

**WEST VIRGINIA  
SECRETARY OF STATE  
JOE MANCHIN, III  
ADMINISTRATIVE LAW DIVISION**

Form #3 □

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Governor's Committee on Crime, Delinquency and Correction TITLE NUMBER: 149

CITE AUTHORITY: W. Va. Code §17G-2-3.

AMENDMENT TO AN EXISTING RULE: YES \_\_\_\_\_ NO X

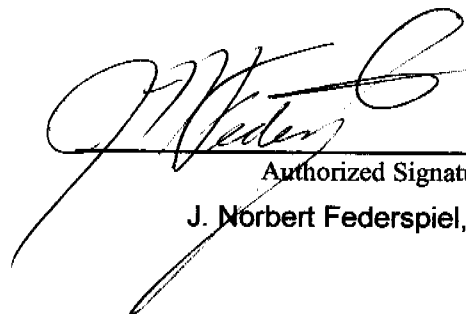
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: Series 5

TITLE OF RULE BEING PROPOSED: Motor Vehicle Stop Data Collection Standards for the  
Study of Racial Profiling

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

  
\_\_\_\_\_  
Authorized Signature  
J. Norbert Federspiel, Director

**QUESTIONNAIRE**

*(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)*

DATE: November 23, 2004

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Governor's Committee on Crime, Delinquency and  
Correction, West Virginia Division of Criminal Justice  
Services, 1204 Kanawha Blvd., E., Charleston, WV 25301  
(304) 558-8814

LEGISLATIVE RULE TITLE: \_\_\_\_\_  
Motor Vehicle Stop Data Collection Standards for the Study of  
Racial Profiling

1. Authorizing statute(s) citation \_\_\_\_\_  
W. Va. Code §17G-2-3.

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
October 13, 2004

b. What other notice, including advertising, did you give of the hearing?  
A memorandum was mailed to all chiefs of police and sheriffs, advisory committee members,  
Law Enforcement Training Subcommittee members, the West Virginia Small Business  
Development Center, and other individuals whom the promulgating agency deemed to have an  
interest, advising them of the comment period and where these individuals could obtain a copy  
or view the rule.

c. Date of Public Hearing(s) *or* Public Comment Period ended:  
November 12, 2004, 5:00, p.m.

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons  
for amendments.

Attached See Attachment #1 No comments received \_\_\_\_\_

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

November 23, 2004

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- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Jeffrey D. Estep, Deputy Director - Operations

West Virginia Division of Criminal Justice Services

1204 Kanawha Boulevard, East, Charleston, West Virginia 25301

Phone: (304) 558-8814, Ext. 267, Fax: (304) 558-0391, Email: jestep@wvdcjs.org

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- g. **IF DIFFERENT FROM ITEM 'F'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

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3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

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b. Date of hearing or comment period:

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c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

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d. Attach findings and determinations and reasons:

Attached 

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**TITLE 149  
LEGISLATIVE RULE  
GOVERNOR'S COMMITTEE ON CRIME, DELINQUENCY AND  
CORRECTION**

**SERIES 5  
MOTOR VEHICLE STOP DATA COLLECTION STANDARDS FOR  
THE STUDY OF RACIAL PROFILING**

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**PUBLIC COMMENT AND RESPONSE (Attachment #1)**

The West Virginia Division of Criminal Justice Services (DCJS), on behalf of the Governor's Committee on Crime, Delinquency and correction, filed the Legislative Rule entitled *Motor Vehicle Stop Data Collection Standards for the Study of Racial Profiling* with the Secretary of State's Office for written comment. The comment period for the proposed rule ended on November 12, 2004, at 5:00 p.m.

DCJS received comments (attached) from the following individuals and/or agencies:

- West Virginia Troopers Association, Joseph R. Adams, President
- West Virginia Deputy Sheriffs Association, Terry Miller, President
- Fraternal Order of Police, Steve Walker, President
- West Virginia Association of Counties, Patricia L. Hamilton CAE, Executive Director
- West Virginia Sheriffs' Association, Melissa McClung, Executive Director
- West Virginia Municipal League, Lisa Dooley, Executive Director
- West Virginia State Police, Captain David W. Skeen, Director – Planning and Research
- William R. Laird, IV, Sheriff and Treasurer, Fayette County West Virginia (two comments)
- R. Kim Wolfe, Sheriff, Cabell County West Virginia
- Joseph C. Bartolo, Sheriff and Treasurer, Monongalia County West Virginia
- Thomas F. Burgoyne, Sheriff and Treasurer, Ohio County West Virginia
- Stephen G. Cain, Chief of Police, Fairmont City Police Department
- P. K. Scott, Chief of Police, Morgantown Police Department
- Patricia A. Noland, Circuit Clerk, Jefferson County West Virginia
- Senator Jeffrey V. Kessler, The Senate of West Virginia (copy of response to comment)

The West Virginia Division of Criminal Justice Services was directed by the legislature to develop emergency and legislative rules to implement the requirements established in Senate Bill No. 271 (2004 Legislative Session). Senators Hunter, Rowe, Weeks, Caldwell, Jenkins and Unger were the original sponsors of this bill. S.B. 271 passed March 13, 2004, and amended West Virginia Code by adding Chapter 17G. Racial Profiling Data Collection Act. As directed by the legislation, the emergency rule is to be effective January 1, 2005, and the Division will submit it's agency approved rule for consideration by the 2006 session of the West Virginia

legislature. When drafting rules for the implementation of the Racial Profiling Data Collection Act, DCJS interpreted the legislature's intent (purpose) in passing this Act as being:

- 1.) To provide a mechanism to identify and study whether there are patterns suggesting the possible practice of racial profiling by law enforcement in West Virginia for a period of approximately three (3) years;
- 2.) To allow management of an individual law enforcement agency, on an intermittent basis, the ability to use any information collected as a result of rule to determine if racial profiling is taking place in their agency, prior to the Division's annual report being disseminated;
- 3.) To provide a mechanism which would facilitate the development and issuance of an annual public report of the information collected based on analysis conducted by the Division's Statistical Analysis Center; **and**,
- 4.) To create as little burden – whether it be fiscal or logistical – on the individual law enforcement officer and agency as possible when collecting information pursuant to rule.

Furthermore and more importantly, it is DCJS' opinion that these aforementioned "purposes" of the Racial Profiling Data Collection Act must be viewed collectively, with no one singular purpose afforded more importance or significance than the other three. The final rules, when filed as emergency and agency approved, should achieve a *structured and practical balance* of all four purposes to correctly implement legislative intent. Through public comment on this rule, the Division has realized that the rule that it filed for public comment, as written, does not meet the *structured and practical balance* that was originally intended by the Division, nor by the Legislature. Changes necessary to meet the targeted balance are outlined within responses below.

When responding to comments from agency heads/representatives, DCJS has assumed that those commenting individuals have appropriately conveyed the concerns of a majority of individuals whom they have been chosen to represent. Comments were also received from state, county and municipal law enforcement agencies regarding the rule. All comments, in general, tended to reflect opposition to requirements established via legislation and subsequently rule; however, they were all appreciated and recognized by the Division. No comments were received in universal or specific support of the rule or any particular portion thereof. In summary, comments were neither positive nor supportive in nature for a variety of reasons and *tended* to focus on the following issues:

- 1.) The collection of census track and census block identifiers to determine location of stop;
- 2.) The collection of individual officer identifying information (subject to Freedom of Information Act requests);
- 3.) Officer training in the completion of the West Virginia Motor Vehicle Stop Form (MVSF);
- 4.) Existing West Virginia Code which prohibits racial profiling;

- 5.) Time requirements to complete the MVSF; and,
- 6.) Officer safety.

An individual response to each of these six (6) concerns, accompanied by what action DCJS will take regarding that concern has been prepared below. It should be noted that every individual comment or subtle nuance within any comment, may not have been responded to or acted upon. When choosing those comments to respond to, the Division attempted to identify "collective concerns" – those individual concerns echoed throughout a majority of comments received.

**The collection of census tract and census block identifiers to determine location of stop:**

Comment

Concerns were expressed regarding the manner in which the location of the stop should be identified on the MVSF. These concerns focused primarily on the costs associated with carrying out the requirement established in rule.

Response

West Virginia Code §17G-1-2.(b). affords the Division the latitude to determine how the "location and duration of the stop" is to be defined and recorded. It is the opinion of the Division that the location of the stop should be recorded on the MVSF utilizing a system which would enable a comparison of the location of stop, to the known minority population of that particular area. Demographic data is available from the United States Census Bureau on the basis of census blocks and census tracts as the respective smallest units of measurement. In the absence of Global Positioning Systems in every police vehicle, recording Census Tract and Census Block identifiers from Census Bureau maps is the most uniform and accurate manner to accomplish this comparison. Due to the very real fact that the minority make-up of any given city or county within West Virginia can either be clearly isolated or evenly dispersed, the "near to exact" location of the stop is crucial in identifying outlying factors which may indicate or disprove the possible practice of racial profiling by law enforcement. If recording location is diluted or relegated to "county level", reasonable comparisons will be difficult. With that being said however, and as a result of public comment, DCJS believes that this system of utilizing Census Tract and Block to implement §17G-1-2.(b). would create an *unintended fiscal and logistical consequence* not considered in enacting legislation. Recognizing the potential importance of this information to a law enforcement agency, it is the Division's responsibility to provide some mechanism on the MVSF which would facilitate the collection of the aforementioned "near to exact" location of the stop. Therefore, *DCJS will modify those portions of the rule regarding the collection of Census Tract and Census Block identifiers to be "optional" – at the discretion of the Chief Administrator or Law Enforcement Official of the Law Enforcement agency. Space for collecting this information should remain on the data collection form, but will be utilized only by those agencies who's chief law enforcement official requires that it be collected.*

**The collection of individual officer identifying information:**

Comment

Concerns were expressed regarding the recording and collection of data which would identify individual law enforcement officers within an agency. In general, comments regarding

this matter indicated that legislation intended all data collected as a result of a stop to be in the aggregate. Further concerns were expressed that if individual officer information were to be collected, that information would be subject to any Freedom of Information Act (FOIA) requests.

#### Response

§17G-2-3.a.6. and 7. clearly state that any data collected as a result of this endeavor shall be utilized solely for the purposes of the Racial Profiling Data Collection Act itself. The Division would interpret this as codifying an FOIA exemption with regard to individual officers that have collected data pursuant to code. This interpretation is echoed in rule, in effect clearly articulating the Division's interpretation regarding this matter. Furthermore, it is the opinion of the Division that one of the fundamental purposes of this legislation was to allow a chief executive of a law enforcement agency the ability to use information collected pursuant to rule to determine if racial profiling is taking place in their individual agency. If a pattern suggesting racial profiling is taking place, the agency head should have the ability to readily identify the individual(s) involved and make further determinations of the appropriateness of an officers actions based upon all circumstances including the nature and location of that officers assignments. Officer identifying information is critical in this circumstance. *DCJS will make no modifications to the rule as a result of this comment.*

#### **Officer training in the completion of the MVSF:**

#### Comment

Concerns were expressed regarding the training mechanism established in rule. In general, these concerns focused on "cost" and "consistency" of training.

#### Response

In essence, the rule places the responsibility of all training endeavors for completion of the MVSF on the individual law enforcement agency. This mechanism is clearly defined in rule. Due to fiscal and time constraints established in code, the Division felt this manner of promulgation would be the most convenient and effective method for law enforcement agencies to ensure that their officers were properly trained on the completion of the MVSF. Most training should be able to be accomplished in a "roll call" environment.

With regard to cost, the Division has no funding available for the issuance of training on a statewide or regional basis. With regard to the consistency of training, the Division is of the opinion that all reporting requirements are clearly articulated in rule, thereby ensuring consistency as best as possible. Furthermore, the Division feels that it would be incredibly difficult to train an individual law enforcement officer on "how to perceive" different types of minority groups. The Division feels that the training component provided for in legislation was never intended to ensure that law enforcement officers knew how to recognize various minority groups as this recognition is "based on the officer's visual observation and perception" or "the perceived racial characteristics of each operator stopped." The Division is of the opinion that the training component in legislation was designed to ensure that the individual officer and agency knew how to properly complete and submit the Motor Vehicle Stop Form (i.e. when to record data, how and to whom the data should be submitted, etc.).

Considering (1) the intent of the training component established in legislation; (2) the recognition that both the rule and the data collection effort both become effective on January 1,

2005 (i.e. the Division cannot, on January 1, 2005, effect a rule which stipulates that a law enforcement officer "should have" had training prior to the effective date of the rule); and, (3) the lack of funds to develop and deliver, on a statewide basis, both initial and ongoing training regarding this matter; the Division feels that the training mechanism established in rule is the most feasible manner. *DCJS will make no modifications to the rule as a result of this comment.*

**Existing West Virginia Code which prohibits Racial Profiling:**

Comment

Some commenting agencies and individuals expressed the fact that language already exists in West Virginia Code (§30-29-10) which "declares that racial profiling is contrary to public policy and should not be used as a law-enforcement investigative tactic." Code further establishes that "no law-enforcement officer shall engage in racial profiling and that all state and local law-enforcement agencies shall establish and maintain policies and procedures designed to prevent racial profiling."

Response

DCJS believes that these comments about racial profiling already being illegal miss the point of the current legislation at West Virginia Code chapter 17G. The Racial Profiling Data Collection Act is not designed to ban racial profiling in law enforcement – that policy is already in place. Rather the Act is designed to enable state policy makers to gain access to information allowing them to make informed decisions on future policy. It will also enable policy makers to determine the effectiveness of current policy. *DCJS will make no modifications to the rule as a result of this comment.*

**Time requirements to complete the West Virginia MVSF:**

Comment

Concerns were expressed regarding the additional data to be captured on the MVSF over and above those stipulated in Code. Comments also suggested that the MVSF had expanded to the degree that it may have become overly burdensome on law enforcement.

Response

Commentators correctly identified that the MVSF had expanded beyond that which was specified in Code or demonstrated during legislative debate. The Division recognizes that the MVSF has expanded. The Division further recognizes that the additional fields which have been added to the form will, without question, require more time to complete. It is the opinion of DCJS that all data captured on the MVSF is either required by Code or critical to the needs outlined or implied in the Racial Profiling Data Collection Act. While we have striven to be concise, the legislative mandate requires the data that is collected and is the subject of the policy choice of the legislature that law enforcement officers collect this data during traffic stops. *DCJS will make no modifications to the rule as a result of this comment.*

**Officer safety:**

Comment

Concerns were expressed regarding the fact that the entire Racial Profiling Data Collection Act and subsequent rule may place an officer at an increased risk of danger. In summary, the logic for these concerns were expressed by suggesting that the more time an officer spends completing paperwork on a traffic stop, the less time the officer will have to observe for signs of danger in any given situation.

### Response

The Division recognizes the very real possibility of this circumstance; however, this would appear a comment better directed toward the enacting legislation itself (as opposed to rule). It should be noted that DCJS made every effort to minimize the length of time required to complete the form by distilling/prioritizing the data to be collected. *DCJS will make no modifications to the rule as a result of this comment.*

**END**

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**149CSR5 PUBLIC COMMENTS**



Local 2019

# West Virginia Troopers Association, Inc.

210 Chesapeake Avenue • Charleston, West Virginia 25311  
Telephone 345-WVTA • Fax 345-9884

[wvtaoffice@aol.com](mailto:wvtaoffice@aol.com)

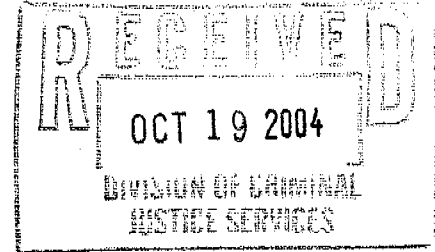
[www.wvtroopers.org](http://www.wvtroopers.org)



October 15, 2004

Jeffrey D. Estep  
Division of Criminal Services  
1204 Kanawha Boulevard, E.  
Charleston, WV 25301

RE: Racial Profiling Data Collection Rule



Dear Jeff:

This correspondence pertains to proposed Legislative Rule §149CSR5, which is a result of West Virginia Code §17G-2-3 that was made into law during the last legislative session.

