be no reasonable suspicion in a situation where "an officer knows that the registered owner of the vehicle is in his mid-sixties but observes that the driver is in her mid-twenties . . ." *Id.*

107. *Id.*

108. *Id.* at 1194 (Kagan, J., concurring).

109. *Id.* Justice Kagan explained that the case may have been different if the driver's license was suspended instead of revoked. *Id.* at 1192.

110. *Id.* at 1194 (Sotomayor, J., dissenting).

111. *Id.* at 1195 (quoting *Ornelas v. United States*, 517 U.S. 690, 699 (1996)).

112. *Id.* at 1195.

suspicion, she emphasized that “past cases have considered the ‘totality of the circumstances—the whole picture,’”¹¹³ however this case “rests on just one key fact: that the vehicle was owed by someone with a revoked license.”¹¹⁴ Additionally, she explained that the State has the burden of “articulat[ing] factors supporting its reasonable suspicion, usually through a trained agent.”¹¹⁵ Therefore, she argued that the majority flipped the burden of proof and “permits Kansas police officers to effectuate roadside stops whenever they lack ‘information negating an inference’ that a vehicle’s unlicensed owner is its driver.”¹¹⁶ Finally, she noted some implications of the majority’s holding, specifically emphasizing that reasonable suspicion may now be found “based on nothing more than a demographic profile.”¹¹⁷

IV. ANALYSIS

In *Kansas v. Glover*, the Supreme Court held “when [an] officer lacks information negating an inference that the owner is the driver of the vehicle, the stop is reasonable.”¹¹⁸ The Court’s holding takes an additional step towards granting law enforcement more deference in conducting investigatory stops.¹¹⁹ The Court erroneously departed from precedent by relying on an officer’s assumptions instead of inferences and failing to consider an individual’s Fourth Amendment privacy interest.¹²⁰ The Court ignored law enforcement’s primary responsibility to further investigate potential criminal activity and traffic violations and importantly, discouraged them from further doing so.¹²¹ Ultimately, the Court failed to consider the negative implications of this rule, specifically how it will disproportionately affect individuals in disadvantaged communities.¹²²

A. The Supreme Court Departed from the Reasonable Suspicion Standard Originally Established in Terry v. Ohio

In *Glover*, the Court created a presumption that the driver of a vehicle is also the registered owner of the vehicle if there is no information to negate the officer’s inference.¹²³ This presumption is contrary to what the

113. *Id.* at 1194 (quoting *United States v. Cortez*, 449 U.S. 411, 417 (1981)).

114. *Id.*

115. *Id.*

116. *Id.* at 1195 (quoting *Id.* at 1186–87 (majority opinion)).

117. *Id.* at 1197.

118. *Id.* at 1186 (majority opinion).

119. *See infra* Section IV.A–IV.C.

120. *See infra* Section IV.A.

121. *See infra* Section IV.B.

122. *See infra* Section IV.C.

123. *See supra* text accompanying note 118.

reasonable suspicion doctrine previously required.¹²⁴ Despite correctly finding that officers may draw upon commonsense inferences, the Court erroneously substituted assumptions for inferences and implied that an officer's assumption alone was sufficient to establish reasonable suspicion.¹²⁵ Additionally, the Court failed to require Mehrer to articulate *any* logic as to why he developed reasonable suspicion.¹²⁶ Lastly, the Court departed from considering an individual's Fourth Amendment privacy interest.¹²⁷ As a result, the Court further blurred the already unsettled reasonable suspicion standard and made investigatory stops presumptively reasonable.¹²⁸

1. The Court Erroneously Labeled an Assumption an Inference and Permitted Law Enforcement to Assume Individuals Are Engaging in Crime

The Court ignored the crucial difference between an assumption and an inference and, in doing so, implied officers are permitted to assume individuals are engaging in crime.¹²⁹ Reasonable suspicion requires officers to draw upon their commonsense inferences, not assumptions, to show specific and articulable facts that criminal activity is afoot.¹³⁰ An assumption is a belief that is accepted as true without proof, whereas an inference is a conclusion based on a premise and evidence.¹³¹ Mehrer's inference that Glover had a revoked license was supported, *ex post facto*, by the evidence in the database;¹³² however, Mehrer's assumption that Glover was also the driver of the vehicle was supported by no evidence or proof at the time of the

124. *See infra* Section IV.A.1–3.

125. *See infra* Section IV.A.1.

126. *See infra* Section IV.A.2.

127. *See infra* Section IV.A.3.

128. *See Kansas v. Glover*, 140 S. Ct. 1183, 1197 (2020) (Sotomayor, J., dissenting) (noting the majority's logic "has thus made the [s]tate's task all but automatic" and that "[t]hat has never been the law, and it never should be"); Dennis J. Buffone, *Traffic Stops, Reasonable Suspicion, and the Commonwealth of Pennsylvania: A State Constitutional Analysis*, 69 U. PITTSBURGH L. REV. 331, 332 (2007) (noting the originally established *Terry* standard left "no doubt that the exception was to be construed and applied in only the narrowest of contexts" but as the lower courts applied it, the standard became blurred considerably).

129. *See State v. Glover*, 422 P.3d 64, 69 (Kan. 2018), *rev'd sub nom.*, *Kansas v. Glover*, 140 S. Ct. 1183 (2020) (explaining the dictionary defines "an assumption [as] 'a statement accepted or supposed true without proof or demonstration'" and "an inference is '[s]omething inferred; a conclusion based on a premise,' and to infer is '[t]o conclude from evidence; deduce' or '[t]o have as a logical consequence'" (second, third, and fourth alterations in original) (quoting *American Heritage Dictionary*, 80, 673 (1969))).

