

SUMMARY

Santa Monica's Public Safety Reform and Oversight Commission (PSROC) set out to determine:

- 1) Does Racial Profiling occur in traffic stops in Santa Monica
- 2) What, if any policy, should SMPD adopt regarding pretextual stops.

PSROC compiled evidence from the Santa Monica Police

Officer Association, the Santa Monica Police Department, the Legislative

Director of the Office of Senator Steven Bradford, author of SB50, as well as the public.

The primary concern with pretextual stops is that they disproportionately target people of color; placing people of color in unnecessary interactions with police officers that have too often ended in violence and death. Across California, data proves this concern is very real. The California Racial and Identity Profiling Advisory

Board shows that people who were perceived as black were stopped at 2.7 times the rate of people perceived as white. Even more concerning, those perceived to be black adolescents between 15 to 17 years old were searched at nearly six times the rate of those perceived as white youth.

These numbers, however, were not Santa Monica specific. To address this fact, PSROC waited on rendering opinion until it received SMPD's "RIPA" data with presentation. SMPD presented the department's Racial and Identity Profiling Act (RIPA) data to the PSROC. RIPA was put into law in 2015. RIPA requires that law enforcement agencies in the state of California collect perceived demographic data from specified police contacts. RIPA stop data must be collected during police contacts matching either of the following criteria:

- (1) Any detention, as defined above in these regulations, by a peace officer of a person; or
- (2) (2) Any peace officer interaction with a person in which the officer conducts a search, as defined in these regulations.

The data compiled is concerning.

SMPD RIPA DATA

SMPD's RIPA data is cause for concern. It demonstrates that minorities are not stopped congruent to their resident population percentage within Santa Monica. Minority percentages for stops are higher than their percentage of resident population, while stops for white people are lower than their population percentage. The black community makes up 4.3% of Santa Monica's population. Yet, they comprise 15.4% of the total number of stops by SMPD. They also comprise 21% of stops for equipment violation; the type of stop most commonly associated with racial profiling. Latinos make up 20.3% of Santa Monica's population and 23.3% of SMPD's stops. Inconsistently, 38% of stops for equipment violations are made against Latinos.

Conversely, white people make up 58.2% of Santa Monica's population, but are subject to only 49.1% of police stops. Additionally, only 31% of stops for equipment violations are made against white people.

SMPD puts forth three arguments to justify the data. The first being that Santa Monica is a destination city where the population on any given day isn't composed of residents entirely. This is true. Santa Monica is a tourist destination. The error in this explanation, however, is the numbers aren't equally inflated. Unless the tourism population is a wave of minorities while there is an exodus of white people, the data seems inconsistent with the population. It certainly doesn't explain the difference in stops for equipment violations.

SMPD also argues that data will demonstrate different patterns depending on questions asked and data points compiled. SMPD's concern is valid. As a result, the PSROC has tasked its inspector general to audit SMPD's methodology for compiling data and see if additional data points would offer more clarity.

Additionally, SMPD argues that due to training and their commitment to a diverse police force, pretextual stops are not racially biased in Santa Monica.

The Santa Monica Police Department and the Santa Monica Police Officer's Association have argued that pretextual stops are a critical component of police work and an important tool in keeping Santa Monica safe. No doubt there are efforts within SMPD to prevent and combat racial profiling.

One thing is certain, the data is a red flag that needs addressing.

RECOMMENDATION

Based on the current evidence:

1. Pretextual stops can be racially biased and place people of color at an unacceptable risk of danger.

2. PSROC makes the proactive recommendation that the SMPD adopt the

LAPD's pretextual stops policy. The purpose of this policy is to discourage illegal stops and racial profiling.

EXPLANATION

PSROC recommendation comes after the commission heard from advocates, reviewed written testimony, and presentations from the Santa Monica Police Department. While pretextual stops can be a powerful law enforcement tool for police departments, the data across California shows this is a tool that can be driven by racial prejudice and unconscious bias.

The Santa Monica Police Department currently does not have an established policy on pretextual stops. They have extensive training on implicit bias and biased based policing plus policies on Search and Seizure (311), Law enforcement Authority (100), Biased-Based Policing (401), and Portable Audio/Video Recorders (425). Recommending the Santa Monica Police Department adopt the Los Angeles Police Department's pretextual stops policy places clear policy safeguards to limit the potential for racially biased stops while still preserving the police officer's ability to investigate based on reasonable suspicion, regarding a serious crime (i.e., a crime with potential for great bodily injury or death), such as driving under the influence (DUI), reckless driving, street racing, street takeovers, hit and

run, human or narcotics trafficking, gun violence, burglary, or another similarly serious crime.

