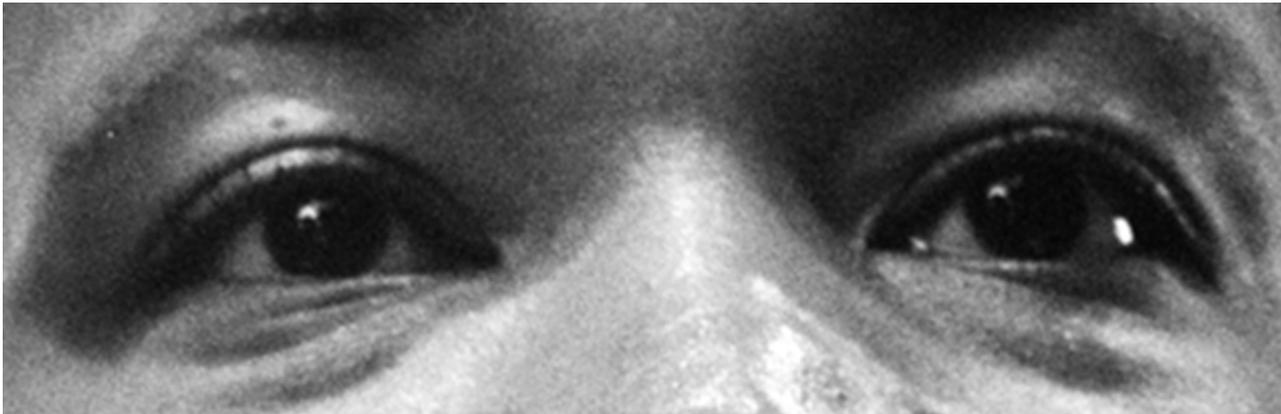


# STEREOTYPING IN LAW ENFORCEMENT

**RTA-3256**



**1.1.1 LEARNING OBJECTIVE: The student will be able to identify the legislative requirements placed upon law enforcement officers and law enforcement agencies regarding racial profiling.**

**A. HISTORY OF S.B. 1074, TEXAS' RACIAL PROFILING LAW**

- Texas' racial profiling law passed in 2001.
- Negotiations between (a) legislators, (b) civil rights groups and community leaders, and (c) law enforcement groups.
- Went into effect on September 1, 2001.

# S.B. 1074 LEGISLATIVE REQUIREMENTS, CONTINUED

## B. CHIEF PROVISION OF LAW: WRITTEN DEPARTMENTAL POLICIES

### 1. A clear definition of what constitutes racial profiling

- “A law enforcement-initiated action based on an individual’s race, ethnicity, or national origin, rather than on the individual’s behavior or on information identifying the individual as having engaged in criminal activity.”

# 7 SECTIONS THAT EACH WRITTEN POLICY MUST HAVE

## 2. A strict prohibition from engaging in racial profiling

- Texas's racial profiling definition is very strict!



# 7 SECTIONS THAT EACH WRITTEN POLICY MUST HAVE

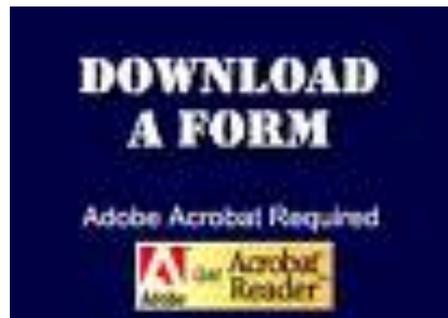
## 3. The implementation of a complaint process

- The relationship between the community and law enforcement is based on **confidence and trust**.
- Citizens who believe police are being unfair are more likely to be **hostile** – and hostility can escalate to violence.
- Widespread minority perceptions of unfairness may make minorities less willing to **cooperate with police** or **give information to the police**.
- Even the **best people** make mistakes.

# 7 SECTIONS THAT EACH WRITTEN POLICY MUST HAVE

## 4. The provision of public education relating to the complaint process

- Creating is complaint process is a waste of time and money unless community members know it is available to them.
- Make your complaint process publicly known – for instance, in the lobby area of the department, through your website or brochures, etc.



# 7 SECTIONS THAT EACH WRITTEN POLICY MUST HAVE

## 5. A requirement of corrective action to be taken against an officer who violates this law

a) A **complaint** is made against an officer.

b) A supervisor **interviews** the complainant.

c) An **investigation** begins.

d) Chief or Sheriff will make a **final decision**:

- **Sustained** ~ the complaint is supported and corrective action will be taken.
- **Unfounded** ~ the investigation found no basis for the complaint.
- **Exonerated** ~ the officer acted properly and will not be disciplined.
- **Not provable** ~ there was not enough evidence to prove the complaint either true or false, so no further action will be taken.

# 7 SECTIONS THAT EACH WRITTEN POLICY MUST HAVE

## 6. The annual collection of race-based statistics about traffic stops leading to a citation or arrest

### The A/V equipment exemption

- If your department outfits each of its vehicles with A/V equipment and officers use that equipment at every stop, you only have to collect Tier 1 data.
- OR: if your department applied for funding from the DPS for A/V equipment (between 2001 and 2003) but you were denied the funding, you only have to collect Tier 1 data.
- BUT: if your department did not apply to the DPS for funding or does not outfit each of your vehicles with A/V equipment, or if officers do not use the A/V equipment at every stop, you have to collect Tier 2 data.

