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AMERICAN MOTORCYCLIST

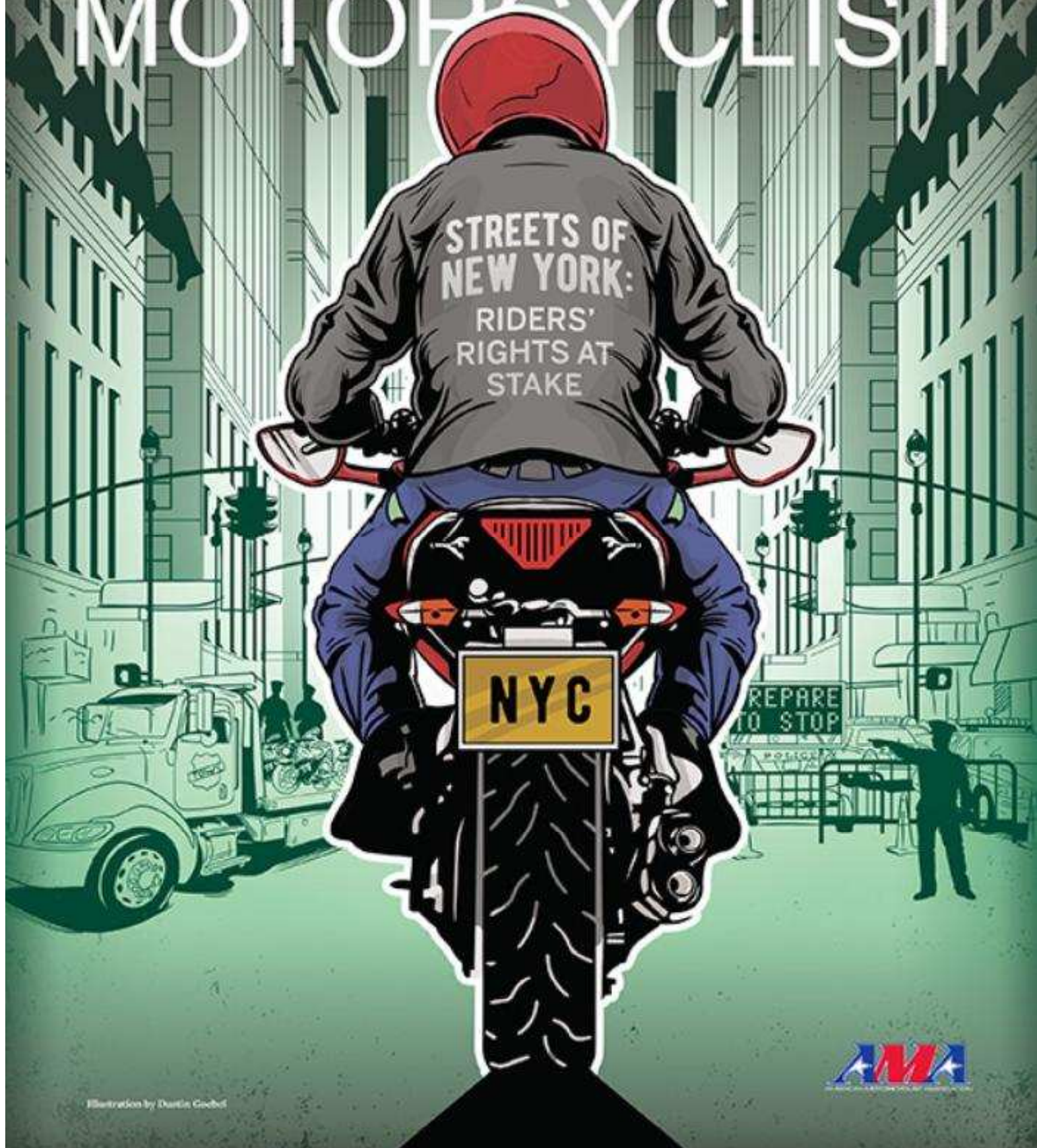
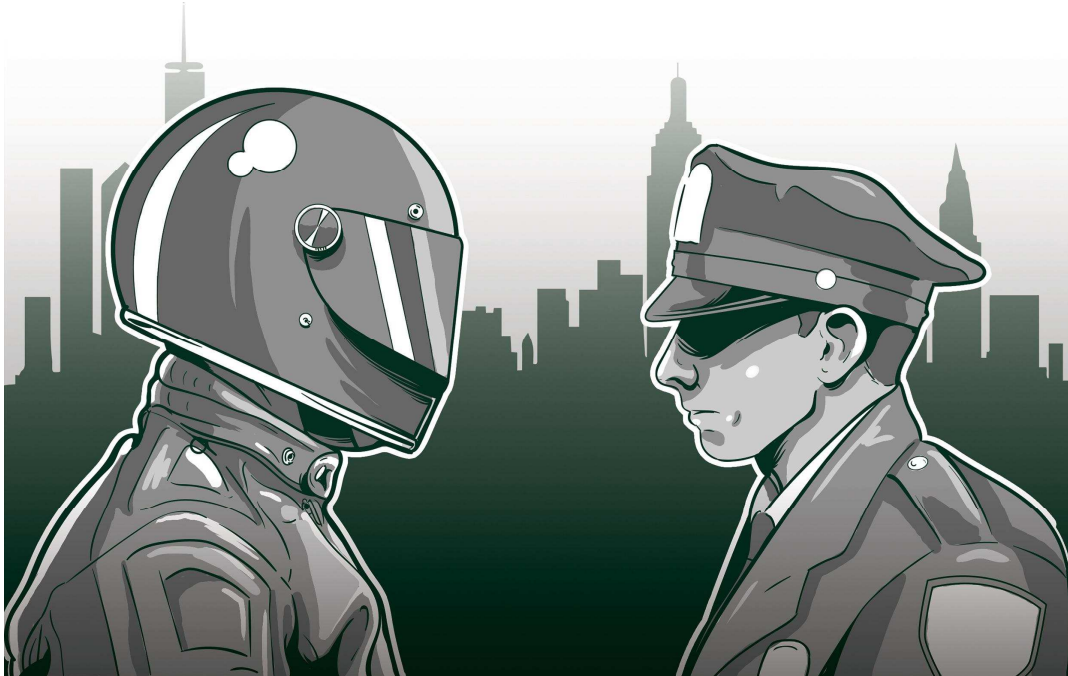


