



# POLICY & PROCEDURE

## STOUGHTON POLICE DEPARTMENT

SUBJECT: **RACIAL PROFILING  
PROHIBITION/TRAFFIC STOPS**

NUMBER: 6.31

SCOPE: All Department Personnel  
DISTRIBUTION: Policy & Procedure Manual

ISSUED: 02/22/2019  
EFFECTIVE: 02/22/2019

RESCINDS  
 AMENDS

REFERENCE: WI State Statutes: 16.964(16)(a), 349.027, Office of Justice Assistance (OJA) 1

WILEAG 4<sup>TH</sup> EDITION  
STANDARDS: N/A

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INDEX AS: Ethnic Profiling  
Racial Profiling  
Searches/Traffic Stops  
Traffic Stops  
Traffic Stops/Complaints  
Traffic Stops/Data Collection

**PURPOSE:** The purpose of this Policy & Procedure is to unequivocally state that racial and ethnic profiling in law enforcement is totally unacceptable; to provide guidelines for officers of the Stoughton Police Department to prevent such occurrences; and to protect officers when they act within the dictates of the law and policy from unwarranted accusations.

This Policy & Procedure consists of the following numbered sections:

- I. DISCUSSION
- II. POLICY
- III. DEFINITIONS
- IV. PROCEDURE
- V. TYPES OF INFORMATION REQUIRED TO BE COLLECTED BY OFFICERS

## VI. PROCESS AND FORMAT FOR SUBMITTING DATA TO OJA

## VII. COMPLAINTS OF RACIAL/ETHNIC PROFILING

### I. DISCUSSION

- A. A fundamental right guaranteed by the Constitution of the United States to all who live in this nation is the equal protection under the law. Along with this right to equal protection is the fundamental right to be free from unreasonable searches and seizures by government agencies. Citizens are free to walk and drive our streets, highways, and other public places without police interference so long as they obey the law. They also are entitled to be free from crime, and from the depredations of criminals, and to drive and walk our public ways safe from the actions of reckless and careless drivers.
- B. The Department is charged with protecting these rights, for all, regardless of race, color or ethnicity.
- C. Because of the nature of their business, law enforcement officers are required to be observant, to identify unusual occurrences and law violations, and to act upon them. It is this proactive enforcement that keeps our citizens free from crime, our streets and highways safe to drive upon, and that detects and apprehends criminals.
- D. This Policy & Procedure is intended to assist law enforcement in accomplishing this total mission in a way that respects the dignity of all persons and yet sends a strong deterrent message to actual and potential lawbreakers that if they break the law, they are likely to encounter the police.

### II. POLICY

- A. It is the policy of the Stoughton Police Department to patrol in a proactive manner, to aggressively investigate suspicious persons and circumstances, and to actively enforce the motor vehicle laws, while insisting that citizens will only be stopped or detained when there exists reasonable suspicion to believe they have committed, are committing or are about to commit, an infraction of the law.

### III. DEFINITIONS

- A. Racial profiling: The detention, interdiction, or other disparate treatment of any person on the basis of their racial or ethnic status or characteristics.
- B. Reasonable suspicion: Also known as articulable suspicion. Suspicion that is more than a mere hunch, but is based on a set of articulable facts and circumstances that would warrant a person of reasonable caution in believing that an infraction of the law has been committed, is about to be committed, or is in the process of being committed, by the person or persons under suspicion. This can be based on the observations of a police officer combined with his or her training and experience, and or reliable information received from credible outside sources.

- C. Probable cause: Probable cause exists where the facts and circumstances within the arresting officer's knowledge, and of which such officer had reasonably trustworthy information, are sufficient in themselves to warrant a person of reasonable caution in the belief that an offense has been or is being committed.

#### IV. PROCEDURE

- A. The Department's efforts will be directed toward assigning officers to those areas where there is the highest likelihood that crashes will be reduced and/or crime prevented through proactive patrol.
- B. Officers will receive initial and ongoing training in proactive enforcement tactics, including training in officer safety, courtesy, cultural diversity, and the laws governing search and seizure, and interpersonal communications skills.
- C. Training programs will emphasize the need to respect the rights of all citizens to be free from unreasonable government intrusion or police action.
- D. Traffic enforcement will be accompanied by consistent, ongoing supervisory oversight to ensure that officers do not go beyond the parameters of reasonableness in conducting such activities.
- E. Motorists shall only be subjected to stops, seizures or detentions upon reasonable suspicion that they have committed, are committing, or are about to commit an infraction. Each time a motorist is stopped, the officer shall radio to the dispatcher the location of the stop, the description of the person or vehicle being detained, the reason for the stop, and any impediments to observing the persons in the vehicle, and this information shall be logged.
- F. The Department recognizes that with experience, individual officers may develop individualized approaches that they find work best for them in minimizing conflict during officer/violator contacts. Refer to Policy & Procedure 6.06: Traffic Stops and Approach to Violator's Vehicle.
- G. Appropriate enforcement action should always be completed in the form of a verbal warning, written warning, citation, or arrest. Verbal warnings shall be documented in the incident report.
- H. No motorist, once cited or warned, shall be detained beyond the point where there exists no reasonable suspicion of further criminal activity, and no person or vehicle shall be searched in the absence of a warrant, a legally recognized exception to the warrant requirement, or the person's voluntary consent.