130. *See supra* notes 60 and 61 and accompanying text.

131. *Glover*, 422 P.3d at 69.

132. *See Glover*, 140 S. Ct. at 1187 (majority opinion) (noting the files indicated that Glover had a revoked driver's license in the State of Kansas).

stop.¹³³ To the contrary, Mehrer based his assumption on another assumption: that most individuals driving a car are also the owner of the car.¹³⁴ Mehrer failed to offer any specific articulated logic to support his assumption, and the Court did not require him to do so.¹³⁵ Instead, the Court suggested that Mehrer's assumption satisfied the requisite "commonsense inference[s]"¹³⁶ for the reasonable suspicion inquiry and, consequently, implied that officers may assume individuals are engaging in criminal behavior.¹³⁷

The Court created a presumption of "general criminal inclination" by allowing Mehrer to assume the owner is the driver and subsequently assuming that the owner is disregarding state law by continuing to drive on a revoked license.¹³⁸ However, an individual with a revoked driver's license does not commit a crime by owning a vehicle, and an individual with a revoked license does not commit a crime by allowing another licensed driver to use their registered vehicle.¹³⁹ A crime occurs only when the unlicensed driver operates the vehicle.¹⁴⁰ Therefore, the mere presence of a truck on the road, even if the truck is *owned* by an unlicensed driver, is not a reasonable basis for suspecting criminal activity.¹⁴¹ This presumption is contrary to the Fourth Amendment standard, our constitutional scheme, and a system of fairness—citizens are presumed to be "engaged in lawful activities" and

133. *See id.* ("Based solely on the information that the registered owner of the truck was revoked, Deputy Mehrer initiated a traffic stop.").

134. *See id.* at 1187 ("The court further explained that Deputy Mehrer's 'hunch' involved 'applying and stacking unstated assumptions that are unreasonable without further factual basis,' namely, that 'the registered owner was likely the primary driver of the vehicle' and that 'the owner will likely disregard the suspension or revocation order and continue to drive.'" (quoting *State v. Glover*, 422 P.3d 64, 68–70 (2018))).

135. *See Glover*, 140 S. Ct. at 1186 ("We hold that when the officer lacks information negating an inference that the owner is the driver of the vehicle, the stop is reasonable.").

136. *Id.* at 1188.

137. *State v. Glover*, 422 P.3d 64, 72 (Kan. 2018), *rev'd sub nom.*, *Kansas v. Glover*, 140 S. Ct. 1183 (2020). It is not always reasonable to assume that all individuals are following the law, however, "Deputy Mehrer did not observe any traffic infractions, and did not attempt to identify the driver [of] the truck." *Glover*, 140 S. Ct. at 1187 (alteration in original) (citation omitted).

138. *Glover*, 422 P.3d at 70.

139. *Id.* at 68. The activity must be "specific enough to permit an innocent citizen to be differentiated from one who is actually guilty." Margaret Anne Hoehl, *Usual Suspects Beware: "Walk, Don't Run" Through Dangerous Neighborhoods*, 35 U. RICH. L. REV. 111, 136 (2001).

140. *Glover*, 422 P.3d at 68.

141. *See e.g.*, *Brown v. Texas*, 443 U.S. 47, 52 (1979) ("The fact that appellant was in a neighborhood frequented by drug users, standing alone, is not a basis for concluding the appellant himself was engaged in criminal conduct."); *see Hoehl, supra* note 139, at 136–37 (noting that the characteristic considered "must be more often present when a crime is being committed than when it is not; otherwise, it has no probative value").

should be free from government interference.¹⁴² Therefore, the crucial question the Court needed to answer in *Glover* was whether Mehrer had reasonable suspicion to stop the *driver* of Glover’s vehicle—not whether there was reasonable suspicion to stop Glover himself.¹⁴³

2. *The Court Failed to Require the Officer to Articulate Specific Facts to Demonstrate Reasonable Suspicion*

The Court departed from the precedent in Fourth Amendment reasonable suspicion cases—officers must point to specific and articulable facts to support their inferences.¹⁴⁴ The reasonable suspicion inquiry is inherently fact-specific and does not recognize bare assumptions.¹⁴⁵ A specific and articulable fact “is one that adds to the likelihood of criminal activity, *given the other facts also observed.*”¹⁴⁶ It is based on articulable circumstances available to the officer at the time of the incident—not inarticulable circumstances or ex post evidence.¹⁴⁷ In *Brown v. Texas*,¹⁴⁸ the officer explained that the individual’s behavior “‘looked suspicious,’” but the officer failed to “point to any facts supporting that conclusion.”¹⁴⁹ Similarly, in *Glover*, Mehrer assumed the owner of the car was also the driver, but Mehrer did not “point to any facts supporting that conclusion.”¹⁵⁰ At the time

142. *Glover*, 422 P.3d at 70; see Brief of the Rutherford Inst. as Amicus Curiae in Support of Respondent at 9, *Kansas v. Glover*, 140 S. Ct. 1183 (2020) (No. 18-556) (“Mr. Glover was thus entitled to the benefit of this presumption until it could be shown through specific, articulable evidence that there was reason to believe he was committing a criminal act.”).

143. *Glover*, 422 P.3d at 68 (emphasis added).

144. *Terry v. Ohio*, 392 U.S. 1, 21 (1968); see *supra* notes 60–64 and accompanying text.