Illustration by Dustin Goebel



SINGLED OUT

Riders battle NYC authorities



Illustrations By Dustin Goebel

By Jim Witters

New York City motorcyclists find themselves in a struggle with law enforcement and city officials who are issuing citations for minor infractions, impounding motorcycles, employing motorcycle-only checkpoints and misapplying laws.

The riders feel they are under siege and wonder whether the heavy-handed tactics are an attempt to purge motorcycles from city streets or a way to extract money from a group of residents that fellow citizens care little about.

Riders recognize that a relatively small group of motorcyclists—including those on dirt bikes and ATVs that are illegal for operation on city streets—create a problem for residents and law enforcement. But the responsible riders, who vastly outnumber the scofflaws, don't believe they should pay the penalty for the bad behavior of others.

Anecdotes and photos abound across social media. But hard data are difficult to come by.

The New York Police Department uses decentralized recordkeeping for its “cite and tow” and motorcycle checkpoint operations. So, individuals, groups and members of the media seeking to document specific instances or find enforcement statistics face the daunting task of contacting each of the NYPD's 77 precincts to identify which are conducting these motorcycle enforcement efforts and then request their information.

“...In New York City, it seems as if we’re viewed as a pestilence.”

When asked by the AMA about the issues raised by New York motorcyclists, the NYPD responded with information about heightened enforcement under the city’s Vision Zero Action Plan.