As you are aware, all police officers are going to be required to complete data forms for vehicle stops that are made. Most of this code and rule requirement is very similar to what the West Virginia State Police, as an agency has already been doing for the last couple of years using our traffic stop data forms. There are some fields required on the proposed form that are in addition to what the West Virginia State Police require, but most of these are reasonable and will be easy for an officer to complete.

There is, however, one area that causes great concern: Location of Stop. As currently proposed, the rule calls for this to be recorded utilizing census tract and census block numbers. Further, the individual agencies will have the responsibility of obtaining and supplying the census information for it's officers. This is contained in sections 3.5.j.1 - 3.5.j.2 of the proposed rule.

In my opinion this proposal is unrealistic and overly burdensome for the following reasons:

In order for an officer to record the location of a stop he will have to have access to the census tract/block information. This is in a map format. It takes several maps to cover an entire county. As an example, Wirt County has 11 census block maps, Kanawha County has 57. These maps are each 36 inches by 33 inches in size. It is impractical to suggest that an officer stationed in Kanawha County carry with him 57 maps of this size which he has to pull out and look through each and every time he makes a traffic stop.

The maps could be reduced in size but this would necessitate an officer now carrying around a notebook several inches thick that he would have to look through every time a stop was made. Currently a Trooper can complete a traffic stop data form used by the State Police in about 30 seconds. If this information is required it could easily take 2 or 3 or more minutes to complete a form. Additionally, there is the safety issue of the officer looking through maps in order to complete this form while a violator is stopped and the officer is sitting along the road.

Also, there is the cost consideration. A complete set of census block maps for the state costs over \$6,000.00. The maps are available in DVD format for \$70.00, but this serves no purpose to an officer in his cruiser. The maps can be downloaded for free but the agency will still have the expense of copying the maps for each officer.

Using the example of Kanawha County, it could easily take approximately 300 sheets of standard paper to reproduce the one set of maps for that county. Each officer will need their own set of maps, so it is not difficult to see that this will amount to a significant dollar amount.

To better illustrate the unrealistic nature of this, let me use this example: Captain D. W. Skeen lives 9 miles east of Ripley in Jackson County and is stationed in South Charleston at Department Headquarters. During his commute he stops vehicles. He travels through 154 census blocks during this trip. He would have to have access to all of these numbers in order to complete this form. Additionally, if he would take an alternate route he would pass through additional census blocks and would have to have those numbers also.

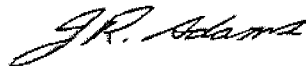
For a municipality this issue is not as great of a concern because the number of maps is less, although the time required and safety issues are still valid. For agencies that cover larger areas and multiple counties this requirement is impractical and burdensome.

There is one additional area I wish to address concerning this. Census blocks vary in size, the greater the population the smaller the block is. As an example, the town of Elizabeth in Wirt County has 30 census blocks. My question would be is the demographic make up of the east side of Elizabeth that much different than the west side? If not, then what does it matter which of these census block numbers is used? And if it doesn't matter, then why require it? In some larger metropolitan areas this may not be the case, but in a large percentage of the state the demographics do not vary so significantly that it necessitates requiring the location of the stop to be located to within an area that may only be 200 yards by 200 yards in size or even one half mile by one half mile in size.

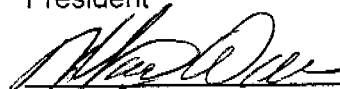
The West Virginia Deputy Sheriffs Association and Fraternal Order of Police also share the above concerns as indicated by the signatures of their Presidents, respectively, Terry Miller and Steve Walker, below.

If you have any questions, please feel free to contact me at (304) 288-7988.

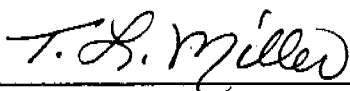
Sincerely,



Joseph R. Adams  
President



Steve Walker, President  
Fraternal Order of Police



Terry Miller, President  
West Virginia Deputy Sheriffs Association

cc: Lt. Col. David Williams; Capt. D. W. Skeen

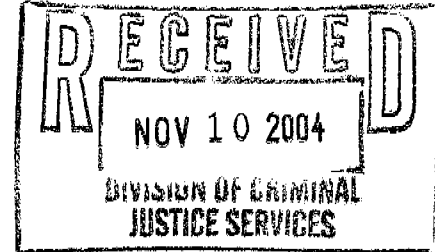


2211 Washington Street East  
Charleston, WV 25311-2118  
Phone: (304) 346.0591  
Fax: (304) 346.0592

Patricia L. Hamilton  
Executive Director

President  
Clarence "Sam" Hall

November 8, 2004



Imm Past President  
Barbara Core

Division of Criminal Justice Services  
Attention: Jeffrey D. Estep  
1204 Kanawha Boulevard, East  
Charleston, West Virginia 25301

Vice Presidents  
Jim Booton  
Michael Elliott  
Brenda Miller  
Dana Lynch  
Thomas Burgoyne  
Paul Blake Jr

RE: Written Comments - Proposed Legislative Rules  
Title 149 Legislative Rules, Series 5  
Governor's Committee on Crime, Delinquency and Correction  
Motor Vehicle Stop Data Collection Standards for the Study of Racial  
Profiling

Board Members  
Commissioners  
Bob Bell  
Charles McCann  
Reta Kight  
Walt Schmidlen III

Dear Sirs:

On behalf of the Board of Directors of the West Virginia Association of Counties, I would like to convey our concerns with regard to the proposed legislative rules for the Motor Vehicle Stop Data Collection Standards for the Study of Racial Profiling. Senate Bill 271 and the proposed rules which implement it, while well-intentioned, may be placing an undue burden on law enforcement agencies. Here are a few of our concerns regarding the proposed rules:

- The forms are to be filled out for *each* traffic stop; there appear to be no exceptions provided for in the rules (such as for an emergency situation, eruption of violence, etc.)
- It is mandatory that the officers have a unique identifying number, assigned to them by the Sheriff, although the object of the legislation was always described during the legislative session as seeking data in the aggregate, not individually.
- The location of stop component requires officers to have maps showing "census tracts" and "census blocks." It appears that the Sheriff would be responsible for obtaining the maps. These are certainly not commonly recognized location identifiers and will require additional officer time in order to complete the form. One of the "selling points" of this legislation during the session was the "thirty seconds" that it took to complete the State Police forms. This location requirement will certainly increase that time in most localities.

County Clerks  
Diana Cromley  
Janice Cosco  
Mike Goode  
Bob Pasley

Circuit Clerks  
Teresa Beer  
Betsy Castle  
Jean Friend  
Patsy Noland

Assessors  
Bill Blankenship  
Phyllis Gatson  
Steve Grimm  
Cheryl Romano

Sheriffs  
Ron Barniak  
Bernie Kazienko  
Danny Moore  
William R Laird IV

Prosecuting Attorneys  
Mark Sorsaia  
Mike Clifford  
Alexander Ross  
Brian Abraham


Directors Emeritus  
John Sorrenti  
Chris Chiles  
Norma Sine

- Passenger information as well as other information requirements were added to the legislation, resulting in a form that is several questions longer than the State Police form that was used as an example during the legislative session. The rules as proposed add even more information requirements.
- Training to complete the forms appropriately appears to be the responsibility of each individual law enforcement agency, based on the instructions provided by the Division of Motor Vehicles. In addition to the lack of consistency with this training approach, the "training" may have the effect of actually teaching racial profiling!
- While the rules state that no individual officer's information may be released to any entity, will the data including the officers' identities be subject to Freedom of Information Act requests? In other words, will this data be used for unintended purposes?
- This initiative may have a chilling effect on traffic stops for a variety of reasons (not wanting to fill out the paperwork, for example). Not only could this result in endangering public safety, it could also result in fewer tickets being written. This will have a negative impact on funds that are collected from tickets that, ironically, go to such purposes as law enforcement training!

Thank you for the opportunity to air our concerns. While we appreciate the good intentions and efforts of those who have worked in support of this legislation, we are compelled to point out that the result has now become a rather burdensome unfunded mandate. Certainly there have been isolated instances of racial profiling but there is no objective data that shows the pervasive existence of racial profiling on a statewide basis among all areas of law enforcement. What we have, in fact, is that all law enforcement agencies, pursuant to the provisions of WV Code §30-29-10, have adopted policy standards that prohibit the practice of racial profiling in the performance of law enforcement duties. Senate Bill 271 and the accompanying proposed legislative rules have painted all law enforcement agencies across the state with the same brush and resulted in the irony of the law enforcement officers being presumed guilty of this practice until the data proves them innocent.

We appreciate your consideration of our concerns and look forward to productively addressing these issues.

Sincerely,

  
Patricia L. Hamilton CAE, Executive Director  
West Virginia Association of Counties



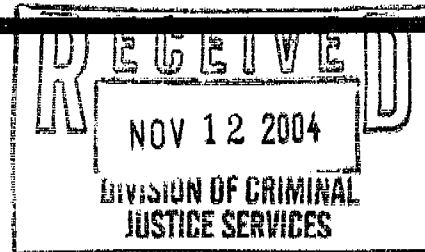
# West Virginia Sheriffs' Association

P.O. Box 3031  
Charleston, WV 25331  
Telephone: (304) 345-2232  
Fax: (304) 345-2231

*"Serving West Virginia's  
Sheriffs and citizens for  
over 50 years"*

November 11, 2004

Division of Criminal Justice Services  
Attention: Jeffrey D. Estep  
1204 Kanawha Blvd., East  
Charleston, WV 25301



Re: 149CSR5 – Motor Vehicle Stop Data Collection Standards, Study of Racial Profiling

Dear Mr. Estep:

On behalf of the Board of Directors of the West Virginia Sheriffs' Association and all Sheriffs of this state, I would like to express our concerns regarding the proposed legislative rules for the Motor Vehicle Stop Data Collection Standards for the Study of Racial Profiling.

Based upon the high principles that we uphold in the management and implementation of law enforcement in this state, we opposed the legislation and have multiple concerns regarding the legislative rules. In the state of West Virginia, our law enforcement officers are trained to only make traffic stops if and when a violation has occurred or if they feel the vehicle is suspicious. Irrespective of one's ethnicity or race, if a violation is committed, then one should be warned or cited by a law enforcement officer. In addition, upon conducting a traffic stop, the officer does not know the ethnicity or race of the driver until he/she approaches the window of the car. Therefore, the very core of the Racial Profiling Data Collection legislation would be arguably flawed in determining if racial profiling occurs in this state. It appears that we would be changing the current procedures that law enforcement officers follow of stopping vehicles due to prevention, safety or violations to a "quota" environment. We would be causing an environment that, regardless of a violation being committed, if the person is of a minority, then the officer should be cautious in approaching the vehicle.

While this legislation appears to have good intentions, it seems that we are creating undue burden of time and financial resources on a problem that is not occurring in this state. Law enforcement agencies have policies and procedures in place to explain to officers that racial profiling is not allowed as an investigative strategy and is unacceptable (Appendix A, WV Code 30-29-10). The agencies have discipline actions to follow if an officer is determined to be using racial profiling as a law enforcement tactic. There are also procedures by which the public can issue complaints to local agencies. To my knowledge, none of the county Sheriff's offices in this state have received valid racial profiling complaints.

More specifically, we are concerned about the following items:

- Of greatest concern is the census tract / census block identifiers -- Upon speaking with a representative from the Division of Criminal Justice Services, it was indicated that law enforcement officers would be obtaining this information from maps that are available, free of charge, for downloading from the U.S. Census Bureau's website. Further investigation of their website would suggest otherwise. The maps can be printed from the U.S. Census Bureau website, however, they are not readable with the human eye on a regular 8 ½ inch. x 11 inch. piece of paper (Appendix B). The website goes on to explain that the maps are designed for a paper size of 33 inches x 36 inches and can be purchased for \$5.00 each (Appendix C). Included in this packet is a spreadsheet expressing the number of maps per county that would be required to complete the census location information, the number of deputy sheriffs plus one Sheriff per county, the total number of maps each county would need and the cost that each county would incur to provide these maps to their law enforcement officers (Appendix D). The total cost on a state level to purchase the required number of maps is \$156,510. Who will be incurring this cost? I will use Kanawha County as an example:

9 Tract maps + 80 Block Maps =	89 total maps
Number of Deputy Sheriffs + Sheriff in Kanawha Co. =	81
Number of maps x Number of Deputies and Sheriff =	7,209 maps
7,209 maps x \$5.00 each =	\$36,045 cost to the county

In lieu of purchasing the maps from the U.S. Census Bureau, the counties could purchase the suggested printer, HP Design-Jet 1066cm, and print the maps "in-house". The cost of the printer is \$9,595. On a statewide level, this would cost counties \$527,725 for the printers. In addition, special paper and ink would have to be purchased.

We feel that the ORI Number is an adequate indicator of location for determining aggregate data. This number will indicate the county or municipal location. We oppose the requirement of indicating census block and census tract. Can you imagine a Kanawha County deputy flipping through 89 maps trying to determine his/her location?

- We oppose the officer's identifier number. The legislation specifically indicates in 17F-2-3 that there will be safeguards to protect the identity of individual law enforcement officers collecting the data. Their protection would be impossible if each officer is given an identification number. This information will be available under the Freedom of Information Act. The legislation was also written to determine aggregate data and not individual data.
- The form has increased from a 17 question, one-sided, form presented by the WV State Police to a 30 question, double-sided form. The proposed form contains much more detailed questions. We are concerned about the time required to complete the form. We think the form will take in the area of 15 minutes to complete in its' current composition. This extended time will place the lives of our officers in increased danger, will limit their ability to observe their surroundings while involved in the stop and may cause them to decrease the number of traffic stops they make by 50%.

- There are several questions on the proposed form that were not included in the legislation that passed: officer primary assignment, officer identifier, date of stop, time of stop, license check, census tract and census block, type of roadway, stop directed by, and zip code of driver's residence. In addition, the "county of stop" identifier number is repetitive because the officer has already indicated the ORI number. Of particular concern is the "zip code of driver's residence". This legislation indicates that the officer will complete the form by using his/her perception. How could the officer perceive a driver's residence zip code without asking to see their driver's license? If the officer has simply pulled the vehicle over to indicate that they have a tail light out, for example, the driver may get anxious and abusive if the officer requests to see their driver's license. This puts the officer in increased danger and also extends the time that the driver must be involved in the traffic stop. This type of traffic stop will go from a nice gesture to aid in public safety on the part of an officer, to a confrontational situation. Unfortunately, with the implementation of this data collection, officers will make fewer and fewer traffic stops to notify driver's of potential safety concerns on their vehicles.
- Training to complete the forms appears to be the responsibility of the Sheriff, in our case. Will there be a Train-the-Trainer course provided to the Sheriffs? If so, at whose expense? If not, there will be a lack of consistency among the training provided and, therefore, a lack of consistency of data collected. The training process will take some time to organize within departments. Every officer will be required to complete the training. The legislation states that the collection of this data will begin on January 1, 2005. We are only a little over one month away from this implementation date. Is this adequate time to train the Sheriffs and then train the Deputy Sheriffs? We do not think so. Will the state be paying overtime wages to the Deputies for this training, or are they expected to be trained for this purpose within their regularly scheduled shift?
- Upon the implementation of this data collection tool, this state will experience a great reduction in the number of traffic stops. This will result in fewer tickets written and an increase in crime rates. Traffic stops prevent crimes from occurring. The decrease in ticket funds will affect areas such as the Supreme Court, collections to help pay county regional jail bills, and programs such as law enforcement training. This legislation carries much greater impacts than what was reflected during the legislative session.