145. See *United States v. Cortez*, 449 U.S. 411, 417 (1981) (holding officers must have “articulable reasons” or “founded suspicions” from the “totality of the circumstances—the whole picture”); Sheri Lynn Johnson, *Race and the Decision to Detain a Suspect*, 93 YALE L.J. 214, 217 (1983) (explaining reasonable suspicion deals with probabilities but every action “must be those of reasonable men, *acting on facts leading sensibly to their conclusions of probability*” (internal quotation marks omitted) (quoting *Brinegar v. United States*, 338 U.S. 160, 176 (1949))); see also *Brown*, 443 U.S. at 51 (requiring officers to articulate “objective facts” to demonstrate their reasonable suspicion that criminal activity is present); *Terry*, 392 U.S. at 27 (explaining reasonable suspicion is more than an “inchoate and unparticularized suspicion or ‘hunch’”).

146. See Johnson, *supra* note 145, at 217 (emphasis added).

147. See *Brown*, 443 U.S. at 51–52 (explaining there were no “circumstances preceding the officers’ detention” that justified reasonable suspicion that the individual was involved in criminal activity); L. Song Richardson, *Police Efficiency and the Fourth Amendment*, 87 IND. L.J. 1143, 1153 (2012) [hereinafter *Police Efficiency*] (noting the *Terry* doctrine requires officers to base suspicions on specific and particular facts for the purpose of “prevent[ing] policing based upon stereotypes of criminality”); see also *United States v. Brignoni-Ponce*, 422 U.S. 873, 886 n. 11 (1975) (rejecting the presence of after-the-fact justifications); *Terry*, 392 U.S. at 20 (asking “whether the officer’s action was justified *at its inception*” (emphasis added)).

148. 443 U.S. 47 (1979).

149. *Id.* at 52.

150. *Id.*; see Brief of Professor Andrew Manuel Crespo as Amicus Curiae in Support of Affirmance at 22, *Kansas v. Glover*, 140 S. Ct. 1183 (2020) (No. 18-556) [hereinafter *Brief of*

of the incident in *Glover*, Mehrer *only* knew the registered owner of the pickup truck had a revoked driver's license.¹⁵¹ Mehrer needed to first point to specific and articulable facts linking the driver of the vehicle as the registered owner.¹⁵² Without the officer offering "some explanation of why [the officer] regarded the conduct as suspicious," the Court has "no ability to review the officer's action."¹⁵³

3. *The Court Failed to Consider an Individual's Fourth Amendment Privacy Interest*

Law enforcement has a vital interest in ensuring that only those qualified to drive are operating motor vehicles, but that interest needs to be properly balanced with an individual's privacy interest.¹⁵⁴ Importantly, many people choose to drive deliberately—they seek to enjoy a "greater sense of security and privacy" in their car than they would on a bus or sidewalk.¹⁵⁵ In *Glover*, the Court failed to consider "the gravity of the crime under investigation and the privacy intrusion resulting from the police activity."¹⁵⁶ Consequently, the Court gave officers the opportunity to further intrude on individual privacy rights, specifically of those who borrow cars where the owner of the car has a revoked license.¹⁵⁷ An investigatory stop that "is not based on objective

Professor Crespo] (explaining that instead of presenting facts the "State opted to draft a stipulation of facts that contain[ed] no information whatsoever" proving that the owner was the driver).

151. *Kansas v. Glover*, 140 S. Ct. 1183, 1187 (2020).

152. *See supra* note 60 and accompanying text.

153. *Ransome v. State*, 373 Md. 99, 111, 816 A.2d 901, 908 (Md. 2003); *see* Margaret Raymond, *Down on the Corner, Out in the Street: Considering the Character of the Neighborhood in Evaluating Reasonable Suspicion*, 60 OHIO STATE L.J. 99, 142 (1999) (finding judicial oversight and supervision is possible because "it requires the officer to proffer an articulable justification that can be meaningfully reviewed").

154. *See Terry v. Ohio*, 392 U.S. 1, 20–21 (1976) (explaining that when assessing the reasonableness of the officer's conduct "it is necessary 'first to focus upon the governmental interest which allegedly justifies official intrusion upon the constitutionally protected interests of the private citizen'" (quoting *Camara v. Mun. Ct.*, 387 U.S. 523, 534–535 (1976)); *Delaware v. Prouse*, 440 U.S. 648, 662 (1979) ("An individual operating or traveling in an automobile does not lose all reasonable expectation of privacy simply because the automobile and its use are subject to government regulation.").

155. *Delaware*, 440 U.S. at 662. *But see Cardwell v. Lewis*, 417 U.S. 583, 590 (1974) (finding there is a diminished expectation of privacy surrounding the automobile).

156. Craig S. Lerner, *Reasonable Suspicion and Mere Hunches*, 59 VAND. L. REV. 407, 463 (2006); *see also United States v. Brignoni-Ponce*, 422 U.S. 873, 879 (1974) (balancing the public interest against "the interference with individual liberty that results when an officer stops an automobile and questions its occupants").