**SO: ALL DEPARTMENTS MUST COLLECT TIER 1 DATA!**

# 7 SECTIONS THAT EACH WRITTEN POLICY MUST HAVE

6. The annual collection of race-based statistics about traffic stops leading to a citation or arrest (continued)

## Tier 1 data

For all **traffic stops** which result in a ticket or arrest, you must collect the following data elements:

- ▶ the motorist's race/ethnicity (Caucasian, Black, Hispanic, Asian, and Native American);
- ▶ whether a search was conducted; and
- ▶ if a search was conducted, whether the person detained consented to the search.

# 7 SECTIONS THAT EACH WRITTEN POLICY MUST HAVE

6. The annual collection of race-based statistics about traffic stops leading to a citation or arrest (continued)

Tier 2 data (for departments that do not have A/V equipment)

For **EVERY traffic and pedestrian stop**, you must collect the following data elements:

- ▶ the individual's race/ethnicity (Caucasian, Black, Hispanic, Asian, and Native American);
- ▶ whether a search was conducted; and
- ▶ if a search was conducted, whether the person detained consented to the search.

PLUS...

- ▶ **the individual's gender;**
- ▶ **the traffic law or ordinance alleged to have been violated or the suspected offense;**
- ▶ **whether contraband was found during the search and the type of contraband found;**
- ▶ **whether probable cause existed to conduct the search and the specific facts supporting probable cause;**
- ▶ **whether the officer made an arrest, including a statement of the offense charged;**
- ▶ **the street address or approximate location of the stop; AND**
- ▶ **whether the officer issued a warning or a citation, including a description of the warning or a statement of the violation charged.**



# 7 SECTIONS THAT EACH WRITTEN POLICY MUST HAVE

## 7. The annual reporting of race-based statistics

- Submit reports to your local governing body by March 1st of the following calendar year:
  - **Police Departments** submit reports to your city councils.
  - **Sheriff's Departments** and **Constables** submit reports to your county commissioners' courts.
  - **DPS** submits reports to the Texas Public Safety Commission.
- Departments with A/V equipment must only include compiled Tier 1 data.

- **Departments without A/V equipment must include compiled Tier 2 data **AND** an analysis of the data:**
  - *A determination of the prevalence of racial profiling*
  - *An examination of the disposition of stops made*
  - *Information on each complaint filed*
- **The content of reports may not identify individual officers or individual detainees.**



# S.B. 1074 LEGISLATIVE REQUIREMENTS, CONTINUED

## C. PROBLEMS WITH THE REPORTING OF ANNUAL DATA, AND OVERALL BENEFITS OF DATA COLLECTION

- The law is here and the data collection requirements are not going away.
- **PROBLEM:** Texas' racial profiling law did not create a standardized data collection process.
  - Departments are collapsing different sets of data together
  - Departments aren't reporting basic Tier 1 elements

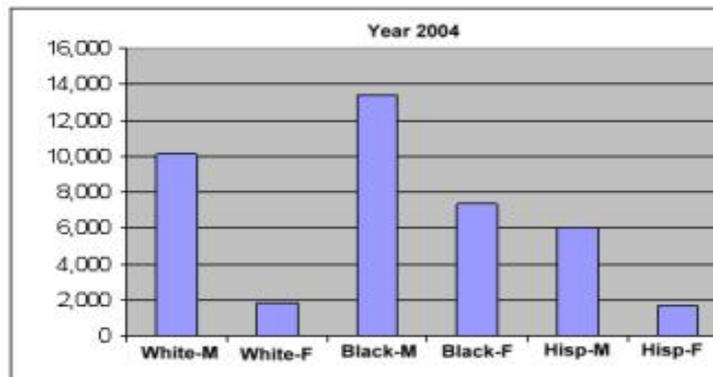
- **BOTTOM LINE:** Departments invest significant resources in data collection – but the data is only really usable if there are accurate data comparisons and analysis.
- **SOLUTION:** Provide departments with a template – this would be the simplest and most precise way to coordinate data and determine which departments may need to make some improvements. It levels the playing field.



# OVERALL BENEFITS OF DATA COLLECTION

## Data collection is not all bad...

- ✓ Using data collection forms can be very quick and easy, and not burdensome.
- ✓ Sound and reliable data can show that officers are acting *properly*.
- ✓ Data can also point out patterns of profiling by officers or departments, which departments need to work to rectify.
- ✓ Data analysis can help departments allocate resources effectively.



# S.B. 1074 LEGISLATIVE REQUIREMENTS, CONTINUED

## D. ANOTHER IMPORTANT PROVISION OF THE LAW: **RETENTION AND REVIEW OF AUDIO-VISUAL DOCUMENTATION**

- Departments must keep a copy of all audio-visual tapes for 90 days.
  - » **BUT:** If a racial profiling complaint is filed against an officer, the department must keep a copy of the tape until the disposition of the complaint.
- A department with A/V equipment must also set up standards for reviewing audio-visual tapes.