In conclusion, I would also like to suggest that the process through which this legislation became a product could have been handled differently to include all affected parties. The only affected party from the outcome product is the law enforcement officers and agencies of this state. In contrast, the parties that solicited this legislation did so with never confronting those parties affected by the end product. Law enforcement agencies were not made aware of the issue of concern of racial profiling until the legislative process had already begun. The legislation was presented to law enforcement agencies from the beginning as law enforcement vs. minority groups. If another avenue had been selected to pursue a common end result, then the situation could have been law enforcement and minority groups on the same team. Could this be where the real disparity exists? This legislation presumes that all law enforcement officers are guilty of racial profiling and now they must prove themselves innocent. In the system of law that Deputy Sheriffs and Sheriffs work within, individuals are innocent until proven guilty.

Thank you for your time and consideration of our comments. Should you have any questions or require further explanation, please do not hesitate to call me at 345-2232.

Respectfully,

A handwritten signature in cursive script that reads "Melissa McClung". The signature is written in black ink and is positioned above the printed name and title.

Melissa McClung  
Executive Director

## Appendix A

POLICE/SHERIFF'S DEPARTMENT	GENERAL ORDERS
<b>SUBJECT: Racial Profiling Policy and Procedure</b>	<b>NUMBER:</b>
<b>EFFECTIVE DATE:</b>	<b>REVIEW DATE:</b>
<b>AMENDS/SUPERSEDES:</b>	<b>APPROVED:</b> _____ Chief of Police/Sheriff

**NOTE**

This order is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third-party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

**I. POLICY**

The West Virginia Legislature has declared that racial profiling as a law enforcement tactic is contrary to public policy and should not be used as an investigative strategy. No officer employed by this department shall engage in racial profiling. At the same time, it is the policy of this department to patrol in a proactive manner, to aggressively investigate suspicious persons and circumstances, and to actively enforce all laws. The department insists, however, that citizens will only be stopped or detained when there exists reasonable suspicion to believe they have committed, are committing, or are about to commit, an infraction of the law.

**II. PURPOSE**

The purpose of this policy is to unequivocally state that profiling based solely on race in law enforcement is unacceptable, to provide guidelines for officers to prevent racial profiling, and to

protect our officers from unwarranted accusations when they act within the dictates of the law and policy.

### III. PROCEDURES

#### A. Definitions

1. Racial profiling. The practice of a law-enforcement officer relying, to any degree, on race, ethnicity, or national origin in selecting which individuals to subject to routine investigatory activities, or in deciding upon the scope and substance of law-enforcement activity following the initial routine investigatory activity. Racial profiling does not include reliance on race, ethnicity, or national origin in combination with other identifying factors when the law-enforcement officer is seeking to apprehend a specific suspect whose race, ethnicity, or national origin is part of the description of the suspect.
2. Reasonable suspicion: Also known as articulable suspicion, suspicion that is more than a mere hunch, but is based on a set of articulable facts and circumstances that would warrant a person of reasonable caution in believing that an infraction of the law has been committed, is about to be committed, or is in the process of being committed, by the person or persons under suspicion. This can be based on the observation of a police officer combined with his or her training and experience, and/or outside sources.

#### B. Operations

1. This department will be directed toward assigning patrol officers to those areas where there is the highest likelihood that motor vehicle accidents will be reduced

and or crimes prevented through proactive patrol.

2. Officers should receive training in proactive enforcement tactics, including training in officer safety, courtesy, cultural diversity, the laws governing search and seizure, and interpersonal communication skills.
3. Training programs should emphasize the need to respect the rights of all citizens to be free from unreasonable government intrusion or police action.
4. Supervisory oversight will be provided consistently to ensure that officers comply with this policy.
5. Citizens shall only be subject to traffic stops, stop and frisks, questioning, search and seizures upon reasonable suspicion that they have committed, are committing, or are about to commit an infraction.
6. The department recognizes that with experience, individual officers may develop individualized approaches that they find work best for them in minimizing conflict during officer/violator contacts. Given some better approach, the following is recommended, in the order specified below:
  - a. Give a greeting, such as "Good morning ma'am" or sir, etc.
  - b. State the reason why the person was stopped.
  - c. Politely ask for identification and any required documents.
  - d. After completing any necessary paperwork, inform the citizen as to what action is being taken and what, if any, the person must do as a result.
  - e. Be polite within the realm of reasonableness while paying attention to officer security. Never use the trite expression,

"Have a nice day."

7. No citizen, once cited or warned, shall be detained beyond the point where there exists no reasonable suspicion of further criminal activity, and no person or vehicle shall be searched in the absence of a warrant, a legally recognized exception to the warrant requirement, or the person's voluntary consent. In each case where a search is conducted, this information shall be recorded, including the legal basis for the search, and the results thereof. A case report or incident report shall be initiated for each search.
8. In the absence of a specific, credible report containing a physical description, a person's race shall not be a factor in determining probable cause for an arrest or reasonable suspicion for a stop.
9. If at any time the citizen expresses concern or alludes to racial profiling the officer shall continue his duty, search, etc. In addition:
  - a. The officer shall notify his immediate supervisor of the incident as soon as possible.
  - b. The officer shall explain to the citizen the process of filing a complaint with the Chief Administrative Officer.

C. Complaints of Racial/Ethnic Profiling

1. Any person may file a complaint with this department if they feel they have been subjected to racial profiling, and no person shall be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because they have filed such a complaint.
2. Any officer contacted by a person who wishes to file such a complaint, shall

provide the citizen with the name and number of the officer who receives complaints. The officer shall make an effort to gain the name and address of the citizen requesting the information. This information shall be given to the officer who receives complaints before the completion of the Officer's shift.

3. Any officer receiving a written report shall mark same with a date and time notation and forward it to the officer who receives complaints. Receipt of the complaint shall be acknowledged in writing.
4. All racial profiling complaints shall be reviewed and an investigation conducted under department policies. The resulting report, with the reviewer's conclusion, shall be filed with the Chief Administrative Officer, and may contain suggestions for disciplinary action or changes in policy, training, or tactics. The complainant shall be notified in writing of the results and findings of the investigation.
5. Supervisors shall review complaints, periodically review a sampling of in-car video tapes of stops, reports filed on stops by officer, and respond at random to back up officers, and shall take appropriate action whenever it appears that this policy is being violated, being particularly alert to any pattern of practice of possible discriminatory treatment by individual officers.
6. Officers who engage in racial profiling will be disciplined in accordance with departmental policy and civil service rules as appropriate.









## Using Census Bureau PDF Map Files

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### Enlarging the Map Image

The Adobe PDF map files represent maps that were created at a size of 33 inches by 36 inches in order to show all the detail necessary to identify census block, tract and voting district boundaries. Adobe Acrobat Reader version 4.0 or higher is needed to view these maps. When you first bring the PDF map image up on your computer screen it will display the entire map. In most cases the size of the features will be too small for easy identification. However, you can use the Adobe Acrobat Reader's zoom function to enlarge a portion of the map to more clearly see the features. To do this click on the "Zoom in Tool" (the magnifying glass icon) on the menu bar by putting the cursor on it and clicking the left mouse button. Then move your cursor (which was changed to a magnifying glass with a plus sign inside) down to the map image to one corner of the area that you want to enlarge. While holding the left mouse button down drag the cursor across the map to create a box around the area that you want to enlarge. When you release the button the area within the box that you drew will enlarge to fit the screen. You can repeat this step as often as necessary to get a satisfactory enlargement. To get back to the original display or to reduce the amount of zoom either choose the appropriate function from the "View" menu or click on one of the page icons to the left of the binocular icon on the menu bar.

### Moving or Panning Within the Map Image

Another useful feature of the Adobe Acrobat Reader is the ability to move around within the enlarged image. This is called panning. If, after you have zoomed in on the map image, you want to see an area of the map just off the current screen you can move (pan) the image around to get to this other area. Select the "Hand Tool" function (hand icon) on the tool bar by placing the mouse cursor on it and clicking the left mouse button. Your cursor is now shaped like a hand. Put the cursor anywhere on the screen and click and hold the left mouse button. You can now drag the map image around the screen to move a new area of the map into view.

### Printing for the PDF Map Files

These maps are designed for a paper sheet size of 33 inches by 36 inches because of the tremendous amount of detail that they must show for a given area. Therefore, printing the entire map sheet on to a much smaller sheet of paper will not provide a usable image. However, a user has several options for getting printed copies. The first is to use a large format plotter capable of printing the 33 by 36 inch sheets. To accurately reproduce the original colors and patterns of the original map the plotter should have a PostScript card.

- [Plotter specifications](#) for plotting large format PDF map files with an HP 1055cm.
- [How to Print Large Format PDF Map Files \[PDF\]](#)

The other option for a full size copy of the entire map sheet is to purchase a copy from the U.S. Census Bureau (301-763-INFO(4636), \$5.00 per map sheet, with a minimum order of 5 map sheets).

### Printing a Small Portion of a Map

If the user needs just a small portion of the map printed it can be done with a typical printer available to the average user of a Windows®-based personal computer. This involves using the "cut and paste" function of Windows. Move the cursor to the "T" icon on the menu bar

near the top of the Adobe Acrobat Reader screen. With the cursor on the "T", click and hold the left mouse button and drag the cursor down and to the right slightly until the other options appear next to the "T". Still holding the mouse button down, slide the cursor over to the icon on the far right of that box. The label "Graphics Select Tool" will appear (with a tiny white square and a black spot). Release the mouse button and that icon will replace the "T" on the menu bar. When you move the cursor down to the map it will now be a cross hair instead of an arrow. Place the cursor at a corner of the area that you wish to copy and, while holding down on the left mouse key, drag the cursor diagonally to the opposite corner of the area that you want to copy and release the mouse button. You should see a rectangle formed by a dotted line on the screen marking the boundaries of the area that you want to copy. Now press the two keys "Ctrl" and "C" simultaneously and the image will be copied to the Windows Clip Board. Or, you can move the cursor up to the "Edit" command on the menu bar and select "Copy". Now start the Windows application that you wanted to copy the map to (for example Paint or Word). Put the cursor on the screen location where you want the image and press the two keys "Ctrl" and "V" simultaneously and the image will appear. If it didn't, you need to refer the application's instructions for copying information from the Window's clipboard. Once the map image is in the Windows application you can print it as you would print anything else in the application.

If you are unable to copy from the on-line map, or when you paste the graphic into an application, the result is a solid black square, try saving the file to your hard drive. To save the PDF to your hard drive, click on "File" and select "Save As" from the menu. Once on your hard drive, the file may be opened in Adobe Acrobat Reader version 4.0 or higher. Use the graphic tool to select the area to be printed. Copy and paste into any application that handles graphics e.g. Word, WordPerfect, Paint or PowerPoint. Print.

If all else fails, visit the Adobe Web site for help with configuring browsers, troubleshooting printer problems, and other issues related to Adobe Acrobat.

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Source: U.S. Census Bureau, Geography Division  
Last Revised: *Tuesday, 17-Dec-2002 12:00:12 EST*

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## Appendix D

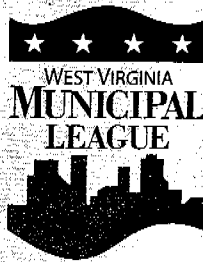
County	# of Tract Maps	# of Block Maps	# of Deputy Sheriffs + 1 Sheriff per co.	Total # of Maps Needed	Cost of Maps per County
Barbour Co.	1	21	5	110	\$550
Berkeley Co.	1	20	45	945	\$4,725
Boone Co.	1	34	22	770	\$3,850
Braxton Co.	1	15	11	176	\$880
Brooke Co.	1	13	17	238	\$1,190
Cabell Co.	7	31	41	1558	\$7,790
Calhoun Co.	1	10	3	33	\$165
Clay Co.	1	11	6	72	\$360
Doddridge Co.	1	11	2	24	\$120
Fayette Co.	1	50	32	1632	\$8,160
Gilmer Co.	1	10	5	55	\$275
Grant Co.	1	15	7	112	\$560
Greenbrier Co.	1	38	26	1014	\$5,070
Hampshire Co.	1	17	9	162	\$810
Hancock Co.	1	12	26	338	\$1,690
Hardy Co.	1	17	7	126	\$630
Harrison Co.	1	40	39	1599	\$7,995
Jackson Co.	1	18	13	247	\$1,235
Jefferson Co.	1	23	19	456	\$2,280
Kanawha Co.	9	80	81	7209	\$36,045
Lewis Co.	1	16	11	187	\$935
Lincoln Co.	1	19	8	160	\$800
Logan Co.	1	51	15	780	\$3,900
Marion Co.	3	35	25	950	\$4,750
Marshall Co.	1	13	23	322	\$1,610
Mason Co.	1	19	16	320	\$1,600
McDowell Co.	4	34	15	570	\$2,850
Mercer Co.	1	39	25	1000	\$5,000
Mineral Co.	1	21	7	154	\$770
Mingo Co.	1	26	15	405	\$2,025
Monongalia Co.	3	38	31	1271	\$6,355
Monroe Co.	1	17	5	90	\$450
Morgan Co.	1	11	9	108	\$540
Nicholas Co.	1	27	22	616	\$3,080
Ohio Co.	1	19	26	520	\$2,600
Pendleton Co.	1	18	3	57	\$285
Pleasants Co.	1	9	6	60	\$300
Pocahontas Co.	1	21	7	154	\$770
Preston Co.	1	26	15	405	\$2,025
Putnam Co.	1	23	35	840	\$4,200
Raleigh Co.	4	35	51	1989	\$9,945

County	# of Tract Maps	# of Block Maps	# of Deputy Sheriffs + Sheriff	Total # of Maps	Cost of Maps per county
Randolph Co.	1	30	7	217	\$1,085
Ritchie Co.	1	17	6	108	\$540
Roane Co.	1	14	7	105	\$525
Summers Co.	3	14	6	102	\$510
Taylor Co.	1	12	6	78	\$390
Tucker Co.	1	17	4	72	\$360
Tyler Co.	1	13	4	56	\$280
Upshur Co.	1	14	9	135	\$675
Wayne Co.	1	24	24	600	\$3,000
Webster Co.	1	16	4	68	\$340
Wetzel Co.	1	17	8	144	\$720
Wirt Co.	1	11	2	24	\$120
Wood Co.	4	32	38	1368	\$6,840
Wyoming Co.	1	22	17	391	\$1,955

Total # of maps statewide = 31,302

Cost of each map from U.S. Census Bureau in suggested size of 33" x 36" to be readable by the human eye = \$5.00 each

Total Cost of maps statewide for County Sheriff's Offices = \$156,510



November 9, 2004

Division of Criminal Justice Services  
Attention: Jeffrey D. Estep  
1204 Kanawha Blvd., E.  
Charleston, WV 25301

**Re: 149CSR5-Motor Vehicle Stop Data Collection Standards- Study of Racial Profiling**

Dear Mr. Estep:

On behalf of the WV Municipal League, I am submitting the following comments regarding the proposed rules referenced above. For several reasons, the League objected to SB 271 and therefore objects to the proposed rules for this excessive data collection. As such, any rule adopted should be streamlined to facilitate the officer's ability to protect and serve as well as reduce potential liability issues for cities.

