



# OLR RESEARCH REPORT

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## CONNECTICUT'S RACIAL PROFILING LAW

By: Veronica Rose, Chief Analyst

You asked for general information on the state's racial profiling law, including a summary of the law, changes made in the law, and the reasons why the African-American Affairs Commission (AAAC) has not been submitting the reports required by the law.

### SUMMARY

State law prohibits law enforcement agencies from engaging in racial profiling. This means police cannot detain, interdict, or treat people differently solely because of their race or ethnicity.

The law, know as the "Alvin W. Penn Racial Profiling Prohibition Act":

1. prohibits law enforcement agencies from using a person's race or ethnicity as the sole factor in determining probable cause for an arrest or reasonable suspicion for detention or an investigatory motor vehicle stop;
2. requires police departments to (a) adopt written policies prohibiting discriminatory stops, searches, and detentions and (b) collect and provide annual data on traffic stops, offenses, dispositions, and complaints of discriminatory stops to AAAC and the chief state's attorney; and
3. requires AAAC to review the data and submit annual reports to the governor and legislature on the prevalence and disposition of traffic stops and related complaints.

The original racial profiling law was enacted in 1999. It was substantively amended in 2001 ([PA 01-9](#), June Special Session (JSS)), and 2003 ([PA 03-160](#)). The 1999 act required police departments to report traffic stop data annually to the chief state's attorney. He had to review the data and prepare and submit one report to the governor and legislature, by January 1, 2002, on the prevalence and disposition of traffic stops and related complaints.

Police departments' obligation to submit data ended with their October 1, 2001 submission. [PA 01-9](#), JSS, required them to submit one more report, by October 1, 2002.

[PA 03-160](#) (1) required the police to provide the data on traffic stops and complaints to AAAC, as well as the chief state's attorney; (2) put AAAC, instead of the chief state's attorney, in charge of reviewing the data and producing the annual reports for the governor and legislature; and (3) named the law "The Alvin W. Penn Racial Profiling Prohibition Act."

In December 2001, the chief state's attorney published its racial profiling report, based on July 1, 2000 through June 30, 2001 data. The report concluded that "the differences observed in stopping minority drivers, the nature of the stops, and dispositions were generally small." AAAC has never submitted a report. It claims that the state has not provided the necessary funding.

## **RACIAL PROFILING LAW**

### ***Defined and Banned***

The law prohibits the State Police, municipal police departments, and other law enforcement agencies from engaging in racial profiling, which is defined as "the detention, interdiction, or other disparate treatment of an individual solely on the basis of the racial or ethnic status of such individual" ([CGS § 54-11](#)). It bars police from using a person's race or ethnicity as the sole factor (1) in determining probable cause to arrest or take someone into custody or (2) "constituting a reasonable and articulable suspicion that an offense has been or is being committed so as to justify the detention of an individual or the investigatory stop of a motor vehicle." And, individual detention based on noncriminal factors is considered to be inconsistent with the racial profiling ban ([CGS § 54-11](#)).

## ***Racial Profiling Policy***

Every police department must have a written policy prohibiting traffic stops, searches, or detentions motivated solely by considerations of a person's race, color, age, ethnicity, gender, or sexual orientation, if any of these actions would violate a person's civil rights.

## ***Data Collection***

Every police department must collect and record the following data on traffic stops:

1. the number of people stopped for traffic violations;
2. their identifying characteristics (age, race, color, ethnicity, and gender), based on the officer's perception and observations;
3. the alleged traffic violation that led to the stop;
4. whether any arrest was made, search conducted, or warning or citation issued; and
5. any additional information police officers consider appropriate, provided this does not include any other identifying information about the person such as the person's operator's license number, name, or address.

## ***Reporting***

Police departments must give the chief state's attorney and AAAC (1) a copy of any complaint they receive about discriminatory traffic stops and (2) written notice of the review and disposition ([CGS § 54-1m](#) (c)). They must also give the chief state's attorney and AAAC annual data summaries on traffic stops. AAAC must review the data and, annually, submit a report on its findings and any recommendations to the governor, the legislature, and any other entity it deems appropriate ([CGS § 54-1m](#) (f) & (g)).

The Office of Policy and Management (OPM) may direct that unspecified state aid be withheld from police departments that do not have a policy or collect and submit required data and information ([CGS § 54-1m\(e\)](#)).

## **HISTORY OF RACIAL PROFILING LAW**

The original 1999 law required the police to give the chief state's attorney (1) copies of any complaint about discriminatory traffic stops as well as a written notice of the review and disposition and (2) annual traffic stop data summaries. He, within existing appropriations, had to (1) review the data to determine the prevalence and disposition of discriminatory stops and related complaints and (2) submit one report on his findings, including recommendations, to the governor and legislature by January 1, 2002.

Under the 1999 law, the police obligation to provide data summaries to the chief state's attorney ended with their October 1, 2001 submission. [PA 01-9](#) (§ 128) required them to submit, by October 1, 2002, one more data summary report. It provided \$250,000 for the chief state's attorney to use to produce the review report, which was released in December 2001 (see below).

In 2003, Public Act [03-160](#) required the police to give to AAAC, as well as the chief state's attorney, copies of complaints about discriminatory stops, written notice of the reviews and dispositions of such complaints, and annual traffic stop reports. It required AAAC, instead of the chief state's attorney, to (1) review the traffic stop data and (2) annually, beginning January 1, 2004, report its review findings and recommendations to the governor, legislature, and other entities it deems appropriate. The act made the annual data review and report submission permanent, and it eliminated the provision that the report be conducted within available appropriations.

The act also renamed the law "The Alvin Penn Racial Profiling Prohibition Act."

## **RACIAL PROFILING REPORTS**

In December 2001, the chief state's attorney published its racial profiling report required by law, based on July 1, 2000 through June 30, 2001 data (view report at [http://eosweb/EOSWEB\\_Linked\\_Documents/PA99-198\\_Final.pdf](http://eosweb/EOSWEB_Linked_Documents/PA99-198_Final.pdf)).

According to the report:

There do[es] not appear to be widespread disparities as a function of race or ethnicity. The differences observed in stopping minority drivers, the nature of the traffic stops, and dispositions were generally small. The most notable disparities were found in the issuance of misdemeanor summonses and motor vehicle searches. . . .The numbers presented in this report do not definitively confirm or disprove the existence of racial profiling among individual departments or individual police officers.

AAAC has never submitted a report. In response to a Hartford Courant article criticizing its failure to submit a report, AAAC claimed it has never received any money from the state to complete this mandate. It indicated that AAAC's budget was \$ 354,000, and, at last estimate, the statistical analysis for the report cost approximately \$600,000.

According to AAAC, it had sought and received preliminary approval for a \$580,000 federal grant. But because all the funds would be reimbursed by the federal government, an initial state outlay for costs was required. OPM, through the Office of Legislative Management, informed AAAC that it could not be the fiscal agent because the grant exceeded AAAC's budget.

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