PSROC's recommendation would require a Santa Monica Police Officer to state the public safety reason for all traffic/pedestrian stops, citations and warnings on body-worn video (BWV). SMPD already requires body-worn video to be recording during officer's response to any questions posed by the individual stopped.

Officers' actions during all stops (e.g., questioning, searches, handcuffing, etc.) shall be limited to the original legal basis for the stop, absent articulable reasonable suspicion or probable cause of criminal activity that would justify extending the duration or expanding the scope of the detention. Officers shall not extend the duration or expand the scope of the detention without additional reasonable suspicion or probable cause (beyond the original legal basis for the stop). (The full LAPD policy is on page 3.)

This is a proactive recommendation to the Santa Monica Police Department that builds and reinforces their current training while ensuring a clear Department policy on pretextual stops.

The policy also would limit traffic stops where public safety is at risk. SMPD argues with would preclude all traffic enforcement stops. This, however, is at best inaccurate and at most disingenuous. Common traffic infractions such as speeding, running a red light or stop sign, illegally driving through a crosswalk, and many other infractions in California vehicle code would still be enforceable. The greatest evidence is LAPD traffic is still very, very active.

The greatest argument for instituting this policy is SMPD's own RIPA data.

SUMMARY OF PROCESS

On April 4th, the Special Meeting for the PSROC, the Commission voted to refer a discussion on Santa Monica's Police Department policy on pretextual stops to the Reimagining Public Safety Ad Hoc.

The Reimagining Public Safety Ad Hoc met on April 4th with Chris Morales, Legislative Director - Office of Senator Steven Bradford to learn more about SB 50. SB 50 would limit racial profiling by prohibiting a peace officer from initiating a motor vehicle or bicycle stop for a low-level infraction, unless there is a separate, independent safety-related basis to initiate the stop.

The Reimagining Public Safety AD Hoc invited the Santa Monica Police Department

to present their current policy and opinion on Pretextual Stops and we the Committee invited the Santa Monica Police Officer Association to present.

- Santa Monica Police Department asked to present on May 30th.
- Santa Monica Police Officer Association declined to speak and sent a letter that can be found on page: 7.

The Reimagining Public Safety Ad Hoc met on May 30th and received a presentation

by Deputy Chief of Police Darrick Jacob and Police Lieutenant Erika Aklufi.

On June 20th Reimagining Public Safety Ad Hoc met to vote on a motion to draft a recommendation that SMPD adopt the LAPD's pretextual stops policy.

On July 11, 2023, SMPD presented their RIPA data to PSROC.

LAPD POLICY

40.06 POLICY -LIMITATION ON USE OF PRETEXTUAL STOPS

PREAMBLE. While the exercise of an officer's discretion in initiating a "stop" or conducting a detention is authorized under the law, it should reflect the necessary balance of the role of law enforcement in the prevention of crime and receiving and thereafter maintaining the community's trust that the officer's actions are fair and without bias. Conducting a vehicle or pedestrian stop and/or detention can promote public safety and the protection of the public from serious and sometimes violent crime. Such stops can also subject motorists and pedestrians to inconvenience, confusion, and anxiety, and strain relationships between law enforcement and the community because some members of the community perceive stops as biased, racially motivated, or unfair. To maintain public trust, the Department's use of pretext stops as a crime reduction strategy must be measured, in furtherance of achieving the necessary balance between the perception of fairness and identifying those engaged in serious criminal conduct.

Pretext Stops Defined. A pretextual or pretext stop is one where officers use

reasonable suspicion or probable cause of a minor traffic or code violation (e.g., Municipal Code or Health and Safety Code) as a pretext to investigate another, more serious crime that is unrelated to that violation.

Policy. Use of Traffic/Pedestrian Stops -General. Traffic or pedestrian stops made for the sole purpose of enforcing the Vehicle Code or other codes are intended to protect public safety. Therefore, officers should make stops for minor equipment violations or other infractions only when the officer believes that such a violation or infraction significantly interferes with public safety.