“The NYC Vision Zero Action Plan is intended to help end traffic fatalities and injuries on the streets of New York City,” according to Det. Kellyann Ort in the office of the Deputy Commissioner for Public Information. “This program is designed to discourage dangerous behavior on roadways by all motor vehicles, including motorcycles.”

Ort said the plan “combines improved enforcement and emergency response with educational campaigns on safe driving.”

“It is not illegal to operate motorcycles on New York City streets,” she added. “It is, however, illegal to operate dirt bikes on New York City streets. Individuals and groups who operate any motor vehicle in a reckless manner endanger the safety of all New Yorkers. Public safety is always our top priority.”

Ort did not provide information about “cite and tow” or motorcycle-only checkpoints. However, she said police responded to 699 calls in the first six months of 2018 “related to motorcycles, dirt bikes, ATVs and vehicles.”

Excluding dirt bikes, ATVs and other vehicles, motorcyclists received 7,978 summonses for moving violations between Jan. 1 and July 1. There were 26 motorcycle-related arrests during the same period.

No statistics were provided regarding the number of parking citations issued for motorcycles or the number of motorcycles, scooters and ATVs impounded.

Organizing For Action

Members of the New York Motorcycle and Scooter Task Force have been working with the AMA, other groups and individual riders to push back against the police tactics in an effort to create a space for responsible motorcycle and scooter riders in the Big Apple.

The New York Motorcycle and Scooter Task Force began in 2009, when the city closed the last motorcycle-only parking area. It was a wakeup call to the riding community.

“This was a decision which happened over months, if not years,” said Jesse Erlbaum, a task force member. “If motorcyclists had been actively involved in the multiple hearings and community board meetings that led to that decision, it would have turned out entirely differently.”

Since then, the city’s motorcyclists have been fighting to prevent an erosion of their rights.

“New York City motorcyclists normally face a surprising level of official hostility from several fronts, but punitive over-policing against our community reached unusual levels this June,” said Cheryl Stewart, an AMA member who co-founded the NYMSTF, Riders Against Congestion and the Sirens Women’s Motorcycle Club. “While harsh police actions against us

have slowed since then, there are still dedicated NYPD Traffic flatbeds prowling the streets daily with the mission of finding and confiscating two-wheeled vehicles for small infractions, such as a lapsed inspection.”

And the motorcyclists are baffled by some of the police actions.

“Hostility against motorcycles still surprises me, even after all these years, because our fuel-efficient, congestion-reducing vehicles are rightly viewed as part of the solution for traffic congestion in most of the rest of the world,” Stewart said. “In New York City, it seems as if we’re viewed as a pestilence.”



Illegal Riding

New York, like many cities across the country, is periodically harassed by motorcycle and ATV riders who flaunt the law or ride recklessly.

Groups on sportbikes, dirt bikes and ATVs have slowed or stopped freeway traffic, weaved through busy streets and frustrated motorists and police, alike. The riders often are able to

elude enforcement efforts by maneuvering through heavy traffic or cutting across sidewalks or through parks.

The responsible riders recognize that problem, but they don't want city officials, police or the public to lump them in with the troublemakers.

"I freely admit that NYC has a problem with lawless crews of riders who may street race, and may stunt on the street," Stewart said. "At best, they can be obnoxious. At their worst, they can be dangerous to themselves, other vehicles, and pedestrians."

"These crews represent a rather small number of riders, but we simply don't have data to estimate their numbers. One indisputable fact is that they're very visible, while individual moto-commuters are mostly invisible."

Erlbaum said the stunt riders and dirt bike riders represent a societal problem that is "far bigger than motorcycles."

"We need to get them interested in living life and riding inbounds," he said "These riders, for the most part, are not wrong. Society isn't going to reward them for playing by the rules. Until we—society and the NYC government, in particular—address this issue, I don't see how it gets solved."