# S.B. 1074 LEGISLATIVE REQUIREMENTS, CONTINUED

## E. ANOTHER IMPORTANT PROVISION OF THE LAW: **OFFICER NON-LIABILITY**

- An officer is not liable for damages for failure to collect or report data or for another violation of the written policy.



# S.B. 1074 LEGISLATIVE REQUIREMENTS, CONTINUED

## F. A FINAL IMPORTANT PROVISION OF THE LAW: **REQUIRED TRAINING IN RACIAL PROFILING**

- **Police Chiefs** = must complete a training program on racial profiling (created by LEMIT) that addresses the implementation of policies preventing racial profiling, monitoring officers' compliance with those policies, and analyzing and reporting collected information.
- **Officers** = must complete an educational training program (created by TCLEOSE) on racial profiling issues [civil rights, racial sensitivity, and cultural diversity] every 48 months.

## **1.1.2 LEARNING OBJECTIVE: The student will become familiar with 4 Supreme Court decisions and 1 other court decision involving appropriate actions during traffic stops.**

### ***A. WHREN V. UNITED STATES (1996)***

- You can stop a vehicle when you have probable cause to believe that a traffic violation has occurred...
- ...even if you have “ulterior motives” or other intentions for the stop.
- A traffic or equipment violation can justify a stop where you conduct an investigation into suspected criminal activity not necessarily related to the violation.

## ***Whren, continued***

- **Although the court did declare that “pretext” stops do not violate the 4th Amendment, the court also asserted that allegations of unlawful selective enforcement (racial profiling) could be challenged civilly under the Equal Protection clause of the 14th Amendment.**



# COURT DECISIONS RE: TRAFFIC STOPS, CONTINUED

## B. OTHER CASES

- ***PENNSYLVANIA v. MIMMS (1977)*** ~ you can order the driver out of a vehicle following a lawful traffic stop.
- ***MARYLAND v. WILSON (1997)*** ~ you can order passengers out of a vehicle following a lawful traffic stop pending the completion of the stop.
- ***NEW YORK v. BELTON (1981)*** ~ you can conduct a full search of a vehicle's passenger compartment incidental to a custodial arrest of an occupant.
- ***FERRIS v. STATE (1999)*** ~ once the initial purpose of a stop leading to a citation or warning has been fulfilled, your continued detention of the vehicle and its occupants is constitutionally permissible only if the driver consents to the continuing intrusion, or if you have a reasonable suspicion that criminal activity is in the works.

To validate and justify a traffic stop, you must be capable of **articulating**, verbally and in writing, the basis for the stop.

- For traffic stops, you must be able to persuasively explain or demonstrate to a court that you had **probable cause** to stop the vehicle in the first place.
- For any further detaining or investigative actions you conduct following the stop, you must be able to persuasively explain that you had **reasonable suspicion** for your actions.



### 1.1.3 LEARNING OBJECTIVE: The student will become familiar with 1 Supreme Court decision, as well as other information, involving appropriate actions during street interviews.

#### A. *TERRY V. OHIO* (1968)

- Rule: **stop & detain doctrine** ~ officers may approach, stop, and briefly detain a person for the purpose of investigating possible criminal behavior as long as you have a reasonable suspicion, supported by articulable facts, that the individual may be involved in criminal activity.
- Rule: **stop & frisk doctrine** ~ you can conduct a limited search (or “pat down”) of the individual’s outer clothing – to discover the presence of any weapons.

# COURT DECISIONS

## RE: STREET INTERVIEWS, CONTINUED

### B. OTHER INFORMATION ABOUT STREET INTERVIEWS

**Reasonable suspicion need not depend solely on the observed actions of the suspect, but the totality of circumstances, which may include the following elements:**

- ✓ **The surrounding neighborhood**
- ✓ **The time of day**
- ✓ **Prior knowledge of the individual**
- ✓ **Information received from another source**

**Appropriate targets for street field stops include (but are not necessarily limited to) the following types:**

- ✓ **People who don't fit the surroundings**
- ✓ **Known criminals and delinquent youths**
- ✓ **Homeless and "street" people, including suspected addicts**
- ✓ **Persons acting in a manner indicative of criminal or suspicious behavior**
- ✓ **Unfamiliar juveniles and minors**
- ✓ **Loiterers, individually/in groups**

## **2.1.1 LEARNING OBJECTIVE: The student will be able to identify 4 logical and social arguments against racial profiling.**

**A. There are appropriate reasons for unusual traffic stops (suspicious behavior, officer intuition, criminal behavior profiles, etc.), but police work must stop short of cultural stereotyping and racism.**

- A profile is just a set of characteristics that we arbitrarily assign to human behavior.**
- Profiling itself is not necessarily a biased concept.**

- **General (not race-based) profiling, as a criminal investigation tool, is naturally derived from your work experiences as law enforcement officers.**
- **BUT: the heart of the **racial** profiling controversy is whether law enforcement agencies can legitimately use race, either:**
  - **exclusively, or**
  - **as one of several factors**

**...in devising criminal profiles**

**Texas' racial profiling law says **NO****

**Department of Justice test:** *“But for this person’s race, ethnicity, or religious preference, would this driver have had this encounter with me?”*

**BOTTOM LINE:** legitimate criminal behavior profiling, not racial profiling, can and should be used for traffic enforcement.



