

2014 -- S 2976

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO MOTOR AND OTHER VEHICLES - COMPREHENSIVE COMMUNITY -  
POLICE RELATIONSHIP ACT OF 2014

Introduced By: Senators Metts, Pichardo, Goodwin, Jabour, and Miller

Date Introduced: May 01, 2014

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. The title of Chapter 31-21.2 of the General Laws entitled "Racial Profiling  
2 Prevention Act of 2004" is hereby amended to read as follows:

3 ~~CHAPTER 31-21.2~~

4 ~~Racial Profiling Prevention Act of 2004~~

5 CHAPTER 31-21.2

6 COMPREHENSIVE COMMUNITY - POLICE RELATIONSHIP ACT OF 2014

7

8 SECTION 2. Sections 31-21.2-5, 31-21.2-6, 31-21.2-7 and 31-21.2-8 of the General  
9 Laws in Chapter 31-21.2 entitled "Racial Profiling Prevention Act of 2004" are hereby amended  
10 to read as follows:

11 **31-21.2-5. Law enforcement practices.** -- (a) Unless there exists reasonable suspicion or  
12 probable cause of criminal activity, no motor vehicle stopped for a traffic violation shall be  
13 detained beyond the time needed to address the violation. Nothing contained herein shall prohibit  
14 the detention of a motor vehicle for a reasonable period of time for the arrival of a canine unit or  
15 subsequent criminal investigation, if there is reasonable suspicion or probable cause of criminal  
16 activity.

17 (b) No operator or owner-passenger of a motor vehicle or pedestrian shall be requested  
18 to consent to a search by a law enforcement officer of his or her motor vehicle or person ~~which is~~

1 ~~stopped solely for a traffic violation~~, unless there exists reasonable suspicion or probable cause of  
2 criminal activity. Nothing contained in this subsection shall be construed to prohibit a law  
3 enforcement officer from conducting a pat down search for weapons based upon a reasonable  
4 belief that the officer's personal safety may be jeopardized.

5 (c) Each search conducted by a law enforcement officer shall be documented in a  
6 computer-aided dispatch (CAD) entry or other police-generated report. The CAD entry or formal  
7 police report shall include the date, time and location of the stop/search, along with the  
8 "reasonable suspicion" or "probable cause" leading to the search. The CAD entry or formal police  
9 report shall also include the results of the search. The document shall be a public record, subject  
10 to the access to public records act, § 38-2-2(4)(D).

11 (d) With the exception of operators who are subject to federal motor carrier regulations,  
12 no operator of a motor vehicle shall be requested to provide any documentation or identification  
13 other than a driver's license, motor vehicle registration, and/or proof of insurance when the motor  
14 vehicle has been stopped solely for a traffic violation, unless there exists reasonable suspicion or  
15 probable cause of criminal activity or the operator has failed to produce a valid driver's license.

16 (e) If a violation of the traffic laws in this title is used to stop a motor vehicle for non-  
17 related investigatory reasons, the law enforcement officer shall document in writing or  
18 electronically the investigatory basis for the stop. The documentation of such stops shall  
19 commence no later than twelve (12) months after passage of this act and shall be assessed every  
20 six (6) months by the respective police department as to whether the suspicion was justified and  
21 the data be made publicly available, subject to the access to public records act, § 38-2-2(4)(D).

22 ~~(f)~~ Any evidence obtained as a result of a search prohibited by subsection (a) or (b)  
23 shall be inadmissible in any judicial proceeding. Nothing contained herein shall be construed to  
24 preclude any search otherwise based upon any legally sufficient cause.

25 ~~(g)~~ Law enforcement agencies using video and/or audio surveillance cameras in their  
26 vehicles shall adopt written policies and procedures regarding the use of such cameras, which  
27 shall be public records, and which shall include, but not be limited to, the following standards:

28 (1) All motor vehicle stops conducted by police vehicles with such equipment shall be  
29 recorded barring exceptions outlined below. In an effort to objectively memorialize relevant  
30 observations, the recording shall begin no later than when an officer first signals the vehicle to  
31 stop; and, barring conditions that could compromise a sensitive investigation, jeopardize the  
32 safety of a vehicle occupant or cooperating victim/witness and/or unforeseen equipment  
33 malfunction, the recording shall continue until the motor vehicle stop is completed and the  
34 stopped vehicle departs, or until the officer's participation in the motor vehicle stop ends;