The city should make it easier and less expensive to get motorcycle training, initiate an outreach program to the riding community that doesn't involve police stops and create a safe and legal place to ride off-highway vehicles responsibly, Erlbaum said.

"Make it easier and cheaper to be a legal rider than an illegal rider," he said. "New York City has been applying the 'stick' for many years. Now is the time to try the 'carrot.'"

Minor Infractions

Brad Berson, an NYMSTF co-founder who received the 2016 AMA Outstanding Road Rider Award for his advocacy efforts, said he and others have been pulled over by police repeatedly for a variety of minor issues, including the use of legal equipment the police thought was a violation.

"I have been stopped many times for no reason at all and had only my paperwork checked," he said. "In one instance, a cop thought I was not legal because he didn't know what year [my bike] was. It's on one of the videos I have. In another case, I was issued a fraudulent summons. That was later zapped by [the officer's supervisor] after I wrote to Internal Affairs. Yet they still exonerated the cop."

Other instances related by Berson and other New York riders include:

- Being stopped for having the face shield open at stoplights.
- Being cited because a license plate lamp pointed up at the plate instead of down, which is not illegal and was how the bike came from the factory.

- Being stopped by an officer who insisted “the sticker on my motorcycle’s wind screen was illegal. It’s not.”

“The scams go on and on, and our chances in court are miserable,” Berson said.

“Administrative law here weighs heavily against defendants, and the judges are arbitrary and unpredictable. Our chances on the street are also miserable, because these [motorcycle-only] checkpoints often come with flatbed tow trucks, and NYC can tow and impound for even the smallest violation.”

Revenue Or Safety?

While some riders think the police and city officials view motorcyclists as easy targets for generating revenue from citations and vehicle forfeitures, Erlbaum said that is unlikely.

“Personally, I do not believe revenue generation is the goal,” he said.

Neither police command nor local precincts receive a portion of ticket revenue, eliminating that economic incentive for officers to write tickets.

Additionally, according to data from the New York City Comptroller, revenue from fines is relatively small. In 2016, parking tickets for all vehicles, the largest category of fines in the city, totaled approximately \$545 million, representing only 0.66 percent of the city’s \$82 billion budget.

Erlbaum said “it’s a losing argument to whine about revenue,” anyway.

“Would anyone feel better about getting stopped and towed if you were required to do community service, instead of paying a fine?” he asked. “No, obviously.”

While Erlbaum is convinced that city officials are targeting motorcyclists for safety reasons, he says the effort is failing.

“They’re failing, because, when it comes to motorcycle safety, they have only been asking the police for ideas,” he said. “They’re not asking the Department of Health. They’re not asking the AMA or other national motorcycle or safety experts. And they’re not asking actual New York City riders.”

Enforcing traffic laws does not automatically result in increased safety for motorcyclists, he said.

In July, members of the NYMSTF opened communications with the NYPD Chief of Transportation’s office regarding motorcycle safety.

“So far, it’s just been one meeting and some emails,” Erlbaum said. “However, I am hopeful it will turn into something more significant. Ideally, I would like a permanent city task force for motorcycle safety, which would be obligated to have actual NYC riders in the group. But, we’re not there yet.”

Checkpoints, Towing

Motorcycle-only checkpoints originated in New York state, and New York is among the few states that still employ this discriminatory practice.

“Experiences seem to vary a bit with the motorcycle-only checkpoints, but mine have been overwhelmingly mediocre to negative,” Berson said. “The motorcycle-only checkpoints, as they now are conducted in New York City, have devolved into a pure violation of motorcyclists’ constitutional rights.”

New York police are using the word “safety” in these stops “as little more than a cheap excuse to demand riders’ paperwork.”

The department has no inspection checklist, he said. And officers are not trained to conduct roadside safety inspections.

“The absence of even a rudimentary valid safety inspection routine and the conspicuous lack of necessary instruction and supervision is a disservice to the city’s motorcycle riders and a waste of urgently needed safety funds,” Berson said.