Which man looks guilty? If you picked the man on the right, you're wrong.

# LOGICAL AND SOCIAL ARGUMENTS, CONTINUED

- B. Racial profiling does result in criminal arrests, but only because it targets all members of particular races. This practice is caused by self-fulfilling bad logic: if you believe that minorities commit more crimes, then you might look for more minority criminals and find them in disproportionate numbers (while overlooking criminals of other races or backgrounds).
- Racial profiling is **inaccurate** – it targets all minorities, the innocent as well as the criminal.
  - BUT: some members of law enforcement (as well as members of the public) **assume** that most drug offenses (especially possession and distribution) are committed by minorities – predominantly young Black and Latino males.

**One major consequence of racial profiling in Texas: Blacks and Latinos have flooded our already over-populated criminal justice system ~ though they comprise **45%** of the state population, they make up **68%** of the Texas prison population.**

**BUT: a 2002 survey by the DOJ analyzed nearly 80,000 law-enforcement initiated traffic stops and outcomes throughout the nation and found that white drivers are more likely to be found with contraband than Black and Latino drivers.**

**BUT: a 2005 review of data self-reported by Texas law enforcement agencies revealed that searches (and consent searches, specifically) are overwhelmingly targeted towards minority drivers, but, again, it's white drivers who are more likely to be found with evidence of wrongdoing.**

**BUT: a 2004 review of Texas' Regional Narcotics Task Forces revealed that 8 of 9 task forces searched Blacks more frequently than Anglos, and 7 of 9 searched Latinos more frequently – but 99% of stops by some task forces resulted in no citation.**

**BOTTOM LINE:** since, statistically, studies show that minority drivers are not as likely to be found in possession of contraband as white drivers, racial profiling practices based on this assumption should not be encouraged.

Police, help find my pot!

A DOPEY pot-smoker spent her birthday in jail – after asking police to help find her drugs stash. Shane Walker was planning to celebrate her 25th birthday when she realised her marijuana had been stolen by her boyfriend. She called officers in Charleston, West Virginia – and even told them she planned to sell the drugs to pay for a birthday treat. ‘Shane Walker wanted assistance getting her marijuana,’ the police report states. ‘She stated she had three-and-a-half ounces. She also stated she sells the marijuana.’ Police found the drugs and charged Walker with possession.



ID NO. DATE  
M40373 02:0709

Dope: Shane Walker

Picture: Splash

# LOGICAL AND SOCIAL ARGUMENTS, CONTINUED

- C. The minor benefits gained by directing resources towards racial profiling are far outweighed by the distrust and anger towards law enforcement felt by minorities and the public as a whole.
- Some law enforcement officials, including Black police chiefs in big cities, have defended racial profiling as an effective way to target their limited resources on likely lawbreakers.
  - The continued over-use and inconsistent use of consent searches in Texas has not just become a minority issue or civil rights issue, but also a **public safety issue**.