1           (2) Law enforcement agencies that acquire video and/or audio surveillance cameras for  
2 use in their vehicles shall:

3           (i) Notify the office of highway safety of the Rhode Island department of transportation  
4 that such equipment has been acquired and will be in use and the department of transportation  
5 shall post notice of such use on its website;

6           (ii) Issue a press release advising the public that such equipment will be in use; and

7           (iii) Post notice on their website that such equipment will be in use;

8           (3) A chain-of-custody of the video/audio recordings, hereafter referred to as  
9 "recording(s)", shall be maintained;

10           (4)(i) A driver of a motor vehicle that was recorded by a video/audio surveillance camera,  
11 and/or his or her legal counsel, shall have the right to view the in-car recording at the police  
12 station, provided that the viewing does not compromise an active investigation;

13           (ii) A passenger of a motor vehicle that was recorded by a video/audio surveillance  
14 camera, and/or his or her legal counsel, shall have the right to view the in-car recording at the  
15 police station if that passenger became the subject of the police interaction recorded, provided  
16 that the viewing does not compromise an active investigation;

17           (5) The policy shall address the period of retention for such recordings, and procedures to  
18 be used to ensure that the recording equipment is in proper working order, and shall bar the  
19 destruction of any recording of an incident that is the subject of a pending complaint, misconduct  
20 investigation or civil or criminal proceeding. Such recordings shall be retained for a minimum of  
21 ten (10) days after the final resolution of such investigation or proceeding, including the time for  
22 any appeal;

23           (6) The policy shall explicitly prohibit any violation of these requirements, including any  
24 attempts to disengage or tamper with the video/audio surveillance equipment, deliberately and  
25 prematurely erase or alter a recording, or to otherwise fail to record stops as specified herein  
26 barring the aforementioned limited exceptions; and

27           (7) The video/audio surveillance recordings regulated by this section shall not be deemed  
28 public records under the access to public records act, § 38-2-1, et seq. A court may impose any  
29 appropriate remedy in any civil or criminal proceeding where a knowing and willful violation of  
30 these standards is found to have been committed.

31           (h) Law enforcement officers shall advise any motorist who is stopped, of the reason for  
32 the stop.

33           (i) Law enforcement agencies with mobile display terminals in police vehicles shall adopt  
34 policies and procedures governing their use, which shall include the criteria necessary to initiate a

1 [record check on a motor vehicle license or registrant. All law enforcement agencies must comply](#)  
2 [with state and federal guidelines related to the use and access of Rhode Island Law Enforcement](#)  
3 [Telecommunications System \(RILETS\) and National Crime and Information Center \(NCIC\).](#)

4 ~~(j)(e)~~ The policies and procedures established by this section shall be added to, and  
5 prominently placed in, all relevant departmental policy and training manuals. Other appropriate  
6 training about the requirements of this chapter shall also be provided to all officers.

7 **31-21.2-6. Continued data collection.** -- (a) The [office of highway safety of the](#) Rhode  
8 Island ~~Justice Commission~~ [department of transportation](#) is authorized to and shall conduct a study  
9 of routine traffic stops by the Rhode Island State Police and each municipal police department in  
10 order to determine whether racial [disparities in traffic stops exist](#) ~~profiling is occurring~~, and to  
11 examine whether searches of vehicles and motorists are being conducted in a disparate manner.

12 (b) The [office of highway safety of the](#) Rhode Island ~~Justice Commission~~ [department of](#)  
13 [transportation](#) shall, ~~not later than forty five (45) days after enactment of this act~~ [no later than](#)  
14 [July 1, 2014](#), develop a form [or electronic equivalent](#) to be used by each police officer when  
15 making a traffic stop to record the data required under this chapter, which form shall include [for](#)  
16 [each motor vehicle stop, the race and ethnicity of the driver based on the officer's perception, and](#)  
17 the information listed in section 31-21.1-4.

18 (c) The [office of highway safety of the](#) Rhode Island ~~Justice Commission~~ [department of](#)  
19 [transportation](#) shall advise the Rhode Island State Police and each municipal police department of  
20 the date that data collection shall commence. Data collection shall begin not later than ~~October 1,~~  
21 ~~2004~~ [July 1, 2014](#), but may begin prior to that time upon notification to police departments from  
22 the [office of highway safety of the](#) Rhode Island ~~Justice Commission~~ [department of](#)  
23 [transportation](#).