City officials claim checkpoints are used to catch stunters and illegal dirt bike and ATV riders, but those riders don’t stop at the checkpoints.

“If mostly law-abiding riders stop, who is this hurting?” Erlbaum asked.

Berson said he believes the checkpoints are used to get favorable publicity for the police.

“The police department’s use of ‘pens’ into which they direct motorcycles makes me think it’s designed substantially for optics—that is, to make it look like the NYPD is doing something,” he said. “Yet the [department’s] no-chase policy here gives the stunters pretty much free rein.”

Meanwhile, Berson has been caught up in a motorcycle-only checkpoint several times when riding legally, including one day in the spring of 2016 when he was stopped twice within minutes.

Stewart said another issue with the checkpoints is “they create a false image of riders as criminals.”

And they make riders the target of the wrath of motorists caught in the traffic congestion created by the checkpoint.

“Auto drivers who have been crawling along will always look for the source of their misery,” Stewart said. “I’m not at all pleased that those frustrated drivers see a group of motorcyclists being detained by the NYPD, and doubtless blame those ‘criminal’ bikers for the traffic jam. And, yes, they would most certainly perceive us as criminals, because police aren’t supposed to stop or detain without probable cause.”

When police officers are not conducting checkpoints, they are patrolling the streets, searching for opportunities to ticket or impound motorcycles.

“Cite and tow is the law of the land here,” Erlbaum said. “It applies to all vehicles in New York City. That being said, like all laws, when the police choose to enforce this rule seems very selective to me. I’ve never seen an NYPD car-carrier hauling off a dozen illegally parked cars.”

Berson agreed.

“Twice this past year, I saw a tow truck in my residential Queens neighborhood paying zero attention to parked cars and specifically stopping to carefully check every scooter and motorcycle,” Berson said.



Following The Law

Even when the law is on the side of the motorcyclists, riders often lose in New York City, riders said.

“It’s maddening that we would be perceived as miscreants, rather than people whose form of transportation is actually reducing traffic and pollution.”

A news story at www.chelseanow.com detailed a mass ticketing and towing operation by city parking officials the day after the state motorcycle registrations expired.

Several motorcyclists had renewed their registrations online, but had not received their new stickers in the mail.

One rider told the news outlet that he paid \$2,000 to get his motorcycle back from the NYPD Tow Pound.

And the problem isn’t limited to citations and towing.

Real estate attorney Pete Weinman received a ticket in 2017 for riding his motorcycle in a high-occupancy-vehicle lane in Staten Island. Under federal law, motorcycles may use HOV lanes if federal money was used to help build the highway.

“Earlier this year, while in court, I lost my case,” Weinman said. “Shortly thereafter, I filed an appeal, and then I reached out to every one of my elected officials and then the mayor’s office.”

No one responded.

Weinman lost his appeal, despite submitting a letter to the court from the regional director of the New York Department of Transportation that stated that motorcycles are permitted to use the HOV lanes on all limited-access highways in New York City, including the Staten Island Expressway where Weinman was cited for riding.

The story made the front page of the Staten Island Advance.

Still, Weinman got no relief. In August, he posted on Facebook that he was seeking a lawyer to take his case and continue the appeals process to the New York Supreme Court.

Continuing The Fight

Despite the uphill battle, New York riders are still fighting for equitable treatment.

But, for some, the constant pressure from police has taken a toll.

“This last round of over-policing has demoralized many NYC riders and created a sense of fatalism and potent anti-police sentiment,” Stewart said. “Riders who commute via motorcycle are feeling particularly embattled right now.

“It’s maddening that we would be perceived as miscreants, rather than people whose form of transportation is actually reducing traffic and pollution.”

Those wishing to help New York riders may contact the AMA at grassroots@ama-cycle.org or visit the NYMSTF at www.facebook.com/groups/nymstf.