157. *See Kansas v. Glover*, 140 S. Ct. 1183, 1198 (2020) (Sotomayor, J., dissenting) ("[T]he majority's distinction between revocation and suspension may not hold up in other jurisdictions Whether the majority's 'common sense' assumptions apply outside of Kansas is thus open to challenge."); *The Rise of the One Car Family*, NATIONWIDE (Oct. 16, 2017), <https://blog.nationwide.com/one-car-family/> (finding many teenagers are "content with a car-free

criteria” creates a greater “risk of arbitrary and abusive police practices.”¹⁵⁸ Therefore, an officer should balance the impact of the intrusion against the resulting social harm; there is likely little social harm from a failure to stop an individual with a suspended or revoked driver’s license, but doing so creates a situation where the intrusion could end up being large.¹⁵⁹ For example, an officer that does not confirm the identity of a driver could end up pulling over someone who is driving their parent’s car, resulting in an innocent individual being subjected to a stop and potentially a search.¹⁶⁰ Additionally, the harm in failing to investigate an unlicensed driver is likely small because the majority of license suspensions or revocations stem from the failure to pay fines.¹⁶¹ In contrast, in a situation where an officer has a hunch that an individual entering the airport has a bomb, the resulting harm would greatly outweigh the impact of the intrusion.¹⁶² Ultimately, an individual who borrows a car should not lose all expectation of privacy simply because the owner of the car has a revoked license.¹⁶³

In an opportunity to clarify the reasonable suspicion doctrine, the Court further blurred the reasonable suspicion standard and established that an officer’s assumption provides the basis for reasonable suspicion if there is no information to negate the assumption.¹⁶⁴ Significantly, the Court departed from requiring officers to articulate facts and inferences to support their suspicion that criminal activity was afoot.¹⁶⁵ Importantly, the Court granted “yet another ‘constitutional’ set of circumstances upon which the police may

lifestyle” and likely will not own their own car because of the rise in self-driving cars and ride sharing services); *supra* text accompanying note 90.

158. *Brown v. Texas*, 443 U.S. 47, 52 (1979).

159. *See e.g., Lerner, supra* note 156, at 466 (explaining an officer that suspects an individual with a gun results in an intrusion that is likely small but “the social harm that would result from a failure to stop the particular crime is great”).

160. *See supra* note 157 and accompanying text.

161. *See Glover*, 140 S. Ct. at 1192 (Kagan, J., concurring) (noting that studies suggest that most license suspensions relate to being poor, not driving behaviors); *Suspended or Revoked License*, DEP’T OF MOTOR VEHICLES, <https://dmv.dc.gov/service/suspended-or-revoked-license> (last visited Oct. 29, 2020) (finding failure to make child support payments as a reason for having a driver’s license revoked); *see* Jon A. Carnegie & Robert J. Eger, *Reasons for Driver License Suspension, Recidivism, and Crash Involvement Among Drivers with Suspended/Revoked Licenses*, NAT’L HIGHWAY TRAFFIC SAFETY ADMIN. 1, 7 (Jan. 2009), https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/811092_driver-license.pdf (finding the most common reasons for license suspensions include failure to comply with child support, maintain proper insurance, alcohol or drug-related offenses by minors, and failure to pay court fines).

162. *Lerner, supra* note 156, at 466.

163. *See Delaware v. Prouse*, 440 U.S. 648, 662 (1979) (emphasizing traveling by car as “a basic, pervasive, and often necessary mode of transportation to and from one’s home, workplace, and leisure activities” and that “[m]any people spend more hours each day traveling in cars than walking on the streets”).

164. *See supra* text accompanying note 90.

165. *See supra* Section IV.A.2.

depend in their ever-vigilant quest to arbitrarily enforce the power granted to them by the courts.”¹⁶⁶ The more the Court grants law enforcement this power, the more the Fourth Amendment erodes, and inevitably officers may stop more innocent individuals.¹⁶⁷

B. The Court Wrongfully Ignored Law Enforcement’s Primary Responsibility and Discouraged Law Enforcement Officers from Further Investigating

In *Glover*, the Court ignored the experience and specialized training that officers receive and failed to require officers to do what they are more than capable of doing—further investigate potential criminal activity and traffic violations.¹⁶⁸ The courts defer to law enforcement in a reasonable suspicion analysis “because they have the knowledge, the expertise, and, ultimately, the responsibility for combatting crime,”¹⁶⁹ especially in situations where the activity “might well be unremarkable in one instance . . . while quite unusual in another.”¹⁷⁰ When an officer learns that the owner of a vehicle has a revoked or suspended license, it is entirely possible that either the owner is continuing to drive or that someone else is driving the owner’s vehicle.¹⁷¹ As

166. Hoehl, *supra* note 139, at 146.

167. See Amie Stepanovich, *Fourth Amendment Eroded*, REASON (Jan. 2014), <https://reason.com/2013/12/29/fourth-amendment-eroded/> (“[G]overnment lawyers have argued repeatedly that [the Fourth Amendment] right should be limited, and the Supreme Court has often agreed.”); see also Hoehl, *supra* note 139, at 146–47 (“Unless the courts are willing to backpedal and return to the original, narrowly circumscribed holding of *Terry*, citizens on the street will continue to see their rights and expectations gradually fade into nonexistence.”).

168. See *Kansas v. Glover*, 140 S. Ct. 1183, 1196 (2020) (Sotomayor, J., dissenting) (“The consequence of the majority’s approach is to absolve officers from any responsibility to investigate the identity of a driver where feasible.”); see also Lerner, *supra* note 156, at 472–73 (explaining that officers are the ones that track down a criminal while respecting the rights of innocents but to make this happen depends upon “the quality of police recruits, the nature of their training, [and] the competence of the police command structure”).

169. David A. Harris, *Factors for Reasonable Suspicion: When Black and Poor Means Stopped and Frisked*, 69 IND. L.J. 659, 665 (1994); see *Police Efficiency*, *supra* note 147, at 1156 (“With the proper training and experience, officers may learn to make accurate judgments about when an individual’s actions denote criminality [A]n appropriately trained and experienced officer is likely more proficient than the courts at determining whether a particular set of circumstances is suspicious.”). But see L. Song Richardson, *Arrest Efficiency and the Fourth Amendment*, 95 MINN. L. REV. 2035, 2068 (2011) [hereinafter *Arrest Efficiency*] (“[O]fficers may be more likely to be influenced by the operation of implicit biases than civilians, which may cause officers to incorrectly interpret ambiguous behavior as suspicious when engaged in by blacks as opposed to whites.”).