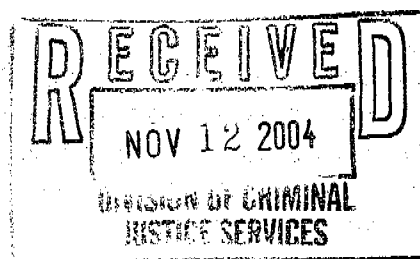
First, very few other states have adopted legislation in this form and what was discussed during the session as a 10 to 17-point questionnaire has been expanded to more than **30 items** to be identified if there is a search. Second, there are existing protections and remedies for such infractions both on the Federal and State level. Cities are required to adopt written policies with a no-tolerance attitude against such practices. The rule as written is not only burdensome for municipal police officers, it may jeopardize his or her safety and the safety of the citizens they serve. Finally, there is a grave concern that the data itself will be "mined" to create yet another liability for municipal governments to shoulder.

As you are well aware, with the new uniform citations that are currently being drafted, the officer will now be carrying an additional bound booklet of 8 1/2 by 11 tickets, some type of census track and block identifier, as well as the data sheet this data collection requires.

To protect both the officer and the municipality, the rules should be simplified to the bare minimum with a simple four or five question survey that could be amended into a uniform citation.

Sincerely,

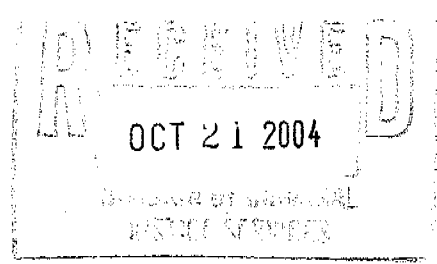
Lisa Dooley  
Executive Director



3:33 pm

2020 Kanawha Boulevard East  
Charleston, WV 25311  
PH: 304-342-5564 \* FAX: 304-342-5586  
1-800-344-7702 \* www.newwave.net/~wvml

- MAYOR EMMETT PUGH, III  
President, Beckley
- MAYOR TERRY WILLIAMS  
Vice President, Spencer
- COUNCILOR TERRY GREAVER  
Secretary, Clarksburg
- COUNCILOR JAMES JARRELL  
Treasurer, Whitesville
- MAYOR WILLIAM MILLER  
Weirton
- MAYOR JOE TIMMS  
Bridgeport
- MAYOR JIMMY COLOMBO  
Parkersburg
- MAYOR TONY PAESANO  
Follansbee
- MAYOR NICK SPARACHANE  
Wheeling
- MAYOR NICK FANTASIA  
Fairmont
- MAYOR DANNY JONES  
Charleston
- MAYOR JIM KNORR, III  
Buckhannon
- MAYOR RICHARD MILAM  
St. Albans
- MAYOR OLLIE HARVEY  
Ripley
- MAYOR CLAIR ROSEBERRY  
Ravenswood
- MAYOR GEORGE KAROS  
Martinsburg
- MAYOR DAVID FELINTON  
Huntington
- MAYOR CLEO MATTHEWS  
Hinton
- MAYOR ROBERT PERKINSON, JR.  
Bluefield
- MAYOR BARBARA HICKMAN  
Oak Hill
- MAYOR RON LIVELY  
Princeton
- MAYOR JOHN MANCHESTER  
Lewisburg
- MAYOR RON JUSTICE  
Morgantown
- MAYOR STANLEY ADKINS  
Summersville
- COUNCILOR TOM MAINELLA  
Fainmont
- COUNCILOR GARY LAWSON  
Ravenswood
- MAYOR JESSE CORLEY  
White Hall
- COUNCILOR JAMES MIRASOLA  
Follansbee
- COUNCILOR FRANK SCAFFELLA  
Morgantown
- COUNCILOR ED ROEDERSHEIMER  
Parkersburg
- CLERK SUZAN SINGLETON  
Glen Dale
- CLERK JANICE JONES  
Wheeling
- CITY MANAGER KIM HAWS  
Bridgeport
- MAYOR JAMES HERRICK  
Immediate Past President  
New Martinsville
- Past Presidents
- MAYOR RAYMOND PEAK  
Hurricane
- COUNCILOR JAMES HUNT  
Clarksburg
- MAYOR LYDIA MAIN  
Masontown
- MAYOR RICHIE ROBB  
South Charleston
- MAYOR DAVE HAMIL  
Ranson
- RECORDER NANCY SHOBE  
Parliamentarian
- COUNCILOR MARK SIMMS  
Buckhannon
- Chaplain
- Moundsville
- LISA DOOLEY  
Executive Director



West Virginia State Police  
725 Jefferson Road  
South Charleston, West Virginia 25309-1698  
Executive Office

October 19, 2004

Bob Wise  
Governor

Colonel H. E. Hill, Jr.  
Superintendent

Jeffrey D. Estep  
Deputy Director – Operations  
West Virginia Division of Criminal Justice Services  
1204 Kanawha Boulevard, East  
Charleston, WV 25301

Mr. Estep:

The West Virginia State Police has reviewed the proposed version of rule §149CSR5 *Motor Vehicle Stop Data Collection Standards for the Study of Racial Profiling*. While the West Virginia State Police has no opposition to the rule as a whole there are areas within the rule that are of concern to this agency and that the Department opposes as currently proposed.

The West Virginia State Police would make the following comments on the proposed rule:

*3.5.j. Location of stop. – This component shall enable individual law enforcement officers to indicate a detailed location in which the stop took place and be divided into a "census tract" category and a "census block" category.*

*3.5.j.1. The census tract category shall enable individual law enforcement officers to indicate the complete census tract identifier in which to stop took place.*

*3.5.j.2. The census block category shall enable individual law enforcement officers to indicate the complete census block identifier in which the stop took place.*

This section of the rule, as proposed places an unrealistic burden on the law enforcement officers for a number of reasons.

- In order to comply with this requirement a law enforcement officer will have to have access to the census block and census tract information for the area. This information is recorded on census maps.
- A county within West Virginia is comprised of anywhere from eleven (11) maps for a small county such as Wirt to as many as Fifty-seven (57) for a larger county such as Kanawha. Census block maps are 36 inches by 33 inches in size. There is no practical manner for an officer to carry and utilize this number and size of maps in normal day to day operations yet that is what would be necessary if this rule goes into effect.
- Reducing the maps to a smaller size would eliminate the size problem with the census block maps but it would create other problems. Due to the size of the maps and the need to identify information and locations on them each large census map would require several sheets of standard paper in order to copy in a manner that would retain the legibility of the information. An officer would then have the large maps replaced by a notebook containing, in some cases, hundreds of sheets of paper which would have to be examined and the correct page found on each stop.
- This requirement also creates a time and safety issue. The Traffic Stop Data Forms currently utilized by the State Police, similar to the proposed form, can be completed in approximately 30 seconds. Requirement of the census block and tract information will increase this completion time and it could easily take 2, 3 or more minutes depending on how quickly the officer locates the appropriate data. While this would not be significant if an officer stopped only one vehicle a day the cumulative time loss over several vehicle stops in a shift could be significant. Additionally, the increased time the officer must spend along the road with a violator stopped increases the risk to the officer as time must be spent looking for map data instead of observing the suspect. Also the longer the length of the stop the more time the officer and violator are exposed to dangers from other traffic.
- There is the possibility of the following negative reactions by law enforcement officers due to the proposed requirement:
  1. There will be a reduction, at least short term, in the number of vehicles officers stop due to the resentment over the requirement to complete the forms.
  2. Officers will record incorrect census data; using numbers they have memorized rather than spending the time to ascertain if the number is the correct data or not, or they will select a number from the first map they locate that is relatively close to the actual area of the stop.

3. Officers will simply not complete this section of the form or not complete the form at all.

- The requirement will necessitate that an officer have available the census map information for any area the officer takes enforcement action in. For agencies that operate in multiple counties this will mean the maps for each county will have to be available to the officer. If an officer is in a county that is outside of their normal area of responsibility and makes a traffic stop the officer may not be able to comply with this requirement due to not having the proper data available.
- The requirement to use census tract and block identifiers in many areas of the State would not seem to provide any meaningful statistical value. In many areas the demographic make up is essentially identical from one census block, or even one census tract, to another. If there is no difference in the demographic composition of an area then it seems unnecessary to require recording a stop to such a precise location.

It is realized that in metropolitan areas there may be a difference in the demographics of one section of a city to another and that a city may have a different composition of population than the county as a whole. However, in many other areas the population of one section of a county or town is virtually the same as any other section of that same county or town. In many predominantly rural counties the minority population is extremely small and therefore the census data for virtually any block within the county will reflect the same data. If the minority population for the census blocks are identical or nearly so, then there would seem to be no critical need to identify which particular block the stop occurred in.

Also the use of census data does not necessarily reflect the demographics of the public on the highway, as the population make up traveling an Interstate for example, may be very different than the population of the county in which the Interstate is passing through.

*3.5.j.3. It is the responsibility of the chief executive or law enforcement official of the law enforcement agency to provide appropriate maps to his or her officers which contain census tract and census block identification numbers to record on the MVSF.*

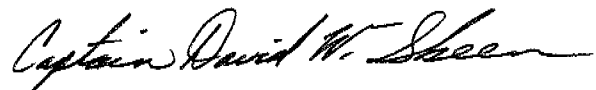
This section of the rule as proposed places an unfunded mandate on the law enforcement agencies and results in a financial burden to the agencies in the following ways:

- Each agency will have to make the census data available to every officer who will stop vehicles. There are possible methods for addressing this but each has its own unique problems as noted below:

1. Maintaining the data at a communications center for relay to the officer is not a viable option and is impractical due to; 1) The location of the stop must be known in order to locate the information on the maps and the dispatcher may or may not be familiar with the area where the officer is located. 2) Some areas prevent consistent, reliable communication with a dispatch center. 3) The number of officers using the radio for this purpose would cause a increased demands on the telecommunicators.
2. Maintaining one set of maps at the local office creates the following problems: 1) Officers would be required to complete forms upon returning to the office rather than at the time of the stop, creating a delay in the completion of the form. 2) For officers that work in multiple counties, they would have to go to each county office to obtain the information or each county office would have to maintain copies of maps for other jurisdictions.
3. The final alternative is for each officer to be supplied with individual copies of the census data maps. The cost of this alternative could be significant. One complete set of maps for the state of West Virginia, approximately 1200 maps cost over \$6000.00. Using Kanawha County as the example it would cost approximately \$285.00 to purchase one set of maps for one officer. This would be for the 36 inch by 33 inch maps which, as earlier noted, are impractical. The maps are available in electronic format for substantially less, approximately \$70.00 a set, however this would require an in car computer to utilize, which many departments do not have. The maps are available as free downloads from the Census Bureau but the department would have to bear the expense of copying the needed maps for each officer. This could be a significant cost dependent on the number of officers the agency has and the number of maps required for the areas of responsibility.

This agency realizes the need for the information collected to be as detailed as possible and that certain components are mandated by code, however the requirement to utilize census block and tract data, is not a viable option for the reasons detailed above. As the use of census blocks and tracts are not required this agency would suggest a less burdensome criteria be utilized for location of stop.

Sincerely,



Captain David W. Skeen  
Director - Planning & Research

# WILLIAM R. LAIRD IV

## Sheriff and Treasurer of Fayette County

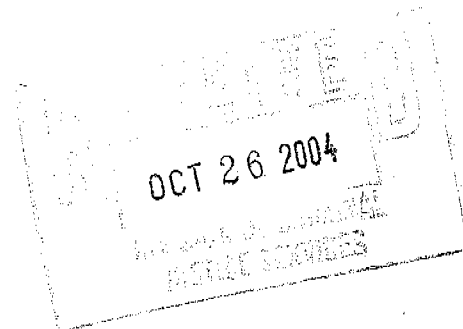
PHONE: (304) 574-4216

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LAW ENFORCEMENT: (304) 574-4270 574-4304

FAX: (304) 574-2796

E-MAIL: WWW.WRLAIRDIV@FAYETTESHERIFF.NET



P. O. BOX 509

FAYETTEVILLE, WEST VIRGINIA 25840

October 21, 2004

Division of Criminal Justice Services  
Attention: Jeffrey D. Estep  
1204 Kanawha Boulevard, East  
Charleston, WV 25301

**RE: Written Comments – Proposed Legislative Rules  
Title 149 Legislative Rule – Series 5  
Governor’s Committee on Crime, Delinquency and Correction  
Motor Vehicle Stop Data Collection Standards for the Study  
of Racial Profiling**

Dear Sirs:

The purpose of this letter is to offer my comments and observations concerning the above referenced legislative rule recently filed by the West Virginia Division of Criminal Justice Services. It is my understanding that this rule was filed pursuant to the requirements of S.B. 271, which was passed during the 2004 Regular Session of the West Virginia Legislature.

I begin my comments by noting that racial profiling, as a discredited law enforcement tactic, is a highly inappropriate and unacceptable practice that is contrary to the public interest in all law enforcement jurisdictions throughout the State of West Virginia. To better ensure that such tactics are not allowed to exist within the institutional practice patterns of law enforcement agencies within the State, the provisions of WV Code 30-29-10 have appropriately provided and required all law enforcement agencies to adopt written policy standards prohibiting the practice of racial profiling in the performance of routine law enforcement duties and services. Resulting from this statutory requirement, I am very confident that most, if not all, credible law enforcement agencies throughout the State have already adopted these required policy standards prohibiting the practice of racial profiling within their respective departments.

As the Sheriff of Fayette County, I have long recognized the virtues and principles of the concept of Equal Justice Under Law and have actively sought to promote this high

standard of social justice throughout my life and, more recently, in managing the conduct and affairs of this department. Accordingly, to the extent that racial profiling tactics may be viewed as a discriminatory practice that provides a basis for the disparate treatment of persons based strictly on their race or ethnic status, I find such ideas to be inherently despicable and contrary to the very foundation upon which our criminal justice system must stand. For these fundamental reasons, please understand that were I to actually believe that such discriminatory practices as racial profiling were to be found in the institutional practices of law enforcement agencies within this State, I would be among the first persons to advocate the need for the establishment of the type of remedial measures which are apparently called for in S.B. 271 and this proposed rule. However, absent any data showing this to be a legitimate problem within law enforcement agencies throughout the State, I am left only to conclude that this issue can best be considered as being a solution in search of a problem.

As a practical matter, I recognize and understand that those arguments related to the actual need for this legislation and its burdensome requirements have long since expired. For that unfortunate reason, the only remaining avenues for expression by those to whom such unreasonable mandates fall are to offer ex post facto commentaries on the bureaucratized means by which these legislative edicts are to be made operational under the equally ridiculous pretense that such commentaries may be actually read, considered, and made a part of some workable solution that will allow for the collection of this data while still enabling law enforcement agencies to continue to do their jobs. With this in mind, it would appear to me that immediate clarification and enhanced training actions must be quickly undertaken by the Division of Criminal Justice Services, the Division of Motor Vehicles, and those other agencies responsible for the implementation of these reporting requirements so that there is a consistent, clear and unambiguous understanding within the statewide ranks of law enforcement concerning these particular reporting requirements. Should such remedial actions not be undertaken, I remain skeptical concerning the overall reliability of any data collected given the current ambiguity of the underlying legislation and the rule that was intended to make these requirements field-ready and operational.