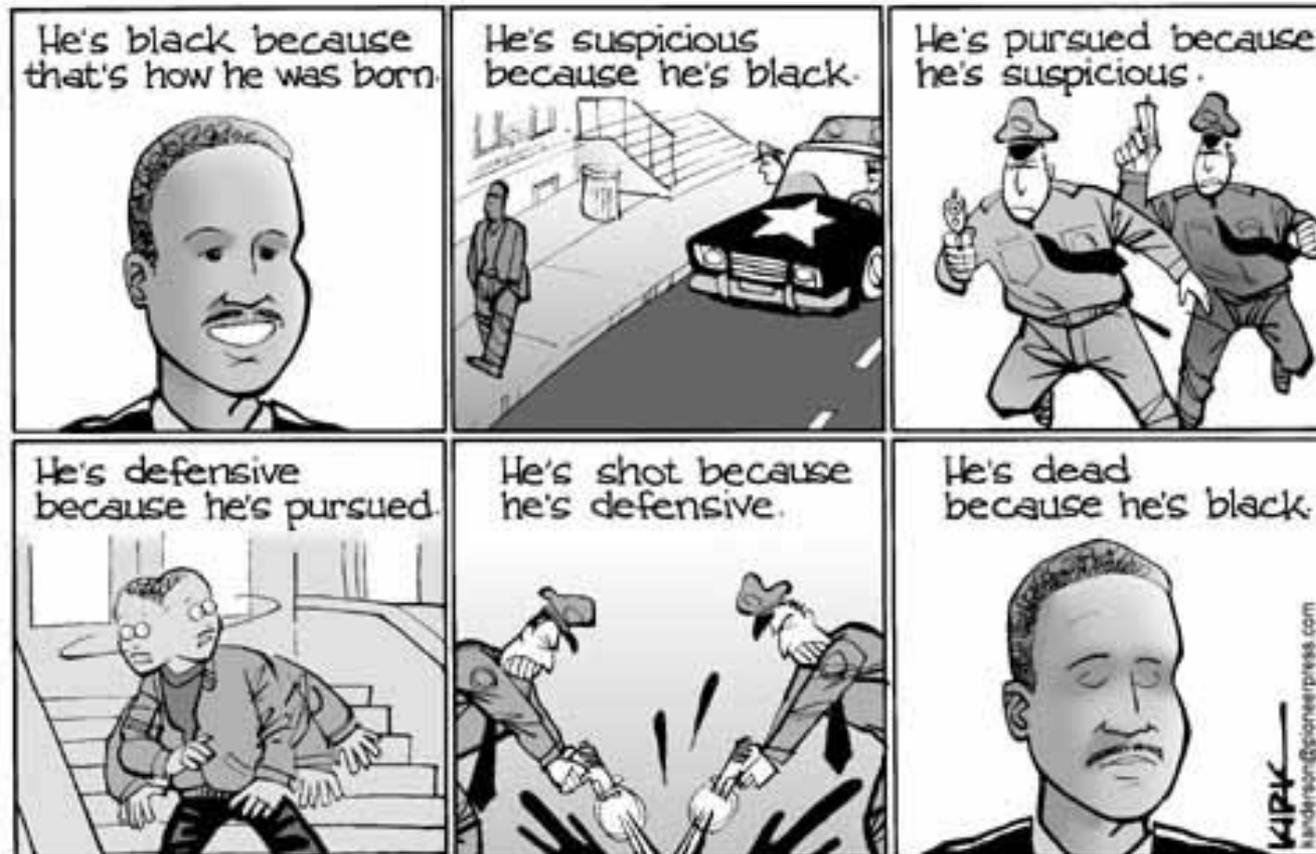
**Other jurisdictions have conducted surveys to determine where their police resources are going.**

**A study of 148 hours of videotape covering more than 1,000 traffic stops in Volusia County, Florida, determined that:**

- 5% of drivers on the highway were dark-skinned, but**
- 70% of those stopped were Black or Latino, and**
- 80% of the cars searched were driven by Black or Latino drivers (furthermore: these minority drivers were detained for longer periods of time per stop than white drivers).**
- Only 9 of the stops resulted in a ticket.**

**Illinois State Police data found that drug interdiction officers also seemed to target Latinos. Although Latinos comprise 8% of the population, they made up 30% of drug interdiction stops. In some areas, Latinos comprise as little as 2% of drivers but nearly 50% of stops by drug units.**

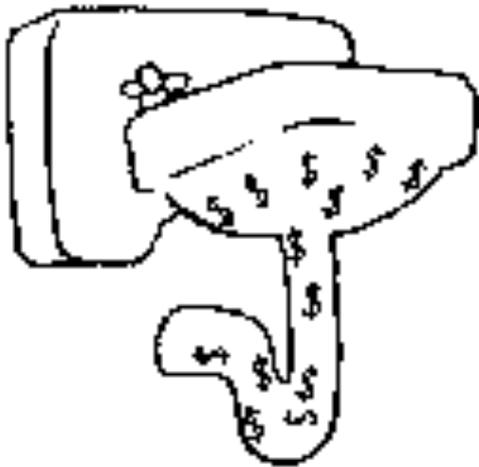
Over time, a breakdown in trust can lead to minorities acting more apprehensive and defensive at traffic stops, in turn resulting in continued perceptions by law enforcement that minorities are disproportionately likely to commit crimes. **It's a vicious cycle.**



**The International Association of Chiefs of Police (IACP) maintains that proactive police traffic stops, based on legitimately-observed and articulable violations, are the best use of resources and *can* have a meaningful impact on roadway-related crimes. For instance, legitimate, bias-free stops can:**

- ✓ **Reduce motor vehicle accidents**
- ✓ **Reduce car thefts and car jacking offenses**
- ✓ **Identify and deter drunk drivers**
- ✓ **Identify fugitives and wanted persons**
- ✓ **Identify and prevent drug transporters, or transporters of stolen property and other contraband (untaxed cigarettes and alcoholic beverages, pirated videotapes)**
- ✓ **Prevent and abate other criminal activity**

**BOTTOM LINE:** though it may seem like crime-fighting resources are best spent on racial profiling (since some law enforcement officers assume minorities commit more crimes), racial profiling actually wastes resources (since that assumption is wrong) and erodes trust in law enforcement.



TRUST AND  
MISTRUST

# LOGICAL AND SOCIAL ARGUMENTS, CONTINUED

- D. Inappropriate traffic stops generate suspicion towards officers and make future stops questionable – a racially-based stop today can throw suspicion on tomorrow’s legitimate stop.**
- **Police discretion can be defined as making judgmental decisions based on several factors, such as:**
    - ***Laws and ordinances***
    - ***Agency policies and procedures***
    - ***Training***
    - ***Job knowledge and experience***
    - ***Personal values and beliefs***
    - ***Work group norms***
    - ***Community customs***

An “ends justify the means” attitude...  
evolves into an “us versus them” approach to law enforcement.

