



Office Of The Sheriff
Allegany County
Maryland

GENERAL ORDER NO: **3-200.00**

TO: All Patrol and Judicial Personnel

REFERENCE: **RACE BASED TRAFFIC STOPS**

PURPOSE: To establish policy for conducting constitutionally valid investigative and enforcement traffic stops.

REL: Maryland Transportation Article, Section 25-113

EFFECTIVE DATE: 2003

REVISION DATE: 3/1/2016

On July 1, 2001, Maryland Transportation Article 25-113 became effective. The law mandates all police agencies with more than 1 sworn police officer have a policy that governs investigative and enforcement traffic stops in effect by January 1, 2004.

3-201.00 Policy

.01 It is the policy of the Allegany County Sheriff's Office that:

- a. all investigative and enforcement traffic stops will be based on articulable and constitutionally valid suspicions.
- b. a record system will be established to track investigative and enforcement traffic stops
- c. sworn law enforcement deputies will receive periodic training in reference to this order.
- d. The Communications center will be notified of all traffic stops and the following information, at a minimum, will be given to the dispatcher, prior to exiting the police vehicle (if possible):
 1. license plate number and state of issue
 2. color, make, model and year of vehicle

3. number of occupants

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4. exact location of stop (including direction of travel)
5. any other information deemed necessary by the deputy

- e. The Police Communications Operator (PCO) will record all information given by the deputy in the Complaint Control Card.
- f. All drivers involved in a traffic stop as defined in 43-102.11 will be issued one of the following:
 1. Maryland Uniform Complaint and Citation
 2. Allegany County Sheriff's Office written warning
 3. Maryland Safety Equipment Repair Order
- g. Under no circumstances will a “verbal warning” be issued to the operator of a motor vehicle.

3-202.00 Definitions

- .01 Investigative stop – A traffic stop based on reasonable, articulable suspicion or knowledge of criminal activity.
- .02 Enforcement stop – A traffic stop initiated as a result of an observed violation of the criminal or traffic laws
- .03 Reasonable and articulable suspicion – Any fact(s) that would lead a deputy to believe a violation of the criminal or traffic law occurred. Actions taken by a deputy must be reasonable under the existing circumstances and based on the deputy’s knowledge at the time of the stop. A Deputy must be able to articulate specific factors that raised suspicions and led him to take action in connection with the traffic stop.
- .04 *Whren* or “pretext” stop – (*Whren v. United States*, 517 U.S. 806, 116 S.Ct. 1769 (1996)) 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. These types of traffic stops are known as *Whren* or “pretext” stops.
- .05 Seizure – The act of effecting a traffic stop, for whatever reason(s), is a seizure.

Seizures during all traffic stops are subject to Constitutional constraints.

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.06 Subsequent seizure – (Ferris vs. State, 355 Md. 356, 735 A.2d 491 (1999))
This form of seizure occurs when the original reason for the traffic stop has been satisfied and the deputy continues to detain the motorist and/or passenger(s). Once the reason for the initial stop has been satisfied, the continued detention of the motorist and/or passenger(s) is constitutionally permitted only if:

- A. The driver and/or passenger(s) consent to the continued detention, or
- B. The deputy has, at a minimum, a reasonable and articulable suspicion that criminal activity is or has occurred.

.07 Law Enforcement Agency – An agency that is listed in Art. 27, Section 727(B) of the Annotated Code of Maryland and that is subject to the provisions of the Maryland Transportation Article, Section 25-113.

.08 Law Enforcement Officer – Any person who, in an official capacity, is authorized by law to make arrests and who is an employee of a law enforcement agency that is subject to the provisions of the Maryland Transportation Article, Section 25-113.

.09 Maryland Justice Analysis Center (MJAC)– The Center operated by the Department of Criminology and Criminal Justice at the University of Maryland, College Park

.10 Police Training Commission – The unit within the Department of Public Safety and Correctional Services established under Article 41, Section 4-201.

.11 Traffic Stop – For the purposes of this order, a traffic stop is 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, except:

- a. a checkpoint or roadblock stop, or
- b. a stop of multiple vehicles due to a traffic accident or emergency situation that requires the stopping of vehicles for public safety purposes, or
- c. a stop based on the use of radar, laser, or vascar technology

3-203.00 Procedure

.01 Each time a law enforcement deputy makes a traffic stop, he will complete a “Traffic Stop Report”. That report is incorporated into the police reporting system and may be captured by use of the E-Tix System.

- .02 Shift supervisors will review the reports submitted by subordinates.
- .03 The Training Coordinator is hereby designated as the liaison to the Maryland Justice Analysis Center and will:
 - a. compile the required information for a calendar year and submit the report (on an MJAC approved form) to the MJAC no later than March 1 of the following year, and
 - b. review the reports submitted to ensure compliance with this order and Maryland law and to ascertain any patterns of prohibited conduct, and
 - 1. If any pattern of prohibited conduct is found, the Sheriff will be immediately notified
 - c. review the annual report of the MJAC, and
 - d. establish a procedure for collection of data with approval of the Patrol Commander
- .04 The Training Coordinator may appoint personnel to assist him with compliance of this order.
- .05 Law Enforcement Deputies will not use an individual's race or ethnicity as the sole justification to initiate a traffic stop.
 - a. The only exception to this section would occur if one or more characteristics were part of a lookout for a specific suspect. This applies to passengers as well as drivers.
- .06 Nothing in this policy shall be construed to alter the authority of a law enforcement deputy to make an arrest, conduct a search or otherwise fulfill the law enforcement deputy's obligations.
- .07 All personnel with knowledge of violations of this order or Transportation Article 25-113, must immediately report same to the Training Coordinator.
- .08 Any operator whose information has been recorded on a "Traffic Stop Report" in compliance with this order may receive a copy of the form.
 - a. The operator must provide a written request to the Training Coordinator, who will furnish a copy of the applicable form.

- .09 The Administrative Staff, in conjunction with the Training Coordinator, will review the statistical data referred to in this order on a quarterly basis.
- .10 “Traffic Stop Reports” shall be maintained on file for a minimum of three (3) years from date completed.

3-204.00 Expiration of Order

- .01 This order remains in effect until the expiration of the governing law.

By Order Of:

Craig A. Robertson, Sheriff