170. *United States v. Arvizu*, 534 U.S. 275, 276 (2002).

171. See *New Report Finds New York Has Severe Racial Disparities in Traffic Enforcement and Driver’s License Suspensions*, FINES AND FEES JUST. CTR. (Feb. 18, 2020), <https://finesandfeesjusticecenter.org/2020/02/18/new-report-finds-new-york-has-severe-racial-disparities-in-traffic-enforcement-and-drivers-license-suspensions/> [hereinafter *New York Racial Disparities*] (“Driving is such a necessity that [seventy-five] percent of people continue to drive after their license gets suspended.”); Bruce Schaller, *In a Reversal, ‘Car Rich’ Households Are*

a result, these are situations where the Court has indicated it is perfectly reasonable for the officer to confirm the owner is not behind the wheel.¹⁷² In this case, anyone could have been driving Glover's vehicle.¹⁷³ However, the Court held Mehrer to a lower standard than the Court originally established in *Terry*.¹⁷⁴ In doing so, the Court rewarded law enforcement for poor police work and discouraged them from investigating potential criminal activity or traffic violations further.¹⁷⁵

Law enforcement has the responsibility of articulating inferences, especially in this "type of geographically localized inquiry."¹⁷⁶ By relieving officers of their primary duty to articulate inferences,¹⁷⁷ the Court ignored that reasonable minds may differ on what may be common sense in this particular situation¹⁷⁸ and, therefore, some individuals may assume the opposite—cars are commonly driven by individuals other than the registered owner.¹⁷⁹ The Court failed to consider that the commonsense inference

Growing, BLOOMBERG CITYLAB (Jan. 7, 2019, 7:00 AM), <https://www.bloomberg.com/news/articles/2019-01-07/despite-uber-and-lyft-urban-car-ownership-is-growing> (finding in Seattle there has been a twenty-three percent increase in "car-light" households, meaning households with fewer vehicles than workers).

172. See *Glover*, 140 S. Ct. at 1196 ("[T]here are countless other instances where officers have been able to ascertain the identity of a driver from a distance and make out their approximate age and gender."); *supra* notes 62 and 63 and accompanying text.

173. See *supra* text accompanying note 171.

174. See *Terry v. Ohio*, 392 U.S. 1, 21, 22 (1968) (requiring law enforcement to "point to specific and articulable facts" because "[a]nything less would invite intrusions upon constitutionally guaranteed rights based on nothing more substantial than inarticulate hunches").

175. *Glover*, 140 S. Ct. at 1197 (noting that the majority's "logic has thus made the [s]tate's task all but automatic," which is something "[t]hat has never been the law, and it never should be").

176. *Id.* at 1196; see *supra* note 63 and accompanying text.

177. See *Brief of Professor Crespo*, *supra* note 150, at 23–24 ("[A]ll one needs to do is count how many times vehicles reportedly registered to unlicensed drivers are actually driven by those individuals when such vehicles are stopped in the relevant geographic area.").

178. See *Glover*, 140 S. Ct. at 1192 (Kagan, J., concurring) (explaining it may be common sense to "think that a person told not to drive on pain of criminal penalty would obey the order"); see also *Delaware v. Prouse*, 440 U.S. 648, 659–60 (1979) ("It seems common sense that the percentage of all drivers on the road who are driving without a license is very small . . ."); *Brief of Professor Crespo*, *supra* note 150, at 24 (alteration in original) (explaining that from an officer's "hit rate" one can "compute the likelihood that any particular [stop] will result . . . in the discovery of particular kinds of evidence," including an unlicensed driver sitting behind the wheel" (quoting Sharad Goel, Maya Perelman, Ravi Shroff & David Alan Sklansky, *Combating Police Discrimination in the Age of Big Data*, 20 NEW CRIM. L. REV. 181, 187 (2017))).

179. See *Glover*, 140 S. Ct. at 1191 (noting that "[f]amilies share cars; friends borrow them"); *State v. Glover*, 422 P.3d 64, 67 (Kan. 2018), *rev'd sub nom.*, *Kansas v. Glover*, 140 S. Ct. 1183 (2020) (explaining the trial court judge found it was common for individuals other than the registered owner to drive a vehicle because the judge herself had three cars registered in her name that she, her daughter, and her husband drove); HUB SmartCoverage Team, *Does the Car Owner Have to be The Primary Driver?*, HUB SMART COVERAGE (Oct. 18, 2017), <https://www.hubsmartcoverage.ca/blog/does-car-owner-have-be-primary-driver/> (acknowledging the primary driver is not always the owner of the car, especially in situations where parents let a teenager drive an older car or when people with poor credit are unable to purchase their own

drawn may “depend on a number of different circumstances.”¹⁸⁰ The probability of a non-owner driving a vehicle varies between city and even neighborhood,¹⁸¹ and there are many reasons why licenses are suspended—many of them unrelated to driving.¹⁸² Consequently, not requiring law enforcement to demonstrate specific and articulable facts—when the officer’s training has taught them to do exactly that—rewards officers for what the Court has previously recognized as “poor police work.”¹⁸³

Most importantly, the rule adopted by the Court disincentivizes officers from investigating further because, ultimately, if they did, it could undermine reasonable suspicion.¹⁸⁴ If an officer runs an individual’s license plate and learns that the registered owner has a revoked license, the officer will not want to search for other information since “the presence of additional facts might dispel reasonable suspicion.”¹⁸⁵ The Court implied that officers can rely solely on assumptions, as long as no facts are present to negate the

vehicle); *see also* I. Wagner, *Number of Vehicles Per Household in the United States from 2001 to 2017*, STATISTA (Apr. 28, 2020), <https://www.statista.com/statistics/551403/number-of-vehicles-per-household-in-the-united-states/> (finding that there are about 1.88 vehicles per U.S. household).