**Racial profiling is just prejudice plus power.**

In this time of lawsuits, when institutions or departments must take the financial hit for individuals, your departments all need to ensure that discretion is being used very wisely.

Whatever the individual police officer may personally think about **crime, criminals,** and **the law,** s/he must perform his/her duty in a **competent** and **fair-minded** manner, always exercising good and reasonable judgment.

**BOTTOM LINE:** if profiling is happening today, we're more likely to believe that profiling is happening tomorrow – even if it's not. And that might result in legitimate stops and searches being questioned, especially if a pattern has developed.



### **3.1.1 LEARNING OBJECTIVE: The student will be able to identify elements of a racially-motivated traffic stop.**

#### **A. MOST RACE-BASED COMPLAINTS COME FROM VEHICLE STOPS, USUALLY BECAUSE IT IS RACE WHICH IS USED AS AN INAPPROPRIATE SUBSTITUTE FOR CRIMINAL BEHAVIOR PROFILE ELEMENTS**

- **Usually, these vehicle stops are the result of police drug interdiction efforts.**
- **Typically, they occur along interstate highways that are considered to be major drug transport corridors.**

# ELEMENTS OF A RACIALLY-MOTIVATED STOP, CONTINUED

## B. “DWB”

- This type of nickname has also extended to:
  - other minority groups (“Driving While Brown” – the ethnic profiling of Latinos)
  - other activities (“Flying While Black/Brown” [terrorism], “Shopping While Black/Brown,” which refers to the notion held by some that non-whites receive increased surveillance while shopping)



<http://www.youtube.com/watch?v=L8mko8G8iiY>



# ELEMENTS OF A RACIALLY-MOTIVATED STOP, CONTINUED

## C. ELEMENTS OF A TYPICAL TRAFFIC STOP RESULTING FROM RACIAL PROFILING

1. The vehicle is stopped on the basis of either a minor (but real) traffic violation, or a contrived traffic violation which is used as a **pretext** for closer inspection of the vehicle, driver, and passengers.
1. The driver and passengers are **questioned** about things that do not necessarily relate to the traffic violation that was the basis of the stop.
1. The driver and passengers are **ordered out of the vehicle**.
1. The officer visually checks all observable parts of the **interior** of the vehicle.

5. Based on the officer's questioning of the occupants and a visual observation of the vehicle, the officer proceeds on the assumption that drug courier work is involved by **detaining** the driver and passengers along the roadside for further investigation.
  
6. The driver is asked to **consent** to a vehicle search – if the driver refuses, the officer either
  - uses other procedures (like calling a K-9 unit to the scene, conducting time-consuming criminal record checks on all passengers, conducting “wanted” license-plate checks on the vehicle, etc.)
  - intimidates the driver (with the threat of detaining him/her until the officer obtains a warrant, hinting about arresting the occupants and towing/impounding the vehicle, etc.)
  
7. The vehicle is searched **without valid consent**.

# ELEMENTS OF A RACIALLY-MOTIVATED STOP, CONTINUED

## D. CONSENT SEARCHES AND RACIAL PROFILING

✓ **There are two prerequisites for a valid consent search of a vehicle:**

1) Consent must be given freely and voluntarily.

*Any appearance of coercion may void the search.*

*PROBLEM WE'VE SEEN: people don't realize that they have the right to say 'no' to consent searches.*

*For us average citizens, searches are perceived as invasive.*

2) Consent must be given by a person with authority.

- ✓ **Consent to search may be withdrawn at any time during the search.**
- ✓ **Consent searches must be restricted in scope to the area where consent was given.**

***PROBLEM WE'VE SEEN: vehicles were searched for up to an hour, with no evidence of wrongdoing found.***





## A question of resources



- A recent TCJC survey of 200 Texas law enforcement agencies found that approximately 2/3rds reported consent searching Black and Latino drivers at higher rates than white drivers following a stop, but available contraband data showed that most consent searches of minorities resulted in no findings of wrongdoing.
- In 2005, a representative with the Texas Municipal Police Association testified before the Texas Senate Criminal Justice Committee about this fact that consent searches are only rarely productive, stating that in his experience, “the vast majority of the time, we found nothing.”