In each case where a search is conducted, this information shall be recorded, including the legal basis for the search, and the results thereof. It is strongly recommended that consent searches be conducted when possible with written consent, using the proper department form. If the individual indicates that they will consent to a search but are refusing to sign the form, fill out the form anyway and indicate "consented to search but refused to sign", inserting initials and the signature of

any witness in the signature block.

- I. If the police vehicle is equipped with a video camera, the video and sound shall be activated prior to the stop, to record the behavior of the vehicle or person, and shall remain activated until the person is released and resume their journey. (It is recommended that a recordation of the electronically recorded stop be preserved.)
- J. In the absence of specific, credible information containing a physical description, a person's race or ethnicity shall not be a factor in determining probable cause for an arrest or reasonable suspicion for a stop.
- K. The deliberate recording of any misleading information related to the actual or perceived race, ethnicity, gender, or sexual orientation of a person stopped for investigative or enforcement purposes is prohibited and a cause for disciplinary action, up to and including dismissal.

#### V. TYPES OF INFORMATION REQUIRED TO BE COLLECTED BY OFFICERS

- A. For each traffic stop, the officer making the traffic stop must record the following information using a computer (Incident Report, TraCS, etc) or a paper form:
  - 1. OPERATOR DATA. With respect to the motor vehicle operator, the officer shall record all of the following:
    - a) The operator's residential zip code, age and gender.
    - b) The race or ethnicity of the motor vehicle operator. The race or ethnicity recorded for the operator shall be the race or ethnicity identified on records of the DOT. If the operator's race or ethnicity is not available to the officer from the DOT, the operator's race or ethnicity shall be determined by the perception of the law enforcement officer responsible for reporting the traffic stop. The officer shall not require the person stopped to provide race or ethnicity information.
  - 2. OCCUPANT DATA. With respect to the motor vehicle occupants, the officer shall record all of the following:
    - a) The number of occupants.
    - b) Whether any occupant other than the operator is a member of a racial minority or ethnicity. The officer shall not require the person stopped to provide race or ethnicity information.
  - 3. EVENT DATA. With respect to the traffic stop, the officer shall record all of the following:
    - a) The date, time and location of the traffic stop, the name of the law enforcement agency and officer number of the officer making the traffic stop.

- b) The location of the stop shall be recorded using global positioning system coordinates if available, DOT standards for identifying the location of traffic accidents or any other method that identifies the location with a reasonable degree of accuracy.
  - c) The make and model of the motor vehicle, type of motor vehicle, state of motor vehicle registration and the motor vehicle license plate number.
  - d) The reason for the stop.
  - e) The outcome of the stop.
  - f) The duration of the stop.
4. SEARCH DATA. Whether the operator, any occupant, or the motor vehicle was searched and if so, all of the following:
- a) Whether consent to search was requested, and, if so, whether it was granted or denied.
  - b) The basis for the search.
  - c) The race or ethnicity of each person searched determined according to the procedure in sub. (l)(b).
  - d) Type of contraband, if found.

## VI. PROCESS AND FORMAT FOR SUBMITTING DATA TO OJA

- A. The Chief of Police or designee shall annually review traffic stop data to ensure provisions of this policy are complied with. The Chief of Police may arrange to have all traffic stop data submitted to OJA, provided that OJA requests or requires such information.

## VII. COMPLAINTS OF RACIAL/ETHNIC PROFILING

- A. Any person may file a complaint with the department if they feel they have been stopped or searched based on racial or ethnic profiling, and no person shall be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because they have filed such a complaint.
- B. Any officer contacted by a person who wishes to file such a complaint, shall provide the citizen with a copy of a citizen complaint form which may be mailed or delivered in person to headquarters, and shall record the person's name, address, and telephone number, and report the contact to the officer's supervisor prior to the end of the shift.

- C. Supervisors receiving such a report shall forward it to the Chief or designee and all such complaints shall be reviewed, the complaint acknowledged to the complainant in writing, and the complainant shall be informed of the results of the department's review within a reasonable period of time. The report and the reviewer's conclusion shall be filed with the Chief of Police of the department, and shall contain findings and any suggestions for disciplinary action or changes in policy, training, or tactics.

Gregory W. Leck  
Chief of Police

This Policy & Procedure cancels and supersedes any and all written directives relative to the subject matter contained herein.

Initial 02/22/2019