



# BIAS BASED PROFILING

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## **I. PURPOSE**

The purpose of this policy is to establish departmental guidelines for conducting constitutionally valid investigative contacts and enforcement traffic stops. Additionally, it will explain how officers will collect certain information pertaining to traffic stops and how the collected data will be used and disseminated.

## **II. POLICY**

**A.** It is the department's policy that all investigative contacts and enforcement traffic stops will be based upon articulate and constitutionally valid suspicion(s) or reason(s). Officers are prohibited from using an individual's race, ethnicity, gender, sexual orientation, religion, economic status, age, culture group, or any other identifiable grouping as the sole justification to initiate traffic contacts, investigative field contacts and asset seizure and forfeiture efforts.

**B.** *Effective July 1, 2011 all law enforcement agencies in the State of Maryland are required, in accordance with the Transportation Article (TR 25- 113), to collect and report traffic stop data for certain traffic stops. Officers utilizing the Maryland State Police E-Tix system must classify all qualifying stops within the system in order to properly capture the required data. All officers not utilizing the E-Tix system must submit a Traffic Stop Data Supplement (PD# 1904.1) for each qualifying stop.*

*Certain types of traffic stops are exempt from the legal requirement to collect and report data. The types of stops exempt from collection include investigative contact, and those that occur as part of:*

- 1. A checkpoint or roadblock;*
- 2. A stop of multiple vehicles due to a traffic accident or emergency situation requiring the stop of vehicles for public safety purposes;*
- 3. A stop based on the use of radar, laser, or vascar technology;*
- 4. A stop based on the use of license plate reader technology.*

**C.** It is the department's policy that all officers will receive initial instruction on the prohibition against bias based profiling and refresher training to reinforce previous training and/or to develop new skills to enhance police-citizen contacts.

## **III. DEFINITIONS**

**A. Profiling**

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

**B. Bias Profiling**

The selection of individuals for police-initiated action based on a common trait of a group. This includes but is not limited to race, ethnic background, gender, sexual orientation, religion, economic status, age, culture group or any other identifiable groups.

**C. Racial Profiling**

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

**D. Reasonable and Articulate Suspicion**

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

**E. Investigative Contact**

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

**F. Enforcement Stop**

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

**G. Reportable Traffic Stop**

*Means any instance 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 stop;*
- 2. A stop of multiple vehicles due to a traffic accident or emergency situation requiring the stopping of vehicles for public safety purposes; or*
- 3. A stop based on the use of radar, laser, or vascar technology; or*
- 4. A stop based on the use of license plate reader technology; or*
- 5. An investigative stop.*

**H. Traffic Stop Data Sheet (TSDS)**

A form developed to assist with the department's efforts in recording information about certain traffic stops as required by *Maryland Transportation Article TR 25-113*. The record system will include data such as: race, age and gender of person stopped, suspicions of the officer that led to the contact, any enforcement action taken as result of the contact, duration of the stop, and whether any evidence and/or property was seized as a result of the stop. *Officers utilizing E-Tix will not need to complete this form.*

**IV. GUIDING PRINCIPLES**

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

B. Any consideration, to any degree, of a person's race, ethnicity, age, or gender, 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 automobile drivers.

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. Police management will review and evaluate traffic stop data on a periodic basis pursuant to Annotated Code of Maryland, Section 25-113.

D. Officers should receive refresher training to enhance their ability to articulate and document their actions. Any such training should stress the importance of communication, particularly active listening and non-verbal cues.

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

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

G. Officers should realize the advantage in issuing the driver or passenger(s) a receipt (copy of a ticket, warning, etc.) documenting the circumstance leading up to the stop and subsequent actions taken thereafter.