Of irony in seeking to make this proposed rule operational would appear to be the immediate need to properly instruct law enforcement officers on how to better perceive the identifying characteristics required to properly categorize the racial and ethnic origins of those persons to whom such reporting requirements are made applicable. Given this need, it would appear to me that we would, in effect, be training law enforcement officers to become better racial and ethnic profilers (i.e. the ability to infer race and ethnicity based only on perceived identifying characteristics or appearances) in order to properly categorize and collect this required data. As it relates to the true diversity to be found among our world populations, I consider it to be inherently discriminatory and an affront to the dignity and integrity of true racial and cultural identities merely to restrict the racial and ethnic options to those limited data fields specified on the West Virginia Motor Vehicle Stop Form (MVSF). To merely categorize ethnicity as either Hispanic/Latino (H/L) or Nonhispanic/Latino (NH/L) is fraught with the type of either/or logic and bigotry that has torn at the very fabric of true cultural and racial diversity within the

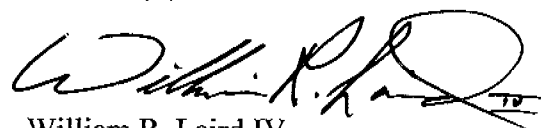
political, social and cultural framework of this nation. As such, rather than seeking to properly categorize racial and ethnic minorities, in true mountaineer fashion, through this process of government sanctioned exclusion and default options, I would strongly suggest that these racial and ethnic data fields be expanded to be inclusive of the remainder of the population of this world.

In addition to those important and fundamental problems related to the proper categorization of the race and ethnic origins of persons based only upon the sensory perceptions of involved law enforcement officers who may or may not be capable of properly discerning these sometimes subtle differences to be found in the physical characteristics among persons, there are indeed other bureaucratic problems that exist within the framework of the data collection processes sought to be defined by this particular rule. Of particular concern to me is the apparent requirement under this rule for the proper reporting of the census tract and census block location at which each traffic stop is made. At this time, I have no knowledge of what geographic land mass constitutes either a census tract or census block within the county in which I currently serve as Sheriff. Given the fact that Section 3.5.j.3 of this Rule makes it my responsibility to provide appropriate maps to subordinate officers as a means for the proper identification and recording of these numbers upon the MVSF, I have more than a passing interest in wanting to know how to properly identify these geographic boundaries within the 666 square miles which constitute the current geographic boundaries of Fayette County, West Virginia. As an alternative to the actual recording of these census tract and census block identifiers upon the MVSF, I would respectfully submit that the use of Global Position Systems (GPS) tracking technologies hold the real potential for the improved recording of this information and the elimination of the potential for human error. Since the use of GPS tracking technologies can now report latitude and longitude locations in degrees and minutes to accuracies within a few feet, a simple data conversion program located within the inner bowels of the Division of Motor Vehicles could simply convert these recorded GPS coordinates into the required tract and block locations. The obvious benefits resulting from the use of this technology would be the increased accuracy of the reported data, in addition to the improved efficiencies resulting from the lost time incurred by officers while fumbling with census maps along some dark highway located in the chartered areas of this county known only to census takers or geographic data geeks. Since the increased costs resulting from this unfunded mandate by our Legislature is already to be absorbed by our local units of government, I would rather suspect that this GPS equipment could also be purchased by those cities and counties wishing to further mitigate the financial consequences of this reporting requirement through improved means of officer efficiency and time.

In conclusion, I am indeed hopeful that my comments concerning this proposed rule will be taken in the spirit in which they are intended. As a law enforcement official within the meanings defined by this proposed rule, I have no doubt that this particular legislation and proposed rule are indeed the work product of good and well-intending persons who have sought to address a non-existent social problem assumed by some to be in some way embedded and entrenched within the framework and practice patterns of all law enforcement agencies within the State of West Virginia. In seeking to explain why

we have now invented a costly and burdensome data collection system that will no doubt detract from the ability of legitimate and professional law enforcement agencies to meet the growing public safety needs of citizens residing within our jurisdictions, I am convinced that the perceived need for such reporting requirements were no doubt driven by anecdotal stories and selected examples of isolated practice abuses that were offered-up as being most suggestive of a wider systemic problem that, from my experience, simply does not exist within the vast majority of law enforcement agencies throughout the State. Should racial profiling or other blatantly discriminatory law enforcement practices be found to exist within the framework of any police agency within the State of West Virginia, I would encourage the punishment and implementation of immediate remedial measures directed to those specific departments to the fullest extent of our laws. Indeed, the application of sanctions for offenders found to be in violation of our laws, as the established norms for behavior within our society, is a matter that is fundamental to our jurisprudence. However, the prescription of punishments through the establishment of unreasonable and costly data collection standards for all police agencies, irrespective of whether there is any objective data suggesting the existence of such problems, is incredibly poor public policy that serves no interests whatsoever. As such, one can only be thankful that such fundamental civil liberties as the presumption of innocence, proof beyond a reasonable doubt, and the prohibition against cruel and unusual punishments are not subject to the blowing winds of whimsical caprice found to exist within the institutional practices of the West Virginia Legislature.

Very truly yours,

A handwritten signature in black ink, appearing to read "William R. Laird IV". The signature is fluid and cursive, with a prominent "W" and "L". There is a small mark at the end of the signature that looks like "TD".

William R. Laird IV  
Sheriff of Fayette County

**WILLIAM R. LAIRD IV****Sheriff and Treasurer****Fayette County**

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FAYETTEVILLE, WEST VIRGINIA 25840

November 10, 2004

Division of Criminal Justice Services  
Attention: Jeffrey D. Estep  
1204 Kanawha Boulevard, East  
Charleston, WV 25301

**RE: Supplemental Comments – Proposed Legislative Rules  
Title 149 Legislative Rule – Series 5  
Census Block Information Requirements  
Motor Vehicle Stop Data Collection Standards for the  
Study of Racial Profiling**

Dear Sirs:

Since the time of the tendering of my initial comments and observations concerning the above referenced legislative rule filed by the West Virginia Division of Criminal Justice Services, I have sought to undertake the appropriate actions required to properly implement these reporting requirements within the operations of the Fayette County Sheriff's Department. Given the fact that these reporting requirements are to be made effective on January 1, 2005, time is most certainly of the essence.

Of particular concern to me at this time is the mandatory reporting field included on the West Virginia Motor Vehicle Stop Form (MVSF) which requires the officer to indicate a detailed location in which the stop took place. According to this rule, this location is to include the complete identifier for the particular census tract and census block in which the stop took place. Since the content of this rule clearly makes it the responsibility of the chief executive or law enforcement official of the law enforcement agency to provide appropriate maps to his or her officers that contain census tract and census block identification numbers to record on the MVSF, I have undertaken action to determine what I must do in the next few weeks to satisfy this reporting requirement.

From my limited discussions with the Division of Criminal Justice Services, I was advised that this mapping and locator information was readily available at no cost from the internet site for the United States Census Bureau. From my further investigation of

this matter, I have unfortunately found this to be only partially correct. More specifically, I have been able to determine that the 2000 Census Block Maps for Fayette County, West Virginia consist of a total of 31 parent maps and 18 insert maps, the total of which are 49 separate map sheets for the entire geographic region within this county. For reference purposes, a copy of the index for these particular maps is included as Attachment A to this correspondence. While these maps are indeed available as PDF map files readable with Adobe Acrobat Reader version 4.0 or higher, these particular census block maps are designed for a paper sheet size of 33 inches by 36 inches because of the amount of detail that must be shown for any given area. Therefore, printing the entire map sheet on a standard size printer and paper will not provide a usable image capable of discerning the required tract and block information. For illustration purposes, I have included as Attachment B a printed copy of a Census 2000 Block Map sheet on standard 8 ½ inch X 11 inch paper that clearly shows that the printing of these maps on a standard office size printer does not provide a usable image capable of discerning the required tract and block information.

As an alternative to the problem that these maps are not available for printing and use in any usable format from this internet site, I contacted the United States Census Bureau to further review and discuss this problem. At that time, I was advised by that office that full size copies of these map sheets are available for purchase from the United States Census Bureau at a cost of \$5.00 per map sheet. Since these map sheets would be available only on 33 by 36 inch sheets, the further reproduction of these maps for distribution among all deputy sheriffs within this department would not be possible given the fact that there currently exists no oversize copying capabilities within this office. Obviously, the further reduction in the size of these copies would defeat the underlying purpose of having these maps in sufficient size so as to enable them to be read. As such, I can see no other alternative in making these maps available other than to purchase a complete set of these map sheets for distribution to each deputy sheriff employed by this department.

Based on the current price for the actual purchase of these usable size census block maps from the United States Census Bureau, the calculated cost for these required maps for the Fayette County Sheriff's Department is as follows:

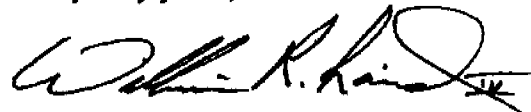
\$5.00 per map sheet
X 49 parent map and map insert sheets
<hr/>
\$245.00 per complete map set
X 31 deputy sheriffs
<hr/>
\$7,595.00 TOTAL COST

Given the current budget limitations of the Fayette County Sheriff's Department, please be advised that there currently exists no budget resources within the Fiscal Year 2005 Budget for this office that will provide for the purchase of these maps from the United States Census Bureau. In seeking to determine what other options may be available for

the proper distribution of these required Census 2000 Block Maps for Fayette County, I have also sought to determine the purchase price for a printer in the size sufficient to allow for the printing of these maps from the internet. According to the United States Census Bureau, the current plotter configuration for large-format map production for census 2000 reproductions recommends the HP DesignJet 1055CM printer with a 36-inch wide roll. For your review and information, the minimum configuration options recommended by the United States Census Bureau are included as Attachment C to this correspondence. To further validate whether this printer could be purchased at a lower price than these maps in usable format could be purchased from the U.S. Census Bureau, I have obtained purchase price information from Hewlett-Packard indicating that the retail purchase price for this printer capable of printing these maps in useable format is \$9,595.00. Again, given the current budget limitations of the Fayette County Sheriff's Department, I simply do not have such funds available within the current fiscal year budget for this department.

At this time, I am of the strong opinion and belief that immediate action must be undertaken to prescribe a more practical means for obtaining this required census tract and block information for use in the implementation of this requirement. Until such time as a solution may be offered for statewide use, I would strongly suggest that the Division of Criminal Justice Services stop advising agencies that this information is readily available on the internet for further downloading and immediate use. Obviously, the printing of maps which cannot be read is not the answer. Obviously, the purchasing of these maps for thousands of dollars from the United States Census Bureau is not the answer. Obviously, the purchasing of oversized printers capable for producing these maps in a usable format for thousands of dollars is not the answer. With only a few weeks remaining until the time that these reporting requirements become mandatory, I am hopeful that these matters will receive someone's thoughtful review and consideration.

Very truly yours,

































William R. Laird IV  
Sheriff of Fayette County

























Enclosures

CC: Melissa McClung, West Virginia Sheriffs' Association  
Patti Hamilton, West Virginia Association of Counties

Attachment A

# Index of /plmap/pl\_blk/st54\_WestVirginia/c54019\_Faye

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	<a href="#">PB54019_J01.pdf</a>	23-Apr-2001 12:51	209K



Attachment C  
March 2001

## Large-Format Map Products for Census 2000 Guide To Map Plotting Devices

<http://www.census.gov/geo/DR/plotter.pdf>

Many of the map products the Census Bureau will produce to support Census 2000 will be available to the public in various electronic file formats. Each map type will be available in one or more file formats depending on the map requirements and specifications. Some predefined map types, such as the County Block Map and the Census Tract Outline Map, will be available in both Hewlett-Packard Graphics Language (HP-GL/2) and Adobe's Portable Document Format (PDF). Other specialized maps, such as thematic wall maps, will be available in PDF and/or PostScript format.

Maps in HP-GL/2 format are provided to facilitate high volume map plotting. Maps provided in PDF format are intended for viewing, navigating, and printing using the current version of Adobe's free software product, Acrobat Reader. On many output devices, maps in PostScript format provide the highest image quality.

The Census Bureau will produce copies of the P.L. 94-171 and other Census 2000 map products in HP-GL/2 format using the device specifications below. If maps are plotted by users on different output devices, the results may vary. Printing devices often interpret graphic elements and colors differently, therefore, variations in the output are possible. Variations also are possible when plotting maps on different printers produced by the same manufacturer.

### CURRENT PLOTTER CONFIGURATION FOR LARGE-FORMAT MAP PRODUCTION FOR CENSUS 2000

Manufacturer:	Hewlett-Packard
Model:	HP DesignJet 1055CM
Media Size:	36-inch wide roll
Resolution:	600 dpi, color and black and white
Memory:	80 Megabytes RAM, 2 Gigabyte hard disk
Languages:	HP-GL/2, PostScript Level 3
Interface:	HP JetDirect 600N 10/100Base-TX internal print server

#### Control Panel Settings:

Print Quality:	HP-GL/2=Draft, PostScript or PDF=Normal
HP-GL/2 Settings:	Palette=Software Merge=Off

Image Quality:	Ink Emulation=Native Color Calibration=On Ink Limiting=On
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March 2001

Page Format: HP-GL/2: Size=Inked Area  
PostScript or PDF: Size=Software

Graphics Language: Automatic

The Census Bureau does not endorse the use of a particular manufacturer's product for plotting maps. Therefore, below are general hardware specifications that will guide users in selecting an output device capable of plotting Census Bureau map products.

#### **RECOMMENDED CONFIGURATION**

Media Size: 36-inch wide roll  
Resolution: 600 dpi, color and black and white  
Memory: 80 Megabytes RAM, 2 Gigabyte hard disk  
Language: HP-GL/2, PostScript Level 2 or 3

#### **MINIMUM CONFIGURATION**

Media Size: 36-inch wide roll  
Resolution: 300 dpi, color and black and white  
Memory: 64 Megabytes RAM  
Language: HP-GL/2

#### **USEFUL DEVICE OPTIONS**

Since all map products to support Census 2000 will be available in PDF format, as well as selected high quality maps in PostScript format, a PostScript Level 2 or 3 interpreter is a useful option. A PostScript interpreter is required on the plotting device when plotting Census Bureau map products in PostScript and PDF format. This helps to assure the design of the maps as they were intended.

An internal hard disk also is useful to allow more efficient queue management and to maximize system throughput. On some devices, the hard disk is only utilized to facilitate the processing of PDF and PostScript files.

Attachment D

United S

- » HP Home
- » Products & Services
- » Support & Drivers
- » Solutions
- » How to B

» Contact HP Buy online or call **800.888.9909**

Search:

SMB Store  Supplies & Accessories US

| » Store home | » Computing | » Printing & Digital imaging | » Supplies & Accessories



## Wide & Large Format Printers

HP Designjet 1000 plus series

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 » Retrieve cart  
 » Order status  
 » Order and quote history

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Points of interest  
 » Business leasing options  
 » Solutions for business  
 » Services & Support  
 » Store help  
 » HP Business Outlet  
 » Request a catalog  
 » Store security  
 » Business to business  
   » Login or register  
   » Learn more  
 » Call me now  
 » Other ways to buy  
 or call **1.800.888.9909**



- Series standard –
- Print speed, color (best quality): 70 sq ft/hr
- Print color: Yes
- Print quality (black and color): 1200 x 600 dpi/600 x 600 dpi
- Model sizes: 36 inches
- Media sizes: 8.3- to 36-in wide sheets; 24- and 36-in rolls optional
- Media handling: Dual path for sheet feed and roll feed, automatic cutter, optional multi-roll feeder, optional take-up reel
- Memory (std/max): 64 MB / 256 MB
- Connectivity, standard: IEEE 1284-compliant bidirectional parallel, (including ECP), hp jetdirect EIO internal print server for fast ethernet 10/100 Base-TX
- Network-Ready: Yes, standard

- » Wide & Large for printer specials
- » HP Printing Support Accessories
- » Support
- » Automatic supply ordering
- » HP business services
- » HP Refurbished
- » HP Business Insider Service
- » Closeout/Overstock products

Bases/Features	HP Designjet 1050c plus printer	HP Designjet 1055cm plus printer
Buy/Config	<a href="#">Customize &gt;&gt;</a>	<a href="#">Customize &gt;&gt;</a>
Price	p \$7,295.00 <sup>1</sup>	p \$9,595.00 <sup>1</sup>
Business Lease	<b>\$198.00/month</b> (48 months)	<b>\$260.00/month</b> (48 months)
Estimated Ship Date	11/14/2004 <sup>2</sup>	11/14/2004 <sup>2</sup>
Print languages, std.	HP-GL/2, HP-GL, HP RTL; CALS-G4	Adobe® PostScript® 3™, HP-GL/2, HP-GL, HP RTL; CALS-G4



<sup>1</sup> HP is not liable for pricing errors. If you place an order for a product that was incorrectly priced, we will issue a revised invoice to you for the correct price and contact you to obtain your authorization for the additional charge, or assist you with return of the product.