24 (d) A traffic stop data collection card [or electronic equivalent](#) shall be completed for  
25 each routine traffic stop by the Rhode Island State Police and municipal police department during  
26 the term of this study.

27 (e) Upon commencement of data collection, and monthly thereafter, each municipal  
28 police department and the Rhode Island State Police shall transmit to the [office of highway safety](#)  
29 [of the](#) Rhode Island ~~Justice Commission~~ [department of transportation](#) all forms [or electronic data](#)  
30 collected to date of motorists who were stopped, and any other information the police department  
31 or the Rhode Island State Police deem appropriate. Data collection shall continue for ~~twelve (12)~~  
32 [forty-eight \(48\)](#) months following commencement of data collection.

33 (f) Appropriate funding shall be made available to implement the provision of this  
34 chapter, and completion of this study shall be contingent upon such funding.

1 (g) The study shall include a multivariate analysis of the collected data in accordance  
2 with general statistical standards, and shall be substantially similar to the study prepared pursuant  
3 to chapter 21.1 of this title. The study shall be prepared by an organization, company, person or  
4 other entity with sufficient expertise in the field of statistics and the study of traffic stop data  
5 collection to assist with the implementation of this chapter, and chosen by the office of highway  
6 safety of the Rhode Island ~~Justice Commission~~ department of transportation. The study shall be  
7 released on an annual basis, with the first released not later than eighteen (18) months after  
8 commencement of data collection under this chapter. The report, findings and conclusions  
9 submitted pursuant to this subsection shall be a public record.

10 (h) The office of highway safety of the Rhode Island ~~Justice Commission~~ department of  
11 transportation shall be exempt from the provisions of chapter 2 of title 37 in connection with its  
12 procurement of equipment and services necessary to the implementation of this chapter.

13 (i) On a quarterly basis a summary report of the monthly data provided by each police  
14 department and the state police for that quarterly period shall be issued. The report shall be a  
15 public record. The summary report shall include at a minimum a monthly breakdown by race,  
16 age, gender and outcome for operators for each police department of the number of traffic stops  
17 made and of searches conducted, ~~and any other information deemed appropriate by the Rhode~~  
18 ~~Island Justice Commission~~. For those police departments collecting data through the use of  
19 mobile display terminals in police vehicles, the report shall also include a breakdown by race and  
20 outcome for operators. The report shall be released not more than ninety (90) days after the end of  
21 each quarterly period. No information revealing the identity of any individual shall be contained  
22 in the report.

23 (j) Every law enforcement agency collecting data pursuant to this chapter shall ensure  
24 that supervisory personnel review each officer's stop and search documentation and data results  
25 on a ~~weekly~~ monthly basis to ensure compliance with all policies, prohibitions and documentation  
26 requirements.

27 (k) The head of every law enforcement agency subject to this chapter, or his or her  
28 designee, shall review the data on a regular basis in an effort to determine whether any racial  
29 disparities in the agency's traffic stops enforcement exists, and to appropriately respond to any  
30 such disparities. It is understood that disparities may or may not equate to racial profiling.

31 (l) An organization chartered for the purpose of combating discrimination, racism, or of  
32 safeguarding civil liberties, or of promoting full, free, or equal employment opportunities, ~~and/or~~  
33 ~~the Rhode Island Justice Commission~~ may seek appropriate relief in a civil action against any  
34 police department for failing to collect or transmit the data required in this chapter, and may be

1 awarded its costs, including attorneys' fees, for bringing such an action. As a condition precedent  
2 to the filing of a civil action by an organization under this section, the organization shall send a  
3 notice to the [office of highway safety of the Rhode Island Justice Commission department of](#)  
4 [transportation](#) identifying the police department which is failing to collect or transmit the data and  
5 the organization shall then allow fifteen (15) days to elapse.

6 (m) The [office of highway safety of the Rhode Island Justice Commission department of](#)  
7 [transportation](#) shall consult with community, police and civil rights representatives, ~~as the~~  
8 ~~executive director deems appropriate~~, in the development of the form required by subsection (b)  
9 and [on at least a quarterly basis shall consult](#) on other issues that arise relating to the  
10 implementation and enforcement of this chapter [including the information generated by the](#)  
11 [issuance of the reports required by subsection \(i\) herein](#).