180. *Illinois v. Wardlow*, 528 U.S. 119, 129 (2000) (Stevens, J., concurring in part and dissenting in part); *see supra* note 62 and accompanying text; *see e.g.*, *United States v. Arvizu*, 534 U.S. 266, 276 (2002) (explaining a driver’s behavior on a busy San Francisco highway might be unremarkable, while quite unusual in another instance such as on a remote portion of rural southeastern Arizona); *see also Glover*, 140 S. Ct. at 1198 (Sotomayor, J., dissenting) (noting the terminology about revoked versus suspended varies from state to state).

181. Orin S. Kerr, *Reasonable Suspicion From Driver to Car: A Few Thoughts on Kansas v. Glover*, REASON (Oct. 13, 2019, 7:25 AM), <https://reason.com/volokh/2019/10/31/reasonable-suspicion-from-driver-to-car-a-few-thoughts-on-kansas-v-glover/>. Family size may change the likelihood that a non-owner is driving a car. *Id.* For example, a family living in Washington, D.C. where the percentage of households with children is 18.9%, and a family living in Arlington, Virginia, where the percentage of households with children is 33.8%. Richard Florida, *Which U.S. Cities Have the Most Families With Kids?*, BLOOMBERG CITYLAB (Jan. 16, 2019, 9:25 AM), <https://www.bloomberg.com/news/articles/2019-01-16/which-u-s-cities-have-the-most-families-with-kids>. It is more likely that a teenager is driving the family car in Arlington, Virginia than in Washington, D.C. *See* Kerr, *supra* note 181.

182. *See* Carnegie & Eger, *supra* note 161, at 7 (finding the most common reasons for license suspensions include failure to comply with child support, maintain proper insurance, alcohol or drug-related offenses by minors, and failure to pay court fines).

183. *See* *Terry v. Ohio*, 392 U.S. 1, 23 (1968) (emphasizing it would have been poor police work if the officer with thirty years of experience did not further investigate the two men standing on the street corner, pacing, and pausing to stare in the same store window for an extended amount of time).

184. *See* *State v. Glover*, 422 P.3d 64, 70–71 (Kan. 2018), *rev’d sub nom.*, *Kansas v. Glover*, 140 S. Ct. 1183 (2020) (observing that creating a rule that does not require officers to have a particular and individualized suspicion that the registered owner was driving “motivates officers to avoid confirming the identity of the driver because learning facts that suggest the registered owner is not driving undermines reasonable suspicion”).

185. *Glover*, 140 S. Ct. at 1191 (majority opinion).

inference.¹⁸⁶ More significantly, the Court provided that the reasonable suspicion analysis includes an officer's lack of information as part of the totality of the circumstances.¹⁸⁷ As a result, the Court shifted further from the requirement that officers point to specific and articulable facts¹⁸⁸ and opened the door for officers to intrude further on an individual's Fourth Amendment privacy interest.¹⁸⁹

C. The Majority Failed to Acknowledge the Negative Implications of its Holding on Disadvantaged Communities

In a time when police misconduct¹⁹⁰ and racial injustice¹⁹¹ is prevalent around the country, the Court “paved the road to finding reasonable suspicion based on nothing more than a demographic profile.”¹⁹² Law enforcement officers already have considerable discretion in deciding to stop citizens, and they should not have any more leeway to justify their constant stops of people of color.¹⁹³ Before *Glover*, it was abundantly clear that law enforcement officers stopped and searched non-white individuals more often than white individuals.¹⁹⁴ Indeed, this disparity is more pronounced in the Black community, resulting in “a phenomenon so pervasive, it has earned its own

186. *See id.* (“Deputy Mehrer possessed no exculpatory information—let alone sufficient information to rebut the reasonable inference that Glover was driving his own truck—and thus the stop was justified.”).

187. *See supra* note 186.

188. *See Glover*, 140 S. Ct. at 1194 (Sotomayor, J., dissenting) (explaining the majority's opinion “breaks from settled doctrine and dramatically alters” the evidence the State needs to prove reasonable suspicion).

189. *See infra* Section IV.C.

190. *See* Khaleda Rahman, *From George Floyd to Breonna Taylor, Remembering the Black People Killed By Police in 2020*, NEWSWEEK (Dec. 29, 2020, 12:14 PM), <https://www.newsweek.com/george-floyd-breonna-taylor-black-people-police-killed-1556285> (noting that many of the events in 2020 “served as a wake-up call for many about the reality of police brutality,” however many of the protests “did little to stop Black people disproportionately dying at the hands of police officers”); Associated Press, *Americans' Opinions About Police Brutality and Racial Injustice Have Moved Dramatically*, MARKET WATCH (July 4, 2020, 1:03 PM), <https://www.marketwatch.com/story/americans-opinions-about-police-brutality-and-racial-injustice-have-moved-dramatically-2020-07-04> (“About half of American adults believe police violence against the public is a ‘very’ or ‘extremely’ serious problem . . .”).

191. *See* Associated Press, *supra* note 190 (stating sixty-one percent of Americans today “say police in most communities are more likely to use deadly force against a Black person than a white person”).

192. *Glover*, 140 S. Ct. at 1197.