## **V. RESPONSIBILITIES**

### **A. Officer's Responsibility**

*To help ensure accurate and timely information about traffic stops is captured on the computer aided dispatch system, officers must be diligent in following traffic stop procedures established in Index Code 1904 and relay all required information to police dispatchers.*

*Police officers who conduct traffic stops which meet the criteria of a reportable traffic stop (Section III.G.), and who do not utilize the E-Tix system, will accurately and thoroughly complete a "Traffic Stop Data Sheet" (PD # 1904.1). The officer will obtain an "Incident Number" from the dispatcher and will enter the number in the space provided on the report form. Officers conducting traffic stops which meet the exception criteria described in Section III.G will notify the dispatcher of the exception and will not request an incident number. Officers will continue to notify the dispatcher upon completion of traffic stops whether the stop will be with or without a data sheet.*

*Police officers shall not ask the automobile driver or passenger(s) their race or ethnicity group because it may only inflame and prolong an already tense situation. Officers should use their personal judgment in assessing race and ethnicity.*

*The TSDS will be turned into the patrol supervisor along with all related paperwork before the end of his or her tour of duty. Officers 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. Communications Section Responsibility**

*Just as important as the completion of the "Traffic Stop Data Sheet" by the police officers, communication dispatchers must enter into CAD the location, vehicle registration, (including state and type) and vehicle description. This cooperative effort will help to ensure that all vital information about traffic stops is accurately collected. Upon the officer's notification that a traffic stop has ended, the communication dispatcher must issue the officer the corresponding Incident Number upon the officer's request, which will be placed on the officer's TSDS and clear the traffic stop with the TSDS nature code 3903. The disposition code 3904 will be used for traffic stops processed with E-Tix, those not requiring a TSDS or incident number as indicated by the involved officer.*

*Note: It is imperative that officers and Communications Section dispatchers, working together, ensure that proper disposition codes are used and TSDS forms are completed when appropriate as required by this Index Code.*

**C. Supervisor's Responsibility**

*First-line supervisors will ensure that TSDS's are accurately and correctly completed, and submitted in a timely manner. All TSDS's completed during an officer's tour of duty will be submitted to a supervisor, the officer's immediate supervisor if available, prior to the conclusion of the officer's tour of duty. Any delay in the submission of a TSDS requires approval of the immediate supervisor.*

*Supervisors are responsible for the quality of reports and TSDS's prepared by their subordinates. When the reviewing supervisor finds deficiencies in a document, he/she will counsel the reporting officer and obtain the necessary corrections. Satisfactory reports will be forwarded to central records.*

**D. Platoon Commander's Responsibility**

*Platoon Commanders will promote non-discriminatory and constitutionally valid investigative contacts and enforcement traffic stops.*

**E. District Commander's Responsibility**

District commanders are responsible for deployment of general and selective traffic enforcement within their district. They are responsible for reviewing the Staff Inspections analytical reports and attempt to identify potential violations of this policy. Policy violations discovered by District Commanders will be handled according to the provisions found within Index Code 303. District Commanders are free to conduct their own supplementary analyses and evaluations for enforcement effectiveness.

**F. Central Records Responsibility**

*The Central Records Section is responsible for collecting all Traffic Stop Data Supplements and compiling the data into a repository database. They are responsible for ensuring this data is assembled, along with E-Tix traffic stop data, and properly reported to the Governor's Office of Crime Control and Prevention (GOCCP) in accordance with the existing law.*

**G. Staff Inspection Unit's Responsibility**

The Staff Inspection Unit shall analyze the agency practice of traffic stops on an annual basis. The inspectors will then prepare an analytical report, including citizen concerns, for the Chief of Police. Upon the Chief's review and approval, the report will be distributed to the Bureau and District Commanders.

**H. Training Academy's Responsibility**

The Training Academy is responsible for ensuring that officers receive initial instruction on the prohibition against bias based profiling and refresher training to reinforce previous training and/or to develop new skills to enhance police-citizen contacts

**VI. PROPONENT UNIT:** Staff Inspections Unit.

**VII. CANCELLATION:** This directive cancels Index Code 1904.1 dated 09-24-2010.