<sup>2</sup> HP is not responsible for delays outside of our immediate control, including delays related to order or unexpected increase in demand. Typically only orders paid for by credit card receive credit approval same day the order is placed. Orders delayed due to order processing will default to an Estimated 5 days from the date credit is processed and the order is released. Estimated Ship Dates are based on extended lead times.

P The product you have selected is a Promotional Item and will not be eligible for any additional discounts or other promotional offers.

# Intel's numbering is not a measurement of higher performance

Other Information

U.S. Census Bureau

10 Years on the We

## Using Census Bureau PDF Map Files

### Enlarging the Map Image

The Adobe PDF map files represent maps that were created at a size of 33 inches by 36 inches in order to show all the detail necessary to identify census block, tract and voting district boundaries. Adobe Acrobat Reader version 4.0 or higher is needed to view these maps. When you first bring the PDF map image up on your computer screen it will display the entire map. In most cases the size of the features will be too small for easy identification. However, you can use the Adobe Acrobat Reader's zoom function to enlarge a portion of the map to more clearly see the features. To do this click on the "Zoom in Tool" (the magnifying glass icon) on the menu bar by putting the cursor on it and clicking the left mouse button. Then move your cursor (which was changed to a magnifying glass with a plus sign inside) down to the map image to one corner of the area that you want to enlarge. While holding the left mouse button down drag the cursor across the map to create a box around the area that you want to enlarge. When you release the button the area within the box that you drew will enlarge to fit the screen. You can repeat this step as often as necessary to get a satisfactory enlargement. To get back to the original display or to reduce the amount of zoom either choose the appropriate function from the "View" menu or click on one of the page icons to the left of the binocular icon on the menu bar.

### Moving or Panning Within the Map Image

Another useful feature of the Adobe Acrobat Reader is the ability to move around within the enlarged image. This is called panning. If, after you have zoomed in on the map image, you want to see an area of the map just off the current screen you can move (pan) the image around to get to this other area. Select the "Hand Tool" function (hand icon) on the tool bar by placing the mouse cursor on it and clicking the left mouse button. Your cursor is now shaped like a hand. Put the cursor anywhere on the screen and click and hold the left mouse button. You can now drag the map image around the screen to move a new area of the map into view.

### Printing for the PDF Map Files

These maps are designed for a paper sheet size of 33 inches by 36 inches because of the tremendous amount of detail that they must show for a given area. Therefore, printing the entire map sheet on to a much smaller sheet of paper will not provide a usable image. However, a user has several options for getting printed copies. The first is to use a large format plotter capable of printing the 33 by 36 inch sheets. To accurately reproduce the original colors and patterns of the original map the plotter should have a PostScript card.

- Plotter specifications for plotting large format PDF map files with an HP 1055cm.
- How to Print Large Format PDF Map Files [PDF]

The other option for a full size copy of the entire map sheet is to purchase a copy from the U.S. Census Bureau (301-763-INFO(4636), \$5.00 per map sheet, with a minimum order of 5 map sheets).

### Printing a Small Portion of a Map

If the user needs just a small portion of the map printed it can be done with a typical printer available to the average user of a Windows®-based personal computer. This involves using the "cut and paste" function of Windows. Move the cursor to the "T" icon on the menu bar

near the top of the Adobe Acrobat Reader screen. With the cursor on the "T", click and hold the left mouse button and drag the cursor down and to the right slightly until the other options appear next to the "T". Still holding the mouse button down, slide the cursor over to the icon on the far right of that box. The label "Graphics Select Tool" will appear (with a tiny white square and a black spot). Release the mouse button and that icon will replace the "T" on the menu bar. When you move the cursor down to the map it will now be a cross hair instead of an arrow. Place the cursor at a corner of the area that you wish to copy and, while holding down on the left mouse key, drag the cursor diagonally to the opposite corner of the area that you want to copy and release the mouse button. You should see a rectangle formed by a dotted line on the screen marking the boundaries of the area that you want to copy. Now press the two keys "Ctrl" and "C" simultaneously and the image will be copied to the Windows Clip Board. Or, you can move the cursor up to the "Edit" command on the menu bar and select "Copy". Now start the Windows application that you wanted to copy the map to (for example Paint or Word). Put the cursor on the screen location where you want the image and press the two keys "Ctrl" and "V" simultaneously and the image will appear. If it didn't, you need to refer the application's instructions for copying information from the Window's clipboard. Once the map image is in the Windows application you can print it as you would print anything else in the application.

If you are unable to copy from the on-line map, or when you paste the graphic into an application, the result is a solid black square, try saving the file to your hard drive. To save the PDF to your hard drive, click on "File" and select "Save As" from the menu. Once on your hard drive, the file may be opened in Adobe Acrobat Reader version 4.0 or higher. Use the graphic tool to select the area to be printed. Copy and paste into any application that handles graphics e.g. Word, WordPerfect, Paint or PowerPoint. Print.

If all else fails, visit the Adobe Web site for help with configuring browsers, troubleshooting printer problems, and other issues related to Adobe Acrobat.

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Source: U.S. Census Bureau, Geography Division  
Last Revised: *Tuesday, 17-Dec-2002 12:00:12 EST*

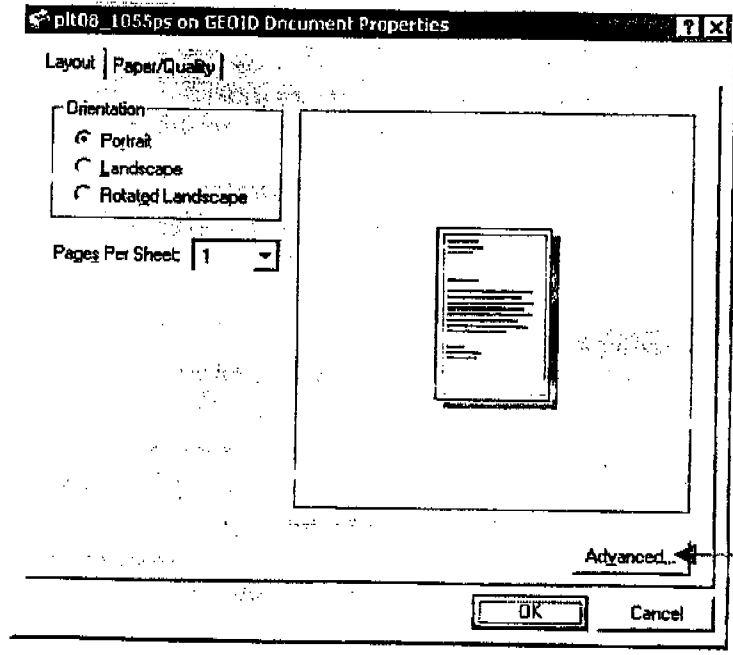
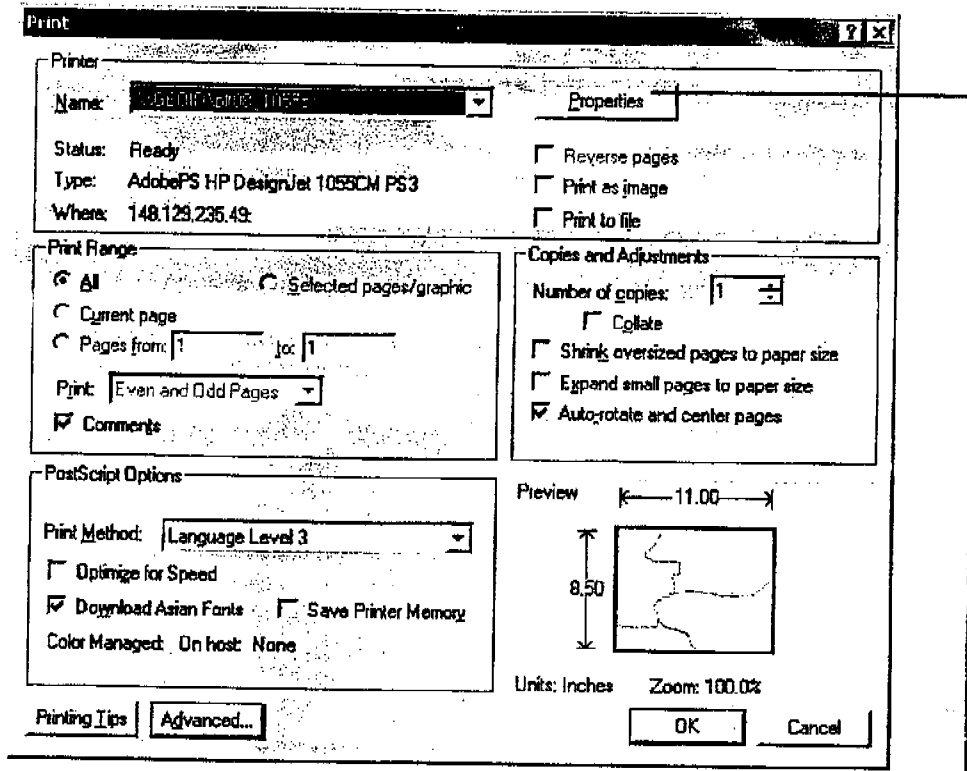
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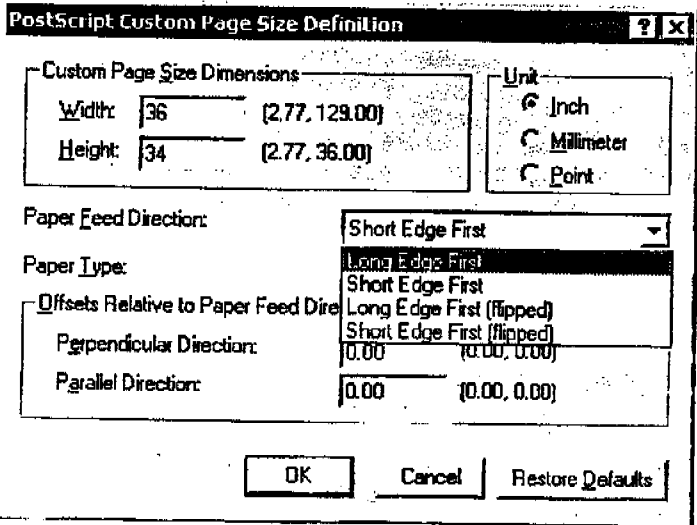
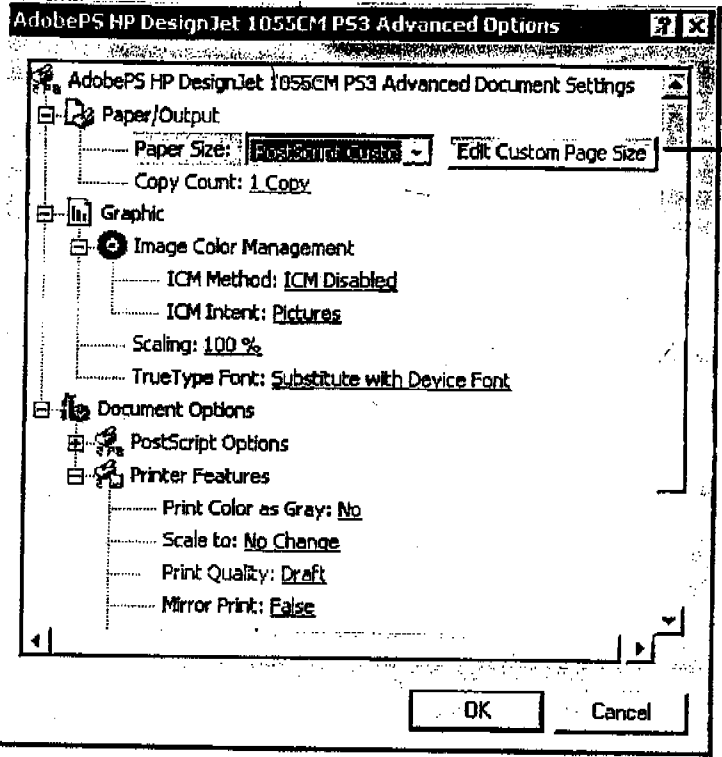
Census Bureau Links: Home • Census 2000 • Subjects A to Z • FAQs • Search • Data Tools • Catalog • Quality • Privacy Policy • Policies • Contact Us

**USCENSUSBUREAU**  
*Helping You Make Informed Decisions*

# Plotting Large Format Maps Using Adobe Acrobat Reader 5.0

PostScript Windows printer driver settings for the Hewlett Packard 1055CM DesignJet





Long Edge First

**Print** [ ? ] [ X ]

**Printer:**

Name:

Status: Ready  Reverse pages

Type: AdobePS HP DesignJet 1055CM PS3  Print as image

Where: 148.129.235.49  Print to file

**Print Range:**

All  Selected pages/graphic

Current page

Pages from:  to:

Print:

Comments

**Copies and Adjustments:**

Number of copies:

Collate

Shrink oversized pages to paper size

Expand small pages to paper size

Auto-rotate and center pages

**PostScript Options:**

Print Method:

Optimize for Speed

Download Asian Fonts  Save Printer Memory

Color Managed: On host: None

**Preview:**

Units: Inches Zoom: 100.0%

**\*\*Preview should display proper dimensions**



# SHERIFF OF CABELL COUNTY

Kim Wolfe  
Sheriff

November 12, 2004

Mr. J. Norbert Federspiel, Director  
Division of Criminal Justice Services  
1204 Kanawha Boulevard East  
Charleston, West Virginia 25301

Re: Rules for Data Collection Standards for Study of Racial Profiling

Dear Mr. Federspiel:

I write to you to express my concerns over the rules of compliance for the proposed racial profiling study.

I have reviewed the information provided and my initial concern is one of cost. Who is going to reimburse my office for the additional time required to distribute, collect, review and process these stop forms? Who will reimburse my office for the mandatory training sessions that will need to be conducted?

Further, the burden of this program is placed on the patrol units. Patrol units who are already too busy to adequately address the additional time needed for this new proposal. To expect a patrol unit to maintain "census tracks and census blocks" mapping, in order to properly report a traffic stop, is out of line.

You have requested data as to the deputy's "perception" of a person's gender, race and ethnicity. I fear that in the event this proposal is implemented, you will be, at best, receiving approximate data as to many of the requested data entries.

As I have stated in previous meetings on this subject, if a deputy is guilty of "racial profiling" on a given traffic stop, is it reasonable to expect that same deputy will accurately report his thought processes on your stop form?

Mr. J. Norbert Federspiel, Director  
Page Two  
November 12, 2004

You have made no room for exceptions due to emergencies in this proposal. Emergencies are our business. Many times deputies are forced to leave a traffic stop to respond to an emergency or to a call of greater priority. In these cases, the information you demand would slow the deputy's response to the emergency in order to properly and accurately gather the information you request. That, in my view, and I'm sure the opinion of the public, is unacceptable.