12 **31-21.2-7. Data collection and use.** -- (a) ~~Data acquired under this chapter shall not be~~  
13 ~~used in any legal proceeding to establish an inference of discrimination except by court order;~~  
14 ~~provided, however, that use of the data for this purpose shall be allowed only upon completion of~~  
15 ~~the study authorized by section 31-21.2-6.~~ [Data acquired under this chapter shall not be used in](#)  
16 [any civil proceeding to establish or rebut an inference of discrimination except by court order or](#)  
17 [when otherwise admissible in accordance with rules of civil procedure. It is understood that](#)  
18 [disparities may or may not equate to racial profiling.](#) All data collected pursuant to this chapter  
19 shall be public. For those motor vehicle stops where a citation was issued or an arrest was made,  
20 the forms prepared pursuant to section 31-21.2-6(b) of this chapter shall include a citation or  
21 arrest number for reference. The data collection form shall not include the name or badge number  
22 of the officer completing the form. [The report from the department of transportation shall not be](#)  
23 [officer specific.](#)

24 (b) Any police officer who in good faith records traffic stop information pursuant to the  
25 requirements of this chapter shall not be held civilly liable for the act of recording the information  
26 unless the officer's conduct was reckless.

27 [\(c\) All police departments shall submit to the office of highway safety on an annual basis](#)  
28 [beginning on January 15, 2015, and for four \(4\) years following the conclusion of data collection,](#)  
29 [a report indicating what action, if any, has been taken, to address any racial disparities in traffic](#)  
30 [stops and/or searches documented in the studies authorized by §§ 31-21.1-4 and 31-21.2-6, and to](#)  
31 [otherwise implement any recommendations of those studies, including, but not limited to, any](#)  
32 [changes to agency policies; revisions to traffic enforcement practices; detailed analysis and](#)  
33 [review of traffic stop data and the results of such review; or the initiation of any disciplinary](#)  
34 [action. Any reference to disciplinary action shall not identify the officer. The office of highway](#)

1 safety shall issue guidelines for police departments to follow in preparing these reports. The  
2 reports shall be public records, and shall contain a certification that the department has complied  
3 with subsections (j) and (k) of § 31-21.2-6.

4 (d) Every twelve (12) months, each state and municipal law enforcement agency shall  
5 submit to the office of highway safety of the Rhode Island department of transportation, on a  
6 brief form prepared by that office, information summarizing what, if any, actions were taken by  
7 the agency in response to any racial disparities documented in the previous reports issued  
8 pursuant to § 31-21.2-6(i). The summary shall include, but not be limited to: any changes to  
9 agency policies; revisions to traffic enforcement practices; detailed analysis and review of traffic  
10 stop data, and the results of such review; or the initiation of any disciplinary action. Any  
11 references to disciplinary action shall not identify the officer. The forms shall be public records,  
12 and shall contain a certification that the department has complied with subsections (j) and (k) of §  
13 31-21.2-6.

14 **31-21.2-8. Complaint procedures.** -- (a) Each state and municipal law enforcement  
15 agency shall establish a procedure to investigate complaints of police misconduct by members of  
16 the public against personnel of these agencies, and shall make a written description of the  
17 procedure available to the public. Copies of any departmental complaint forms shall be available  
18 in at least one governmental location other than the police department. The procedure and forms  
19 shall also be made available on any website of a law enforcement agency.

20 (b) At a minimum, complaints shall be accepted in person by mail or by facsimile.

21 (c) Information on the complaints received by each law enforcement agency shall be  
22 ~~submitted~~ compiled on an annual basis ~~under uniform criteria established by the Select~~  
23 ~~Commission on Race and Police Community Relations~~ by the state police and each municipal  
24 law enforcement agency and published in each agency's annual report and/or on its website. The  
25 information provided by each department shall include the total number of complaints received  
26 from the public, a breakdown by category of the type of complaint and a further breakdown by  
27 category of the disposition of the complaints.