193. *See Arrest Efficiency, supra* note 169, at 2062–63 (explaining the reasonable suspicion test allows “officers to act on their interpretation of ambiguous behaviors, [thus] the reasonable suspicion test actually permits, rather than prevents, actions based upon racial hunches”).

194. *See Findings*, STAN. OPEN POLICING PROJECT, <https://openpolicing.stanford.edu/findings/> (last visited Jan. 15, 2021) (finding in almost every jurisdiction Black and Hispanic drivers are searched more often after the stop than white drivers).

catch phrase: driving while Black.”¹⁹⁵ Importantly, now officers are given further discretion that could be used in a way that has the practical effect of harming non-white individuals to a greater degree.¹⁹⁶ In the wake of racial injustice across the country, courts should be sensitive to the fact that often police encounters can be difficult for minority populations.¹⁹⁷ This issue has become so important that some states are taking steps to limit what the police can rely on to stop individuals and what they can do once they stop individuals.¹⁹⁸

As a result of *Glover*, law enforcement now has more discretion to perform a traffic stop and search individuals in disadvantaged communities.¹⁹⁹ One reason for this is because a majority of states enforce driver’s license suspensions for unpaid fines and fees.²⁰⁰ Individuals in poor communities are less likely to be able to pay court fines and fees, which “can set off a chain of problems.”²⁰¹ These individuals often must choose between

195. Philip V. McHarris, ‘I Experience a Hollowing Fear Any Time I’m Stopped by Police,’ NATION (Nov. 19, 2020), <https://www.thenation.com/article/society/driving-black-police-stops/>; see Tom Abate, *Blacks Drivers Get Pulled Over by Police Less at Night When Their Race is Obscured by ‘Veil of Darkness,’ Stanford Study Finds*, STAN. NEWS (May 5, 2020), <https://news.stanford.edu/2020/05/05/veil-darkness-reduces-racial-bias-traffic-stops/> (explaining a study conducted from 2011 to 2018 found that while blacks are much more likely to be pulled over during the day, are “less likely to be stopped after sunset, when ‘a veil of darkness’ masks their race”).

196. See *supra* Section IV.A.

197. Marsha Mercer, *Police ‘Pretext’ Traffic Stops Need to End, Some Lawmakers Say*, PEW (Sept. 3, 2020), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/09/03/police-pretext-traffic-stops-need-to-end-some-lawmakers-say>.

198. *Id.* For example, the Oregon Supreme Court ruled in *State v. Arreola-Botello* that “police could no longer pull someone over for a broken taillight or failure to signal, then ask unrelated questions, such as asking for consent to search the car for illegal drugs or guns.” *Id.*

199. See *Arrest Efficiency*, *supra* note 169, at 2067 (“[A]n officer patrolling a poor, urban, majority-black neighborhood is more prone to judge ambiguous behaviors as suspicious, causing him to stop more individuals who are innocent.”); Ahmed Jallow, *Police More Likely to Stop, Search a Black Driver in Burlington Area: Times-News Investigation*, TIMES NEWS (Oct. 21, 2020, 7:01 AM), <https://www.thetimesnews.com/story/news/2020/10/21/police-more-likely-stop-search-black-people-driving-burlington/5956475002/> (finding that once a law enforcement officer has pulled someone over, it is about fifty percent more likely that the officer searches the vehicle if the driver is Black compared to if they are white).

200. See Mario Salas & Angela Ciolfi, *Driven By Dollars: A State-by-State Analysis of Driver’s License Suspension Laws for Failure to Pay Court Debt*, LEGAL AID JUST. CTR. 1, 1 (Sept. 15, 2017), <https://www.justice4all.org/wp-content/uploads/2017/09/Driven-by-Dollars.pdf> (“Forty-three states and the District of Columbia use driver’s license suspension to coerce payment of government debts arising out of traffic or criminal convictions.”).

201. Joseph Shapiro, *How Driver’s License Suspensions Unfairly Target The Poor*, NPR (Jan. 5, 2015, 3:30 AM), <https://www.npr.org/2015/01/05/372691918/how-drivers-license-suspensions-unfairly-target-the-poor> (finding people with lack of income constantly accumulate a series of tickets); see Stephanie Agnew, *Court Costs, Fines, and Fees are Bad Policy*, CHICAGO APPLESEED CTR. FOR FAIR CTS., <http://www.chicagoappleseed.org/072220-court-costs-fines-fees-are-bad-policy/> (last visited June 10, 2021) (finding that any monetary sanction in the United States punishes

refraining from driving, and jeopardizing their jobs, or continuing to drive and risking “jail time and more unaffordable fines.”²⁰² Therefore, low-income individuals are more likely to have their licenses suspended for failing to pay fees.²⁰³ Additionally, in disadvantaged communities, there is a higher chance that the driver of the vehicle is not the owner of the vehicle.²⁰⁴ Individuals in low-income communities are less likely to have more than one vehicle per household,²⁰⁵ and therefore it is more likely that in these communities family members are sharing cars.²⁰⁶ In conjunction with this, communities of color will also be disproportionately impacted by the *Glover* ruling because Black and Hispanic individuals are more likely to be poor than white individuals.²⁰⁷

Although the Court’s holding does not explicitly give police officers the ability to stop suspects on bare assumptions, the Court’s reluctance to explicitly reject bare assumptions will have the same effect.²⁰⁸ After *Glover*, police officers will be more likely to make stops based solely on their assumptions—possibly influenced by implicit racial bias—rather than risk stumbling upon exculpatory evidence to the contrary.²⁰⁹ Disadvantaged

a person solely based on their wealth); see, e.g., *New York Racial Disparities*, *supra* note 171 (“For low-income New Yorkers, losing your driver’s license can threaten your entire livelihood . . .”).