My final concern is that of safety for my deputies. Traffic stops are one of the most dangerous functions of law enforcement. One minute of additional time, in the company of those being detained, increases the risk to my deputies. Whether that deputy is attempting to identify the occupants of a vehicle or sitting beside the interstate completing a DMV form, you are needlessly increasing the risk of injury.

I welcome the opportunity to discuss this matter with you in more detail.

Respectfully,



R. Kim Wolfe, Sheriff  
Cabell County, West Virginia

RKW:ss

cc: Melissa McClung, West Virginia Sheriffs' Association  
Patti Hamilton, West Virginia Association of Counties  
Sgt. Mike Clark, Cabell County Deputy Sheriff's Association  
Mr. Jeff Estep, Division of Criminal Justice Services



# COUNTY OF MONONGALIA

JOSEPH C. BARTOLO

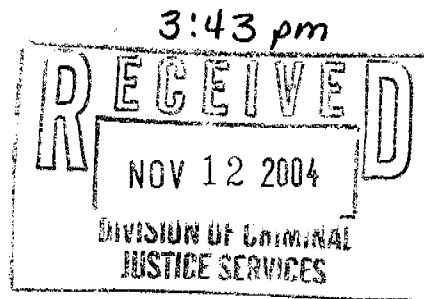


Sheriff and Treasurer

155 CHANCERY ROW  
MORGANTOWN, W.V. 26505

November 9, 2004

J. Norbert Federspiel, Director  
Division of Criminal Justices Services  
1204 Kanawha Boulevard, East  
Charleston WV 25301



Dear Mr. Federspiel:

I am writing concerning the Data Collection for Study of Racial Profiling requirements that may be put into place in West Virginia.

In reading the correspondence that I have received, I must voice my opposition to this proposed legislation, not just from an officer safety standpoint but the time required to complete the information form.

The proposed legislation leaves no decision making up to the officer as to whether or not the reports need to be completed. The requirement is for this to be done on each and every vehicle stop. Along with filling out the form, the officers would be required to check maps for "census tracts" and "census blocks" to accurately locate the area of the stop.

My deputies are taxed with their current duties to the point of working several hours overtime for court appearances, DMV hearings and all the paperwork that goes along with an arrest of an individual. These things we understand but my feeling on the date collection proposed, you'll not only be putting the officers in more dangerous situations but what about the motorists and undue delay to them?

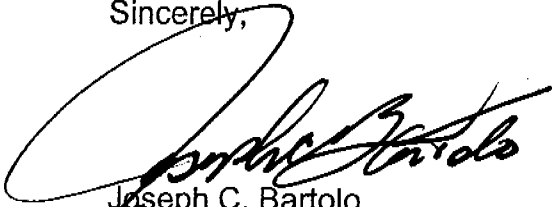
We find that a "normal traffic stop" with the issuance of a citation takes between seven to ten minutes; this is including license and registration checks. I can foresee a delay to a motorist having date collected from him/her to be no less than twenty minutes, which in my opinion is excessive.

Also, this leaves my deputies in a vulnerable position for too long. They would be directing their attention to maps and charts to be able to fulfill the census requirements, which would mean their attention would not be directed where it should be, on the motorists they have stopped.

Lastly, having the officers required to have an "identifying number", if this rule is designed to collect date only, why would an officer need an identifier? The census tracts and blocks would be sufficient to show what county the stop was made in and the department name would be on the form, therefore, why would there be a need for officer identifiers? Would these be protected under the Freedom of Information Act?

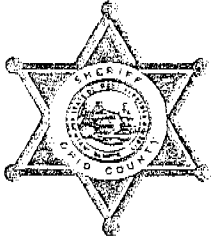
I feel this legislation would be very difficult for agencies and officers to adhere to because of the lengthy reporting requirements and I would suggest that the legislators seriously consider revisiting this issue before making their final decision.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph C. Bartolo". The signature is written in a cursive, flowing style with a large initial "J".

Joseph C. Bartolo  
Sheriff and Treasurer of Monongalia County

cc: Allen Kisner, Chief Deputy  
Melissa McClung, WV Sheriff's Association  
Patti Hamilton, WVACO



# SHERIFF, OHIO COUNTY

P. O. BOX 188  
WHEELING, WEST VIRGINIA 26003

THOMAS F. BURGOYNE  
Sheriff & Treasurer

SHARON MAGEE  
Chief Tax Deputy

PATRICK M. BUTLER  
Chief Deputy

TELEPHONE  
TAX OFFICE: 234-3688  
LAW ENFORCEMENT: 234-3680

November 9, 2004

Jeffrey D. Estep  
Deputy Director – Operations  
WV Division of Criminal Justice Services  
1204 Kanawha Blvd. East  
Charleston, WV 25301

Dear Mr. Estep:

I have had the opportunity to read the proposed rules dealing with the implementation of MVSDCS for the Study of Racial Profiling and as a former Special Agent with the Federal Bureau of Investigation in West Virginia for almost thirty years, I have a very difficult time understanding the rationale for such a proposed endeavor.

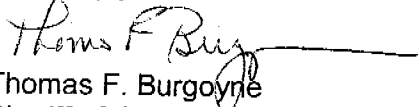
I have also had the opportunity to read comments submitted to you by Sheriff Bill Laird of Fayette County and I believe Sheriff Laird's comments and views are indeed shared by every other sheriff in West Virginia with whom I have discussed this matter.

I think the key to understanding this proposed rule is set forth in the sentence, "Studying the possible practice of racial profiling by law enforcement in West Virginia." If we spend our time attacking "possible" problems which exist in the framework of our profession, it takes us away from dealing with the problems which we already know exist. I don't believe we have to "re-invent the wheel" in West Virginia. Have we looked at measures taken in segments of our country which have historically been prone to known abuse of racial profiling or even worse? What have the federal authorities proposed in their analysis of the "possible" problems in other portions of our country?

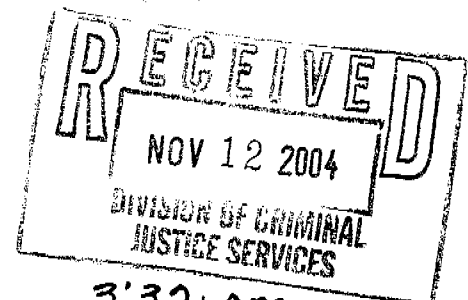
Arming our deputies with an encyclopedia of terms and requirements for a stop sign violation is in my estimation like dropping an H-bomb on school truants. The matter involving the census tracking and census block certainly is indeed more than a frustrating requirement. This will truly have an adverse effect upon the morale of our police officers across the state. I am a strong believer in the old adage "if it ain't broke, don't try to fix it."

I will look forward to further communications concerning this matter.

Sincerely yours,

  
Thomas F. Burgoyne  
Sheriff of Ohio County

TFB:st

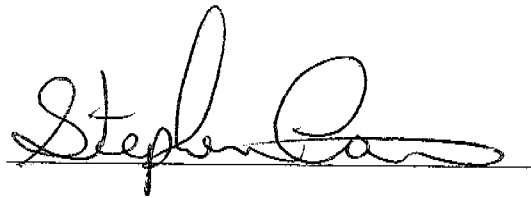


FAIRMONT CITY POLICE DEPARTMENT  
211 MONROE STREET  
FAIRMONT, WV  
26554  
Phone # 304-366-5644

To Governor's Committee on Crime , Delinquency and Correction

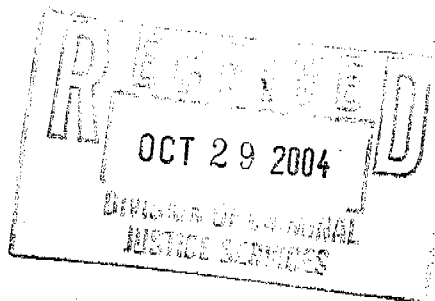
Reference to Motor vehicle stop data collection standards for study of racial profiling

To whom it concerns. As Chief of Police and a police officer for (29) years, I want to respond to the proposed rule referenced above. I understand the rationale for the proposed rule. I don't understand the reason for such a lengthy report for each and every traffic stop. If it has to be, then it has to be. However, by encumbering the officers to file this report on each and every traffic stop. You are creating a monster. If the goal is to get officers to not enforce traffic laws then this may accomplish that. If the information must be collected, then streamline the data needed. If an average officer does (5 ) or more stops a shift plus other duties. That's about all he/she can do without affecting job performance. Add this new report that appears to be voluminous, and you may have just broke the camel's back. Again if the DATA needs collected. Let's collect it in a short, quick format.



Stephen G. Cain  
Chief of Police  
October 26<sup>th</sup>, 2004

Please see attached.



XXX. RACIAL PROFILING POLICY AND PROCEDURE

1. POLICY      The West Virginia Legislature has declared that racial profiling as a law enforcement tactic is contrary to public policy and should not be used as an investigative strategy. No officer employed by this department shall engage in racial profiling. At the same time, it is the policy of this department to patrol in a proactive manner, to aggressively investigate suspicious persons and circumstances, and to actively enforce all laws. The department insists, however, that citizens will only be stopped or detained when there exists reasonable suspicion to believe they have committed, are committing, or are about to commit, an infraction of the law.

2. PURPOSE      The purpose of this policy is to unequivocally state that profiling based solely on race in law enforcement is unacceptable, to provide guidelines for officers to prevent racial profiling and to protect our officers from unwarranted accusations when they act within dictates of the law and policy.

### III. PROCEDURES

#### A. Definitions

1. Racial profiling. The practice of a law-enforcement officer relying, to any degree, on race, ethnicity, or national origin in selecting which individuals to subject to routine investigatory activities, or in deciding upon the scope and substance of law-enforcement activity following the initial routine investigatory activity. Racial profiling does not include reliance on race, ethnicity, or national origin in combination with other identifying factors when the law-enforcement officer is seeking to apprehend a specific suspect whose race, ethnicity, or national origin is part of the description of the suspect.
2. Reasonable suspicion: Also known as articulable suspicion, suspicion that is more than a mere hunch, but is based on a set of articulable facts and circumstances that would warrant a person of reasonable caution in believing that an infraction of the law has been committed, is about to be committed, or is in the process of being committed, by the person or persons under suspicion. This can be based on the observation of a police officer combined with his or her training and experience, and/or outside sources.

#### B. Operations

1. This department will be directed toward assigning patrol officers to those areas where there is the highest likelihood that motor vehicle accidents will be reduced

and or crimes prevented through proactive patrol.

2. Officers should receive training in proactive enforcement tactics, including training in officer safety, courtesy, cultural diversity, the laws governing search and seizure, and interpersonal communication skills.
3. Training programs should emphasize the need to respect the rights of all citizens to be free from unreasonable government intrusion or police action.
4. Supervisory oversight will be provided consistently to ensure that officers comply with this policy.
5. Citizens shall only be subject to traffic stops, stop and frisks, questioning, search and seizures upon reasonable suspicion that they have committed, are committing, or are about to commit an infraction.
6. The department recognizes that with experience, individual officers may develop individualized approaches that they find work best for them in minimizing conflict during officer/violator contacts. Given some better approach, the following is recommended, in the order specified below:
  - a. Give a greeting, such as "Good morning ma'am" or sir, etc.
  - b. State the reason why the person was stopped.
  - c. Politely ask for identification and any required documents.
  - d. After completing any necessary paperwork, inform the citizen as to what action is being taken and what, if any, the person must do as a result.
  - e. Be polite within the realm of reasonableness while paying attention to officer security. Never use the trite expression,

"Have a nice day."

7. No citizen, once cited or warned, shall be detained beyond the point where there exists no reasonable suspicion of further criminal activity, and no person or vehicle shall be searched in the absence of a warrant, a legally recognized exception to the warrant requirement, or the person's voluntary consent. In each case where a search is conducted, this information shall be recorded, including the legal basis for the search, and the results thereof. A case report or incident report shall be initiated for each search.
8. In the absence of a specific, credible report containing a physical description, a person's race shall not be a factor in determining probable cause for an arrest or reasonable suspicion for a stop.
9. If at any time the citizen expresses concern or alludes to racial profiling the officer shall continue his duty, search, etc. In addition:
  - a. The officer shall notify his immediate supervisor of the incident as soon as possible.
  - b. The officer shall explain to the citizen the process of filing a complaint with the Chief Administrative Officer.

C. Complaints of Racial/Ethnic Profiling

1. Any person may file a complaint with this department if they feel they have been subjected to racial profiling, and no person shall be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because they have filed such a complaint.
2. Any officer contacted by a person who wishes to file such a complaint, shall

- provide the citizen with the name and number of the officer who receives complaints. The officer shall make an effort to gain the name and address of the citizen requesting the information. This information shall be given to the officer who receives complaints before the completion of the Officer's shift.
3. Any officer receiving a written report shall mark same with a date and time notation and forward it to the officer who receives complaints. Receipt of the complaint shall be acknowledged in writing.
  4. All racial profiling complaints shall be reviewed and an investigation conducted under department policies. The resulting report, with the reviewer's conclusion, shall be filed with the Chief Administrative Officer, and may contain suggestions for disciplinary action or changes in policy, training, or tactics. The complainant shall be notified in writing of the results and findings of the investigation.
  5. Supervisors shall review complaints, periodically review a sampling of in-car video tapes of stops, reports filed on stops by officer, and respond at random to back up officers, and shall take appropriate action whenever it appears that this policy is being violated, being particularly alert to any pattern of practice of possible discriminatory treatment by individual officers.
  6. Officers who engage in racial profiling will be disciplined in accordance with departmental policy and civil service rules as appropriate.



## MORGANTOWN POLICE DEPARTMENT

300 SPRUCE STREET  
MORGANTOWN, WEST VIRGINIA 26505-5500  
TELEPHONE NUMBER (304) 284-7496



October 27, 2004

J. Norbert Federspiel, Director  
Division of Criminal Justice Services  
1204 Kanawha Boulevard, East  
Charleston, WV 25301

Sir:

As Police Chief of the Morgantown Police Department, I would like to forward my comments regarding the Motor Vehicle Stop Data Collection Standards for the Study of Racial Profiling. Obviously, this rule will effect our agency in that officers will be required to file yet another state mandated form for every traffic stop made. It is my opinion that if this proposed rule is allowed to proceed in it's current form, we as police administrators, will see a drastic decrease in traffic enforcement. The Morgantown Police Department has video cameras installed in all front line Police Vehicles. These cameras were installed in the wake of racial profiling controversies in the early 90's. We also have in place an anti-profiling policy and procedure.

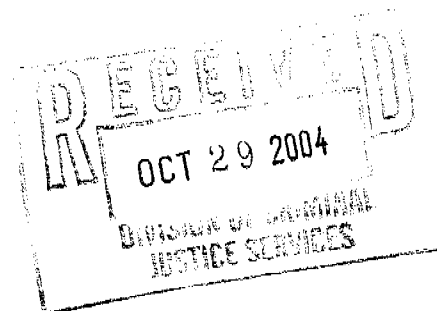
The Morgantown Police Department is home to West Virginia University and we are one of the most diverse communities in the State. We also have a Policy to be a Proactive Police Department and have encouraged our officers to aggressively investigate suspicious persons and circumstances while actively enforcing all laws. No officer of the Morgantown Police Department engages in racial profiling. Citizens and motorists are stopped only when there exists a reasonable suspicion that an infraction of the law has been committed. I would unequivocally state that no Morgantown Police officer takes any enforcement action based solely on race. We take pride in our officer's cultural diversity.

If we must participate in data collection, I would recommend a a short form which would require little time to complete. A long form which is computer generated is simply not feasible to officer productivity and certainly not feasible in encouraging officers to continue making traffic stops as they previously have.

