



**STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL**

RACIAL PROFILING POLICY GUIDANCE

FEBRUARY 2005

OFFICE OF ARIZONA ATTORNEY GENERAL

TERRY GODDARD



**STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL**

**TERRY GODDARD
ATTORNEY GENERAL**

February 2005

Complaints of racial profiling by law enforcement agencies following the tragic events of September 11, 2001, are again at the forefront of concerns for our communities and, certainly, law enforcement agencies. Many police departments have implemented policies, procedures and training to minimize race-based profiling tactics. Litigation has continued in this area in recent years. In fact, my Office has represented the Department of Public Safety ("DPS") in a lawsuit alleging racial profiling. As a result of that litigation, I have learned how expensive and time-consuming such litigation can be. Also, that these are complicated and difficult issues. Nonetheless, I am pleased with the settlement of the litigation which provides for policies and procedures to be established by DPS that should be beneficial for residents and law enforcement alike.

Among other items, the settlement provides for data collection by the DPS. Data collection at all police stops is crucial, as victims of racial profiling are often stopped, detained, and searched without being ticketed or arrested. Currently it is difficult for law enforcement agencies to defend themselves against charges of racial profiling because the relevant data and records may not be kept in a manner that can be reviewed and audited.

Effective law enforcement depends on mutual trust between individuals and police officers. All individuals involved in contacts with police, whether a traffic stop or investigation interview, must be assured that they will be treated fairly and appropriately.

The Attorney General's Office has prepared a brief overview of the significant settlement terms from the DPS litigation and offers this guidance to law enforcement agencies in developing or revising their internal racial profiling policies and procedures. This guidance is also intended to assist the community in ensuring that incidents of racial profiling are appropriately addressed and resolved.

I look forward to working with the community and law enforcement agencies to eliminate any race-based aspect of police enforcement.

Sincerely,

A handwritten signature in black ink that reads "Terry Goddard".

Attorney General Terry Goddard

I. POLICIES AND PROCEDURES

A. Prohibition of Racial Profiling

Law Enforcement Agencies are encouraged to:

1. Maintain a written policy condemning racial profiling by its officers and staff.
2. Establish a definition of racial profiling in their policies. Courts continue to hold that any reliance on race and/or ethnicity in articulating reasonable suspicion is prohibited, except in investigations in which race or ethnicity is part of an identifying description of a specific suspect. *U.S. v. Montero-Camargo*, 208 F.3d 1122 (9th Cir. 2000).

B. Traffic Stop Procedures

1. Absent any probable cause or reasonable suspicion of criminal activity, an officer should not detain a vehicle or its occupants longer than reasonably necessary to accomplish the purpose of the traffic stop.
2. Absent probable cause or reasonable suspicion of criminal activity, an officer should not detain a vehicle or its occupants for the sole purpose of allowing time for the arrival of a drug detection canine.
3. Officers should introduce themselves to all persons stopped and if requested, the officer should state his or her name, rank, badge number, and supervisor's name in a clear and courteous manner.

C. Consent Searches

1. Officers should be required to obtain written consent whenever requesting a search during a traffic stop.
2. It should be the responsibility of the officer to ensure that the individual giving consent understands that he/she is consenting to a search (i.e. use of Spanish-speaking officer or other, consent forms in Spanish).
3. A duplicate copy of the consent form signed by the officer and the individual to be searched should be given to the individual upon completion.
4. If the person declines to sign the consent, the officer should enter the information and sign the form indicating same.
5. Evidence of consent records should be kept by the law enforcement agency for a minimum of one (1) year.

D. Videotaping of Traffic Stops (If Available)

Law enforcement agencies are encouraged to utilize videotaping equipment, if available, and:

1. Ensure that video and audio components of the patrol vehicle are activated once a traffic stop has commenced.
2. Ensure that videotapes or disks from patrol car video systems are preserved by the law enforcement agency for a minimum of one (1) year.
3. Establish a written videotaping policy.

E. Mandatory Training

1. Make video in-service training regarding the agency's racial profiling policies mandatory for all officers.
2. Incorporate mandatory racial profiling classes into basic training curricula provided to new officers.
3. Maintain racial profiling course outlines or syllabi in a manner that can be provided to the public upon request.
4. Require all officers to complete a training course based on the National Highway Traffic Safety Administration's guidelines for professional traffic stops.
5. Maintain records of completed mandatory training taken by each officer.

II. DATA COLLECTION & ANALYSIS

A. Data Collection Involving Traffic Stops

Law enforcement agencies are encouraged to:

1. Collect data in a format that can be electronically audited.
2. Analyze reported data on a semi or annual basis and make such reports available to the public, if requested.

B. Monitoring of the Data Collection Process

Law enforcement agencies are encouraged to:

1. Implement a spot checking procedure with the objective of confirming that the data from traffic stops is being reliably scanned and electronically recorded.

2. Maintain an internal inspections process that reviews records for accuracy.

C. Follow-up to Indicia of Possible Racial Profiling

1. If review and analysis of the data indicates that a particular unit or officer may be engaging in racial profiling; policies should require that reasonable and articulated steps are taken to appropriately investigate these matters and reach an appropriate disposition.
2. If the agency concludes that the enforcement actions of a unit or an officer in question violates its policies; corrective or disciplinary measures should be clearly stated which may include:
 - a. requiring additional training
 - b. changing duty assignments
 - c. taking disciplinary action against the individual(s)

III. GENERAL RECOMMENDATIONS

A. Additional Training

Law enforcement agencies are encouraged to review and expand their training programs to:

1. Incorporate racial profiling policy review modules into the department in-service training regimen.
2. Ensure that 80 percent of the sworn work force has undergone the mandatory training at any given time.

B. Consumer Complaints

Law enforcement agencies are encouraged to maintain a complaint process accessible and understandable for use by the public and ensure that each complaint is:

1. Documented in written form in a format which can be audited.
2. Fully investigated and at a minimum, should include a review and recommended disposition by a sworn supervisor.
3. Concluded with a final disposition.
4. Complaints and dispositions should be reviewed periodically by the Chief or designee and summaries made available to the public, if requested.