202. *New York Racial Disparities*, *supra* note 171; see Agnew, *supra* note 201 (classifying a wealthy person’s ability to pay a fine as “inconsequential to their survival” but a low-income single parent’s ability to pay a fine “could mean choosing between buying groceries or paying rent”).

203. Salas & Ciolfi, *supra* note 200, at 1–2.

204. See *Mobility Challenges for Households in Poverty*, 2009 NAT’L HOUSEHOLD TRAVEL SURV. 1, 2 (2014), <https://nhts.ornl.gov/briefs/PovertyBrief.pdf> (finding individuals at or below poverty are most likely to only own one car in their household).

205. Brief of Amici Curiae Fines and Fees Just. Ctr. et al. In Support of Respondent at 10, *Kansas v. Glover*, 140 S. Ct. 1183 (2020) (No. 18-556) [hereinafter *Brief of Fines and Fees Justice*] (citing Alan Berube et al., *Socioeconomic Differences in Household Automobile Ownership Rates: Implications for Evacuation Policy*, 3 (June 2006)); see *supra* note 204 and accompanying text.

206. *Brief of Fines and Fees Justice*, *supra* note 205.

207. See John Creamer, *Inequalities Persist Despite Decline in Poverty For All Major Race and Hispanic Origin Groups*, U.S. CENSUS BUREAU (Sept. 15, 2020), <https://www.census.gov/library/stories/2020/09/poverty-rates-for-blacks-and-hispanics-reached-historic-lows-in-2019.html> (finding that in 2019 the poverty rate for Blacks was 18.8% and 15.7% for Hispanics compared to 7.3% for non-Hispanic Whites).

208. See Hoehl, *supra* note 139, at 136 (“To a seasoned police officer, almost any conduct may be considered indicative of wrongdoing.”); Erin Killeen, *Traffic Stops and Discriminatory Policing in the United States*, GEO. J. ON POVERTY L. & POL’Y (Apr. 26, 2018) (“It is well established that police use these minor traffic violations as a pretext to stop drivers and search their cars for more serious legal violations.”).

209. See *Arrest Efficiency*, *supra* note 169, at 2062 (noting “science demonstrates that race can affect an officer’s interpretation of ambiguous behavior”); *Police Efficiency*, *supra* note 147, at 1151 (“The problem is that implicit biases may cause police officers to pay more attention to Blacks than to Whites and to interpret the behaviors of Blacks as suspicious more readily than the identical behaviors of Whites.”); Jennifer L. Eberhardt, *Seeing Black: Race, Crime, and Visual Processing*, 87 J. PERSONALITY AND SOC. PSYCH. 876, 876 (2004) (“Not only is the association between Blacks and crime strong (i.e., consistent and frequent), it also appears to be automatic . . .”).

communities have often been viewed and classified as “high crime” neighborhoods making them high targets for law enforcement.²¹⁰ Officers have a considerable amount of discretion in considering whether reasonable suspicion exists, and often factors such as race, location, or the time of day are at the forefront of the reasonable suspicion analysis.²¹¹ Nonetheless, the *Glover* court failed to require officers to articulate specific facts and, thus, granted law enforcement additional discretion to act upon their implicit biases and further target disadvantaged communities.²¹² Consequently, individuals in low-income areas and communities of color are continuing to be “stripped of their fundamental constitutional right to go about their business.”²¹³

V. CONCLUSION

In *Kansas v. Glover*, the Supreme Court found that when the officer did not have any information indicating that the owner was not the driver, the stop was reasonable under the Fourth Amendment.²¹⁴ By departing from the original reasonable suspicion analysis developed in *Terry v. Ohio*,²¹⁵ the Court further expanded law enforcement’s ability to conduct investigatory stops.²¹⁶ Despite correctly acknowledging that officers may rely on commonsense inferences, the Court ignored law enforcement’s primary responsibility to further investigate potential criminal activity and traffic violations and, more importantly, discouraged officers from doing so.²¹⁷ Ultimately, the Court declined to consider the additional implications of this holding, specifically failing to consider how the ruling negatively impacts disadvantaged communities.²¹⁸

210. See Raymond, *supra* note 153, at 137–38 (finding that, as a statistical matter, people of color are more likely to be found in high crime areas and therefore those individuals are disproportionately burdened by police stops); see also Hoehl, *supra* note 139, at 131–32 (explaining the court should not consider a neighborhood as a significant factor because “it allows police to use factors which have a disproportionate impact on a lower socioeconomic class in order to establish reasonable suspicion”).

211. Lewis R. Katz, *Terry v. Ohio at Thirty-Five: A Revisionist View*, 74 MISS. L.J. 423, 500 (2004) (arguing the reasonable suspicion standard needs “to elevate the suspect’s conduct above ancillary factors”); see *Illinois v. Wardlow*, 528 U.S. 119, 124 (2000) (noting officers are not required to ignore characteristics of a location and the fact that the stop occurred in a “high crime area” is a relevant contextual consideration (quoting *Adams v. Williams*, 407 U.S. 143, 144 (1972))).

212. See *supra* notes 199 and 209 and accompanying text.

213. Hoehl, *supra* note 139, at 137.

214. *Kansas v. Glover*, 140 S. Ct. 1183, 1186 (2020).

215. See *supra* Section IV.A.

216. See *supra* Sections IV.A–IV.C.

217. See *supra* Section IV.B.

218. See *supra* Section IV.C.