Note: The public safety reason for all traffic/pedestrian stops, citations and warnings should be articulated on body-worn video (BWV) and should include an officer's response to any questions posed by the individual stopped.

Pretext Stops -Restricted. It is the Department's policy that pretextual stops shall not be conducted unless officers are acting upon articulable information in addition to the traffic violation, which may or may not amount to reasonable suspicion, regarding a serious crime (i.e., a crime with potential for great bodily injury or death), such as a Part I violent crime, driving under the influence (DUI), reckless driving, street racing, street takeovers, hit and run, human or narcotics

trafficking, gun violence, burglary, or another similarly serious crime. Such decisions should not be based on a mere hunch or on generalized characteristics such as a person's race, gender, age, homeless circumstance, or presence in a high-crime location.

Department personnel seeking one or more specific persons who have been identified or described in part by one or more of these characteristics may rely on them only in combination with other appropriate identifying factors.

Note: The reason for all pretext stops, and the citations and warnings resulting from them, should be articulated on BWV and should include an officer's response to any questions posed by the individual stopped.

Note: An officer's training, experience and expertise may be used in articulating the additional information the officers used to initiate the stop.

Note: A failure to sufficiently articulate the information which -in addition to the traffic violation -caused the officer to make the pretext stop, shall result in progressive discipline, beginning with counseling and retraining. Discipline shall escalate with successive violations of this mandate.

Duration and Scope of All Stops. Officers' actions during all stops (e.g., questioning, searches, handcuffing, etc.) shall be limited to the original legal basis for the stop, absent articulable reasonable suspicion or probable cause of criminal activity that would justify extending the duration or expanding the scope of the detention. Officers shall not extend the duration or expand the scope of the detention without additional reasonable suspicion or probable cause (beyond the original legal basis for the stop).

Conduct During the Stop. Officers are to ensure their conduct during the course of any stop demonstrates the tenets of Procedural Justice, fairness, and impartiality.

Consistent with the Department's procedural justice and community engagement initiatives, when tactics, operational security, and investigative continuity permit, officers shall, as early as practicable, provide the detainee(s) with the information that caused officers to stop them.

Fact Sheet SB 50 – Prepared by the Office of Senator Steven Bradford

Summary

SB 50 would limit racial profiling by prohibiting a peace officer from initiating a motor vehicle or bicycle stop for a low-level infraction, unless there is a separate, independent safety-related basis to initiate the stop.

Background

In so-called “pretextual stops,” an officer stops someone for a minor traffic violation, such as tinted windows or expired registration, with the intention of using the stop to investigate a hunch that the individual has committed a more serious crime.

These stops, which require no evidence or articulable suspicion of a more serious crime, disproportionately impact communities of color. Data analyzed by the California Racial and Identity Profiling Advisory Board show that people who were perceived as Black were stopped at 2.7 times the rate of people perceived as White.

Even more concerning, those perceived to be Black adolescents between 15 to 17 years old were searched at nearly six times the rate of those perceived as White youth.

Once initiated, these stops become racially biased fishing expeditions: Study after study has found that not only do police search Black and Latino people far more often than whites during traffic stops, but also that white people are more likely to be found with contraband. They are also significantly more likely to use force against Black people during these stops.

Problem

Research shows that pretext stops do not significantly benefit public safety yet use valuable resources that could be directed to more effective public safety approaches. A 2022 study by Catalyst California and ACLU SoCal found that instead of addressing community concerns about serious crime, Sheriff's deputies in Los Angeles and Riverside counties spent nearly 9 out of every 10 hours on stops initiated by officers rather than responding to calls for help.

Furthermore, pretext stops can result in devastating harms, particularly to

Californians of color — including dehumanization, economic extraction through fees and fines, distrust of the police, degraded public health, and deadly uses of force.

Solution

SB 50 will limit law enforcement's ability to stop people for minor, non-safety-related traffic infractions, unless there is an independent, safety related basis to initiate the stop. It will also provide technical clarification to ensure that localities can explore non-law enforcement approaches to traffic safety. In doing so, SB 50 will help protect Californians of color from unnecessary harms and help ensure that public dollars dedicated to community safety are used more effectively.

SB 50 builds on recommendations from the CA Racial and Identity Profiling Advisory Board and the Committee on Revision of the Penal Code to limit enforcement of minor traffic offenses that pose little to no risk to public safety and result in racially biased harms.