

Race-Based Traffic Stops

Index Code: 1904.1

Effective Date: 09/15/03 (Revised 02/01/10)

I. Purpose

The purpose of this directive is to establish guidelines for conducting constitutionally valid investigative and enforcement traffic stops, articulate how deputies will collect certain information pertaining to these stops, and how the collected data will be used and disseminated. In addition, this policy reinforces procedures that serve to assure the public that the Office of the Sheriff is providing services and enforcing laws fairly, equitably, and impartially.

II. Policy

A. It is the policy of the Office of the Sheriff that all investigative and enforcement traffic stops will be based upon reasonable and constitutionally valid. Deputies are prohibited from using an individual's age, culture, economic status, ethnicity, gender, race, religion, sexual orientation, or any other identifiable grouping as the sole justification to initiate investigative or enforcement traffic stops, investigative field contacts, asset seizure, and/or forfeiture efforts.

B. It is the policy of the Office of the Sheriff that deputies will complete the approved Traffic Stop Data Sheet (TSDS) to record certain traffic enforcement stops.

C. It is the policy of the Office of the Sheriff that all deputies will receive instruction on the prohibition against bias-based or race-based profiling and develop skills to enhance police-citizen contacts.

D. Biased-based profiling in traffic contacts, field contacts, asset seizures, and all law enforcement actions are prohibited and may lead to disciplinary action.

III. Definitions

A. Profiling

The observation of characteristics and indicators learned through the collective experience of law enforcement officers, which has shown to be relevant in identifying specific criminal actions and are considered accordingly in determining whether or not there is grounds to reasonably believe a stop is appropriate.

B. Bias-Based Profiling

Any police initiated action that relies exclusively on a common trait of a group. This includes, but is not limited to, age, culture, economic status, ethnicity, gender, race, religion, sexual orientation, or any other identifiable group.

C. Race-Based Profiling

Any police initiated action that relies exclusively on race, ethnicity, or national origin of an individual.

D. Enforcement Stop

A stop initiated as a result of an observed violation of a criminal or traffic law.

E. Investigative Stop

A stop based on reasonable suspicion or knowledge of criminal activity. Information may originate with another law enforcement officer or by independent investigation or observation.

F. Pretext Stop

The United States Supreme Court has determined that a law enforcement officer who observes a traffic violation may stop the violator even though the true reason for the stop is the officer's interest in investigating whether the motorist is involved in other criminal activity. The constitutional reasonableness of a traffic stop does not depend on the actual motive of the individual officer. This type of traffic stop is known as a "Pretext" stop.

G. Reasonable Suspicion

Actions taken by a deputy must be reasonable under the existing circumstances, and based on the deputy's knowledge at that time. Deputies must be able to point to and describe the specific factors that raised suspicion and led him/her to take action in connection with an investigative or enforcement stop.

H. Reportable Traffic Stop

When a law enforcement officer stops the driver of a motor vehicle, and detains the driver for any period of time for a violation of the Maryland Vehicle Law. This does not include:

1. A checkpoint or roadblock.
2. A stop of multiple vehicles for public safety due to a traffic accident or emergency situation.
3. A stop based on the use of RADAR, LASER, or VASCAR technology.
4. A stop for any reason other than a violation of Maryland Vehicle Law (i.e., suspected criminal activity).

I. Seizure

In the context of a traffic stop, a seizure takes place when a deputy makes an investigative or enforcement stop. Seizures during all investigative and enforcement traffic stops are subject to Constitutional constraints.

J. Subsequent Seizure

A subsequent seizure occurs when the original reason for the stop has been satisfied and the deputy continues to detain the motorist and/or passenger(s). Once the underlying basis for the initial stop has concluded, an officer-driver or officer-passenger encounter which implicates the Fourth Amendment is constitutionally permissible only if: (1) the driver and/or passenger(s) consent to the continuing intrusion, or (2) the deputy has, at a minimum, reasonable suspicion that criminal activity is afoot.

K. Traffic Stop Data Sheet (TSDS)

The TSDS is a form developed to assist with the efforts in recording information about certain traffic stops as required by the Maryland Vehicle Law, Section 25-113 (Race-Based Traffic Stops). The record system will include data such as: age, race, and gender of the person stopped, suspicions of the deputy that led to the contact, any enforcement action taken as a result of the contact, duration of the stop, and whether any evidence and/or property was seized as a result of the stop.