28 (d) The state police and all municipal law enforcement agencies shall make available as a  
29 public record subject to the access to public records act, § 38-2-2(4)(D):

30 (1) Copies of any formal or informal arrangements between the state police or a  
31 municipal law enforcement agency and the bureau of immigration and customs  
32 enforcement/homeland security investigations concerning the questioning, detention,  
33 investigation, arrest, apprehension, stopping, referral or processing of individuals within the state  
34 of Rhode Island, including copies of any agreements entered into pursuant to 8 U.S.C. 1357(g):

1 [and](#)

2 [\(2\) Any policies or procedures governing the circumstances under which an inquiry to](#)  
3 [federal authorities is made to determine a person's immigration status.](#)

4 SECTION 3. Section 42-137-5 of the General Laws in Chapter 42-137 entitled "The  
5 Select Commission on Race and Police-Community Relations Act" is hereby amended to read as  
6 follows:

7 **42-137-5. Duties.** -- The select commission shall:

8 (1) Analyze and recommend changes that will improve police-community relations in  
9 Rhode Island.

10 (2) Study and recommend changes needed to statutes, ordinances, institutional policies,  
11 procedures and practices deemed necessary to:

12 (i) Improve law enforcement work and accountability;

13 (ii) Reduce racism;

14 (iii) Enhance the administration of justice; and

15 (iv) Affect reconciliation between diverse segments of the statewide community.

16 (3) Study, recommend, promote and implement methods to achieve greater citizen  
17 participation in law enforcement policy development, review of law enforcement practices, and  
18 advocacy for the needs of law enforcement agencies, officers, and the public at large in the  
19 prevention of crime, administration of justice and public safety.

20 (4) Study, recommend, promote and assist in the incorporation of evolving homeland  
21 security needs with effective models of neighborhood-oriented community policing, crime  
22 prevention and public safety.

23 (5) Promote greater understanding of the need to incorporate cultural diversity in  
24 everyday as well as extraordinary activities involving law enforcement, public safety and the  
25 administration of justice.

26 (6) Analyze, review, recommend, assist in and monitor changes to police policies,  
27 procedures and practices related to:

28 (i) Recruitment, hiring, promotion and training of police officers;

29 (ii) The level and quality of diversity training, sensitivity awareness and cultural  
30 competency;

31 (iii) The level and quality of efforts related to building and improving overall community  
32 relations;

33 (iv) The use of firearms by on-duty and off-duty police officers;

34 (v) The use of force, the use of excessive force or the excessive use of force;

- 1 (vi) The use of racial profiling and other forms of bias based policing; and
- 2 (vii) Legislation reforming police policies, practices, or procedures involving community
- 3 relations.

4 ~~(7) To assist the select commission in its duties pursuant to subsection (6), all police~~  
5 ~~departments shall submit to the select commission on an annual basis beginning on January 15,~~  
6 ~~2004, and for six (6) years thereafter, a report indicating what action, if any, has been taken to~~  
7 ~~address any racial disparities in traffic stops and/or searches documented in the study authorized~~  
8 ~~by sections 31-21.1-4 and 31-21.2-6, and to otherwise implement any recommendations of that~~  
9 ~~study. The reports shall be public records.~~

10 ~~(8) Collect and publish data regarding complaints of police misconduct pursuant to~~  
11 ~~section 31-21.2-8.~~

12 SECTION 4. Chapter 14-1 of the General Laws entitled "Proceedings in Family Court" is  
13 hereby amended by adding thereto the following section:

14 **14-1-25.1. Search of juveniles without warrant.** No juvenile shall be requested to  
15 consent to a search by a law enforcement officer unless there exists reasonable suspicion or  
16 probable cause of criminal activity. In those instances in which a warrant would be required, a  
17 law enforcement officer must advise the juvenile that he or she may refuse to consent to, or limit  
18 the scope of, any requested search. The determination of age of the individual shall be based on  
19 the perception of the officer making a good faith effort in advance of requesting consent. Nothing  
20 contained herein shall be construed to limit the restrictions contained in § 31-21.2-5, or to  
21 prohibit a law enforcement officer from conducting a pat down search for weapons based upon a  
22 reasonable belief that the officer's personal safety may be jeopardized.

23 SECTION 5. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES - COMPREHENSIVE COMMUNITY -  
POLICE RELATIONSHIP ACT OF 2014

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1           This act would have all police departments submit to the office of highway safety an  
2 annual report indicating what action has been taken to address any racial disparities in traffic  
3 stops and/or searches. This would begin on January 15, 2015 and for four (4) years following the  
4 commencement of data collection.

5           This act would take effect upon passage.

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