**With consent searches – both of minority drivers and white drivers – officer time (and taxpayer money) is being diverted away from actual crime-fighting tasks.**

# Requiring written or recorded consent at traffic stops

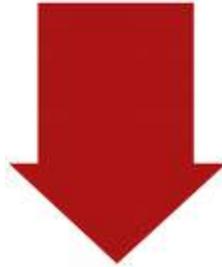
## 2 benefits

- ✓ **Written/recorded consent policies ensure that drivers are informed of their rights at the scene before they waive them.**
- ✓ **Without written/recorded consent, “he said-she said” arguments arise in court when defendants claim they never consented to the search (and if the defendant succeeds, possible evidence against him is thrown out). These policies strengthen cases by ensuring roadside searches stand up in court.**



# **EXAMPLE: Austin Police Department**

**In 2004, after APD implemented a written consent policy, consent searches declined by 63% – and officials say Austin is just as safe now as it was before the change in consent search procedure.**



**In fact, the rate at which officers found contraband during all searches actually declined, from 12.5% in 2003 to 12.1% in 2004. That means APD reduced the number of consent searches without harming public safety and freed up officers for more productive uses (such as improving 911 response times).**

### **3.1.2 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which would constitute reasonable suspicion of drug courier activity**

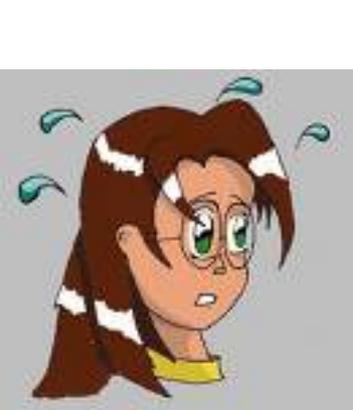
#### **A. THE DRUG COURIER PROFILE (ADAPTED FROM A PROFILE DEVELOPED BY THE DEA)**

- **Drug courier profiles originated in the early 1970s, and were initially used at airports, train stations, and bus depots.**



## The characteristics of original DEA courier profiles were behavioral-based:

- Unusual nervousness of the suspect
- Payment of a ticket in cash
- Traveling to or from a drug-suspect destination
- Excessive travel to a drug-source or to distribution locales
- Traveling under an alias
- Carrying little or no luggage
- Immediate use of the telephone after arriving at the destination
- Leaving a false call-back phone number with the ticket agent



**In 1986, the DEA instituted “Operation Pipeline,” a highway drug interdiction program that has trained state and local police agencies in the use of pretext traffic stops to find drugs in vehicles. Indicators of highway drug smuggling include:**

- **The driver is nervous or anxious beyond ordinary anxiety and cultural communication styles.**
- **There are signs of long-term driving (the driver is unshaven, s/he has disheveled clothing, there are empty food wrappers and beverage containers littering the vehicle, etc.).**
- **The vehicle is rented.**
- **The driver is a young male, 20-35 years of age (drug courier age group).**
- **There is no visible luggage, even though the driver is traveling.**
- **The driver attempted to avoid or elude the police by acting over-cautious or over-reckless when responding to signals.**
- **The vehicle has car air fresheners (usually to discourage drug-sniffing canines).**

**The DEA and local police agencies deny that race/ethnicity is a factor in drug courier profiles.**

**BUT: National civil rights organizations have instituted civil litigation against suspect police agencies.**

**The ACLU sued the California Highway Patrol (CHP) for discriminatory search practices. As per the settlement in 2003, CHP agreed to adopt sweeping reforms – including a ban on consent searches and restrictions on drug-related pretext stops – that was intended to end the practice of racial profiling on California's highways.**

**Also in 2003, the Maryland State Police settled a federal class action suit filed by the ACLU that had been going on for 10 years, agreeing to sweeping changes to prevent the profiling of minority motorists.**

**3.1.3 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which could constitute reasonable suspicion of general criminal activity (versus drug courier activity, specifically).**

**A. THINKING ABOUT THE TOTALITY OF CIRCUMSTANCES IN A VEHICLE STOP**

- **A traffic stop can be based on a clear and articulable probable cause that a traffic violation occurred.**
- **Also: there are certain indicators that law enforcement officers, from experience, have identified as indicative or strongly suggestive of criminal activity by drivers.**

**IN ADDITION:** there are pre-stop indicators and vehicle appearance clues that suggest that the vehicle in question may be used in connection with unlawful purposes.

- The mere presence of one or even a few of these indicators does not necessarily mean that the vehicle or the occupants are engaged in criminal behavior.

This is also the case with drug courier activity indicators – by themselves, they are usually not sufficient to justify a stop.

The clues do, however, form part of the **totality of circumstances** that you as an investigating officer can use as legal justification to further detain and investigate the vehicle and its occupant(s).

# REASONABLE SUSPICION OF CRIMINAL ACTIVITY, CONTINUED

## B. PRE-STOP INDICATORS

- 1) The vehicle is **not moving consistently** with traffic flow – either driving too quickly or too slowly.
- 2) The driver seems **overly cautious** (driving excessively carefully and guardedly).

Or: the driver/passengers repeatedly look at the police car from the rearview mirror or by turning around.

- 3) The driver begins using a **car- or cell-phone** when s/he is signaled to stop.

4) There is generally unusual **pull-over behavior**:

- the driver ignores emergency lights or the siren
- s/he hesitates before pulling over or seems like s/he is deciding to evade the stop
- s/he pulls onto a side street or executes a U-turn rather than pulling off of the road
- s/he moves objects within his/her car which seems indicative of hiding contraband, etc.