IV. Guiding Principles

A. Law enforcement officers have a duty to investigate suspicious activities that may be associated with the violation of criminal and motor vehicle laws. This duty is limited to reasonable suspicion and with factors that would likely lead any knowledgeable person to the same conclusion (i.e., that a violation is occurring or has occurred).

B. Any consideration, to any degree, of a person's age, culture, economic status, ethnicity, gender, race, religion, or sexual orientation in law enforcement actions, including traffic stops, is absolutely prohibited. The only exception to this standard would occur if one or more of these

characteristics were part of a specific lookout for a specific suspect. This applies to passengers as well as drivers of motor vehicles.

C. The recording and evaluation of statistical data is a management tool to be used to determine overall department-wide traffic stop patterns and to produce the required yearly traffic stop data submission reports. Management will review and evaluate traffic stop data on a periodic basis pursuant to Maryland Vehicle Law, Section 25-113.

D. Deputies are required to receive training to enhance their ability to articulate and document their actions. Such training will stress the importance of communication, particularly active listening and non-verbal clues.

E. Deputy-citizen encounters, when done properly and professionally, has the potential to be positive community relation tools and can be a means of confronting adverse anecdotal information.

F. Nothing in this directive should be construed to alter the authority of a deputy to make an arrest, conduct a search or seizure, or otherwise fulfill the deputy's law enforcement obligations.

G. Deputies should recognize the advantage in issuing the driver or passenger(s) a receipt (copy of a citation, warning, etc.) documenting the circumstances leading up to the stop and subsequent actions taken thereafter. Verbal warnings should be used with great discretion.

V. Responsibilities

A. Deputies Responsibilities

To help ensure that accurate and timely information about traffic stops is captured on the computer aided dispatch system (CAD), deputies must be diligent in following the traffic stop procedures established in Index Code 1904, and relay all required information to the Department of Emergency Services.

Deputies, who conduct traffic stops meeting the criteria of a reportable traffic stop, will accurately and thoroughly complete a Traffic Stop Data Sheet. The deputy will obtain an incident number from the dispatcher and enter the number in the space provided on the TSDS. Deputies conducting traffic stops that meet the exception criteria described above will notify the dispatcher of the exception and will not need to request an incident number.

Deputies will not ask the driver or passenger(s) of a motor vehicle their race or ethnicity group, as it may

inflare or prolong an already tense situation. Deputies will use their personal judgment in assessing race and ethnicity.

At the conclusion of a traffic stop, meeting the criteria of a reportable traffic stop, deputies will advise the dispatcher to use Disposition Code 374, indicating a report. Traffic stops not meeting the criteria of a reportable traffic stop will be cleared using the Disposition Code 274, indicating no report.

Deputies are encouraged to advise the dispatcher to indicate in the CAD notes any information they deem useful or pertinent concerning the stop, such as driver/passenger attitude, negative remarks, etc.

The Traffic Stop Data Sheet will be turned into the patrol supervisor along with all related paperwork before the end of the deputy's tour of duty. Deputies who conduct reportable traffic stops during off-duty hours or during special assignments will submit the applicable paperwork to their supervisor on their next scheduled work day.

B. DES Responsibilities

Just as important as the Traffic Stop Data Sheet completed by deputies, the Department of Emergency Services dispatchers must enter into CAD the location, vehicle registration (including state and type), and vehicle description. This cooperative effort will help ensure that all vital information about traffic stops is accurately collected. Upon the deputy's notification that a traffic stop has ended, DES dispatchers must issue the deputy the corresponding incident number upon the deputy's request, which will be placed on the deputy's TSDS, and clear the traffic stop with the proper disposition.

It is imperative that deputies and the DES dispatchers work together to ensure that the proper information is recorded and proper disposition codes are used.

C. Supervisors Responsibilities

Supervisors will promote non-discriminatory and constitutionally valid investigative and enforcement traffic stops. First-line supervisors will ensure that the Traffic Stop Data Sheets are accurately completed, and submitted in a timely manner.

After reviewing the Traffic Stop Data Sheets, supervisors will forward them to office personnel responsible for maintaining the Traffic Stop Data Base.

D. Administrative Services

The Commander of the Administrative Services Division, or his/her designee, is responsible for assembling the required data and reporting the results to the Maryland Police and Correctional Training Commission.

VI. CALEA References: 1.2.9a, 1.2.9b, 1.2.9c.

VII. Proponent Unit: Administrative Services Division

VIII. Cancellation: This directive cancels Index Code 1904.1 dated 09/15/03.

Sheriff R. Gery Hofmann III