# REASONABLE SUSPICION OF CRIMINAL ACTIVITY, CONTINUED

## C. VEHICLE EXTERIOR APPEARANCE CLUES

- 1) There are signs of **re-painting** (especially with a different or non-standard color on a new vehicle).
- 2) There are signs of **hidden cargo**:
  - there is a low rear end which may indicate heavy cargo in the trunk
  - the windows don't roll down all the way which may indicate contraband in door panels, etc.

- 3) There are unusual **license plates**, suggesting a switch:
- a dirty plate on a clean car
  - bugs on the back plate indicating the plate was once used on the front of a vehicle, etc.)

**Or: the license plate light is inoperable or very dark.**

**Or: there is tinted plastic covering the license plate.**

**Or: there are fingerprints or dirt marks around plate.**



- 4) There are generally unusual circumstances with respect to the **exterior**:
- they're pulling a camper during the night (meaning they're probably not camping)
  - there are kids' bikes with no kids
  - there are heavy duty air shocks, but no trailer hitch on the vehicle
  - there are sticker and logo inconsistencies (like a school ID or business parking decals on the vehicle that don't coincide with occupants' appearance, background, and subsequent explanations)



# REASONABLE SUSPICION OF CRIMINAL ACTIVITY, CONTINUED

## D. VEHICLE INTERIOR APPEARANCE CLUES

### 1) **Seats, panels**, etc. are out of place:

- the rear seat is out of position or unsecured
- interior panels have been opened
- the screws and fasteners from the dash, door, and side panels are missing or not matching
- vehicle doors or window cranks/knobs are missing or laying on the floor or seats, etc.
- there are loose tools (like pry bars, dent pullers, and car jacks) or a spare tire on the back floorboards or on the rear seat.

2) There are generally **inconsistent items**:

- there is an anti-theft club with a rental car
- there's unexpected luggage that is inconsistent with the driver's and occupants' explanations (can be too much or too little luggage considering the trip length, or no luggage on a long trip).

3) There are signs of extended, uninterrupted **travel** and a lived-in appearance (like pillows, blankets, fast food wrappers, and paper cups).



- 4) There are **cover-up odors** (like air fresheners, garlic pods, cedar shavings, mustard, or kitchen and bathroom spray deodorizers).
- 5) There is a non-manufacturer's **ignition key**, especially in a new car.

Or: there is a single key in the ignition with no trunk key visible (which may indicate a valuable cargo in the trunk).

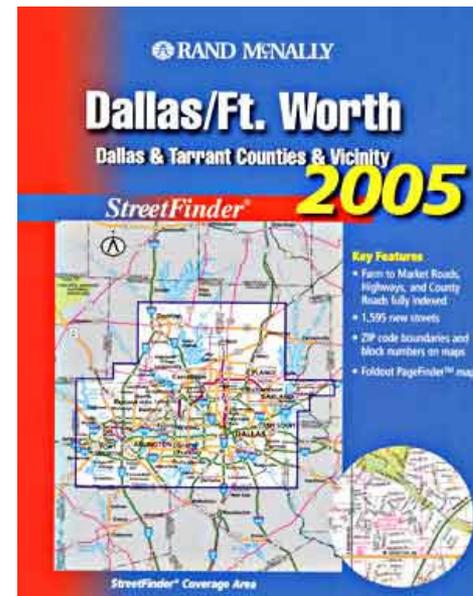
- 6) **Luggage** and the **spare tire** are being stored in the passenger area (which may indicate cargo in the trunk).



7) There is a large amount of **cash** in the vehicle that can be observed as the driver searches for his license and registration in his wallet, the glove box, a purse, or luggage.

Or: there are zip-lock money bags in plain view.

8) There are **maps** in plain view in the vehicle that are inconsistent with the driver's explanation.



# REASONABLE SUSPICION OF CRIMINAL ACTIVITY, CONTINUED

## E. DRIVER AND OCCUPANT INDICATORS

- 1) The registered owner of the vehicle is **not present**.
- 2) There are **rental vehicle irregularities**, like inconsistencies in the driver's explanation and the rental contract.
- 3) Passengers are **overly nervous**.
- 4) The passengers' explanations **conflict** with the driver's, or explanations sound rehearsed.

Or: questions directed at the driver are answered by a passenger (or vice-versa).

- 5) Occupants fail to **follow directions**.
- 6) Occupants appear to make **“targeted glances”** towards escape paths, the location of concealed contraband, or a way of attacking the officer.
- 7) There is a total **lack of movement** among passengers (e.g., they are staying in one body position without change), which may mean they are trying to conceal a weapon or contraband on the seat or floor.



8) The driver or occupants conduct **concealed weapon movements**:

- pulling a shirt down or pants up to hide a weapon in the waistband
- using their hands, forearms and elbows to “check” on a weapon location, usually after exiting from a vehicle or getting up from a sitting position (the same way police do when in plainclothes)

Or: there are **protrusions or bulges** in clothing that may indicate a weapon.

9) Immediately after stopping, the driver **quickly exits** the vehicle and approaches the police car before the officer can exit.

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**THE MAN ON THE LEFT  
IS 75 TIMES MORE LIKELY TO BE STOPPED  
BY THE POLICE WHILE DRIVING THAN  
THE MAN ON THE RIGHT.**

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