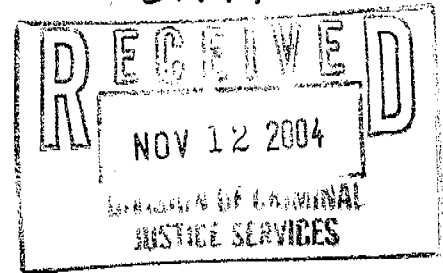
I welcome you to come to the Morgantown Police Department and review our video tapes to enable you to see that we are compliant. I see no just cause in requiring another State mandated form that has no credible basis, especially one that will be filled with huge data inconsistencies and will do no more than require officers to spend their time filling out forms and not performing their duties, as they should be.

Respectfully Submitted,

Chief P.K. Scott  
Morgantown Police Department



Patricia A. Noland  
Clerk of Circuit Court  
P. O. Box 1234  
Charles Town, WV 25414



Telephone No. (304) 728-3232

Fax No. (304) 728-3398

November 8, 2004

J. Norbert Federspiel, Director  
Division of Criminal Justice Services  
1204 Kanawha Boulevard, East  
Charleston, WV 25301

Re: Comments on Rules for Data Collection Standards for Study of Racial Profiling

Dear Director Federspiel,

You will find my comments below regarding the rules for data collection for study of racial profiling. I have many concerns regarding the rules as they are written. My concerns are listed below.

1. Police officers are short in supply and long on demand. The form is too long. Our officers will spend more time completing the form than protecting our citizens.
2. To require the same information for an expired inspection sticker or expired registration as a serious traffic offense such as reckless driving or DUI makes no sense.
3. Will the cost to obtain the maps showing the census tracts and census blocks be born by counties or will this be yet another unfunded mandate?
4. Will the training of officers be the responsibility of each law enforcement agency? If so, will those agencies be reimbursed the cost of said training?

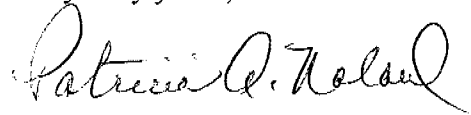
I believe that if implemented, these rules will put the public at greater risk because police officers will be less inclined to patrol our streets and highways due to the added paper work required with each traffic stop. Police officers will be in jeopardy as well. They will spend at least twice as much time at each traffic stop, which will increase their chances of becoming the victims of assault, especially in cases where there are several passengers in a vehicle and the police officer must obtain so much information from each passenger. We do not take the safety of police officers seriously enough. We take them

for granted just because they carry guns and because they have the authority to arrest criminals. We forget that they are also human beings with families who are dedicated to upholding the laws of our state and protecting our citizens.

I sincerely hope that these rules will be reconsidered and amended to allow our police officers to do what we citizens expect them to do, which is to protect and to serve.

If you have any questions about my comments, please feel free to contact me at the phone number listed in the letterhead.

Very truly yours,

A handwritten signature in cursive script that reads "Patricia A. Noland". The signature is written in black ink and is positioned above the typed name.

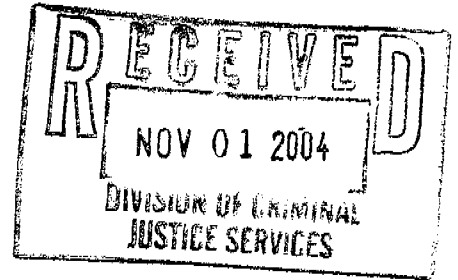
Patricia A. Noland  
Circuit Clerk, Jefferson County, WV



JEFFREY V. KESSLER  
CHAIRMAN  
514 SEVENTH STREET  
MOUNDSVILLE 26041

THE SENATE OF WEST VIRGINIA  
COMMITTEE ON THE JUDICIARY  
CHARLESTON 25306

October 26, 2004



Joseph R. Adams, President  
West Virginia Troopers Association, Inc.  
210 Chesapeake Avenue  
Charleston WV 25311

Dear Mr. Adams:

Thank you for your letter dated October 15, 2004 regarding the legislative rule resulting from the racial profiling legislation passed during the most recent legislative session. I share your concerns regarding the cost and inconvenience of using printed census block maps to report the location of the traffic stop on the form approved by the Division of Criminal Justice Services.

By statute, the form must gather information regarding the location of the stop, and I am advised that the Division believes that census block location is the only way to process the data collected electronically. It is my understanding that the Division has already filed an emergency rule incorporating the census block method and has let a contract to print the forms, which, by statute, must be available for use by January 1, 2005. Accordingly, any change in the location reporting method would have to be the subject of a statutory change during the 2005 Regular Session of the Legislature or a modification of the rule by the Legislative Rule-Making Review Committee.

Your letter does not suggest an alternative method of reporting the location of the traffic stop. However, in view of the apparent necessity of collecting that information, two possible alternatives to eliminating the census block method spring to mind. First, rather than using printed census block maps, would it not be possible for the police agency to download the maps for free and make them available to the officers in electronic form, either by DVD reader or some sort of Palm Pilot or other electronic device, thereby directing any cost to purchasing equipment rather than to hard copy reproduction? Second, might it not be possible to modify the rule to either phase in census block location reporting or limit mandatory use of census block identification to certain areas or situations?

I am forwarding a copy of this letter to Norb Federspiel at the Division of Criminal Justice Services and look forward to hearing your recommendations with regard to this issue.

Very truly yours,

*Jeffrey V. Kessler*  
Jeffrey V. Kessler

JVK:cab

cc: Terry L. Miller, President, WV Deputy Sheriff's Association  
Steve Walker, President, FOP  
Norbert Federspiel, Director, WV Division of Criminal Justice Services ✓

**TITLE 149  
LEGISLATIVE RULE  
GOVERNOR'S COMMITTEE ON CRIME, DELINQUENCY AND  
CORRECTION**

**SERIES 5  
MOTOR VEHICLE STOP DATA COLLECTION STANDARDS  
FOR THE STUDY OF RACIAL PROFILING**

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**SUMMARY OF PROPOSED RULE**

This legislative rule establishes standards for the collection, reporting and compilation of data, for the purpose of studying the possible practice of racial profiling by law enforcement in West Virginia. This legislative rule further establishes the standards by which this data will be issued.

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**STATEMENT OF CIRCUMSTANCES**

The West Virginia Legislature passed the West Virginia Racial Profiling Data Collection Act (§17G-1) for the purpose of creating a mechanism to identify factors which may indicate possible racial profiling practices in West Virginia through the production of an annual report, and by law enforcement administrators on an ad hoc basis. The Racial Profiling Data Collection Act stipulates *"To facilitate the commencement of data collection on the first day of January, two thousand five, the director of the governor's committee on crime, delinquency and corrections, in consultation with the division of motor vehicles, shall propose emergency and legislative rules"* designed to implement this Act.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Motor Vehicle Stop Data Collection Standards for the Study of Racial Profiling

Type of Rule:  Legislative  Interpretive  Procedural

Agency: Governor's Committee on Crime, Delinquency and Correction

Address: West Virginia Division of Criminal Justice Services  
1204 Kanawha Boulevard, East, Charleston, WV 25301  
Attention: Jeffrey D. Estep

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Phone Number: (304) 558-8814, Ext. 267 Email: jestep@wvdcjs.org

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

There are no costs associated with the filing of this rule beyond those costs currently established and/or considered in code.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

<b>FISCAL YEAR</b>			
Effect of Proposal	2005 Increase/Decrease (use "-")	2006 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Equipment			
Other			
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: Motor Vehicle Stop Data Collection Standards for the Study of Racial Profiling

**3. Explanation of above estimates (including long-range effect):**

Please include any increase or decrease in fees in your estimated total revenues.

N/A

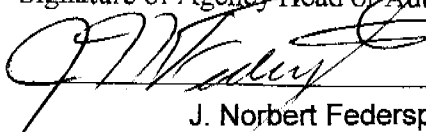
**MEMORANDUM**

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

There are no costs associated with the filing of this rule beyond those costs currently established and/or considered in code. Enacting legislation has passed which created any fiscal impact. This rule does not create any additional impact (i.e. fees, surcharges, etc.).

Date: November 23, 2004

Signature of Agency Head or Authorized Representative

  
\_\_\_\_\_  
J. Norbert Federspiel, Director

**TITLE 149  
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MOTOR VEHICLE STOP DATA COLLECTION STANDARDS  
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**FILED**  
2004 NOV 23 A 108  
OFFICE OF THE SECRETARY OF STATE  
WEST VIRGINIA

**§149-5-1. General.**

1.1. Scope. -- This legislative rule establishes standards for the collection, reporting and compilation of data, for the purpose of studying the possible practice of racial profiling by law enforcement in West Virginia. This legislative rule further establishes the standards by which this data will be issued.

1.2. Authority. -- W. Va. Code §17G-2-3.

1.3. Filing Date. --

1.4. Effective Date. --

**§149-5-2. Definitions.**

2.1. "Chief executive" means the superintendent of the State Police; the chief conservation officer of the Division of Natural Resources; the sheriff of any West Virginia county; any administrative deputy appointed by the chief conservation officer of natural resources; or the chief of any West Virginia municipal law enforcement agency.

2.2. "County" means any one of the fifty-five major political subdivisions of the state.

2.3. "Governor's Committee on Crime, Delinquency and Correction" or "Governor's Committee" means the Governor's Committee on Crime, Delinquency and Correction established as a state planning agency pursuant to W. Va. Code §15-9-1.

2.4. "Gross data" means aggregate data regarding the information obtained pursuant to §149-5-3.

2.5. "Law enforcement agency" means every West Virginia state, county or municipal agency with officers who are authorized to direct or regulate traffic or to make arrests or issue citations or warnings for violations of traffic laws and ordinances.

2.6. "Law enforcement officer" means any duly authorized member of a law enforcement agency who is authorized to maintain public peace and order, prevent and detect crime, make arrests and enforce the laws of the state or any county or municipality of the state, including persons employed as campus police officers at state institutions of higher education and those persons employed as rangers by the Hatfield-McCoy regional recreation authority.

2.7. "Law enforcement official" means the duly appointed chief administrator of a designated law enforcement agency or a duly authorized designee.

2.8. "Minority group" means individuals of any ethnic descent, including, but not limited to,

African-American, Hispanic, Native American, Middle Eastern, Asian or Pacific Islander.

2.9. "Municipality" means any incorporated town, village or city whose boundaries lie within the geographic boundaries of the state.

2.10. "West Virginia Motor Vehicle Stop Form," or "MVSF," means the form developed and promulgated by the Division of Motor Vehicles for collecting and reporting data for the study of racial profiling as set forth in this rule.

**§149-5-3. Data Collection.**

3.1. Operator Information Collected. -- Beginning January 1, 2005, each time a law enforcement officer stops a driver of a motor vehicle for a violation of any motor vehicle statute or ordinance, the officer shall obtain certain information based on the officer's visual observation and perception about the nature, duration and outcome of the stop, including, but not limited to, information relating to the perceived racial characteristics of each operator stopped. This information shall be recorded on a West Virginia Motor Vehicle Stop Form. The Motor Vehicle Stop Form shall be completed during or immediately after the vehicle stop or at any time during the law enforcement officer's shift. The Motor Vehicle Stop Form shall be completed before the officer goes off duty and be provided to the West Virginia law enforcement agency which employs the law enforcement officer.

Information relating to the perceived racial characteristics of each operator shall be collected only for a stop resulting from a violation of a motor vehicle statute or ordinance. Information relating to the perceived racial characteristics need not be collected on the operator for a non-violation stop, even if the initial non-violation stop results in a violation. For the purposes of this rule, non-violation stops include, but are not limited to, a checkpoint for driving under the influence, license, registration or seat belts.

3.2. Passenger Information Collected. -- Beginning January 1, 2005, each time a law enforcement officer stops a driver of a motor vehicle for a violation of any motor vehicle statute or ordinance, and a passenger or passengers is searched as a result of this stop, the officer shall obtain certain information based on the officer's visual observation and perception about the passenger or passengers searched, including, but not limited to, information relating to the perceived age, gender and race or minority group of the passenger or passengers searched. This information shall be recorded on the appropriate portions of a West Virginia Motor Vehicle Stop Form. The Motor Vehicle Stop Form shall be completed during or immediately after the vehicle stop or at any time during the law enforcement officer's shift. The Motor Vehicle Stop Form shall be completed before the officer goes off duty and be provided to the West Virginia law enforcement agency which employs the law enforcement officer.

Information relating to the perceived age, gender and race or minority group of the passenger or passengers searched shall only be collected for a stop resulting from a violation of a motor vehicle statute or ordinance. Information relating to the perceived age, gender and race or minority group need not be collected on the passenger or passengers searched for a non-violation stop, even if the initial non-violation stop results in a violation. For the purposes of this rule, non-

violation stops include, but are not limited to, a checkpoint for driving under the influence, license, registration or seat belts.

3.3. Division of Motor Vehicles Single Point of Contact. -- The Commissioner of the West Virginia Division of Motor Vehicles shall designate an agency, program or single point of contact of that Division responsible for the implementation and administration of the provisions of the West Virginia Racial Profiling Data Collection Act and this rule. The Commissioner may, from time to time and at his or her discretion, change this designation. It is the responsibility of the Division of Motor Vehicles to notify all law enforcement agencies of this designation.

3.4. West Virginia Motor Vehicle Stop Form (MVSF). -- The Division of Motor Vehicles shall develop the MVSF. This form shall:

3.4.a. Contain all components as listed in §149-5-3.5.; and,

3.4.b. At a minimum, be developed in hard copy format; however, the Division of Motor Vehicles may, in its discretion, develop the form to allow a law enforcement agency the ability to complete and/or submit the required information contained on the MVSF in an electronic format.

3.5. MVSF Components. -- The information to be collected and/or contained on the MVSF shall include the following:

3.5.a. MVSF identifier. -- This component shall be a unique identifier (i.e. numeric, alphanumeric, barcode, etc.) which will enable one MVSF to be distinguishable from all other MVSFs which have been issued from the Division of Motor Vehicles.

3.5.b. Law enforcement agency identifier. -- This component shall enable an individual law enforcement officer to indicate his or her law enforcement agency's complete Originating Agency Identifier (ORI number), or an abbreviated version of that identifier singularly unique to that particular law enforcement agency.

3.5.c. Law enforcement officer primary assignment. -- This component shall enable an individual law enforcement officer to indicate his or her primary activities at the time of stop and be limited to the following:

3.5.c.1. Patrol;

3.5.c.2. Traffic;

3.5.c.3. Investigation;

3.5.c.4. Drug Task Force;

3.5.c.5. Violent Crime Task Force;

3.5.c.6. Special Event; and,

3.5.c.7. Other.

3.5.d. Law enforcement officer identifier. -- This component shall enable an individual law enforcement officer to uniquely identify himself or herself within his or her law enforcement agency. It is the responsibility of the chief executive or law enforcement official of the law enforcement agency to assign a unique four (4) digit identifier to all law enforcement officers within his or her agency to record on the MVSF.

3.5.e. Date of stop. -- This component shall enable an individual law enforcement officer to indicate the month, day and year of the stop.

3.5.f. Time of stop. -- This component shall enable an individual law enforcement officer to indicate the approximate hour and minute of the stop.

3.5.g. Duration of the stop. -- This component shall enable an individual law enforcement officer to indicate the approximate duration of the stop in hours and minutes.

3.5.h. License check. -- This component shall enable an individual law enforcement officer to indicate whether a license check was conducted on the vehicle prior to the stop.

3.5.i. County of stop. -- This component shall enable an individual law enforcement officer to indicate the county in which the stop took place.

3.5.j. Location of stop. -- This component shall be listed as "Optional" on the MVSF and shall enable individual law enforcement officers to indicate a detailed location in which the stop took place and be divided into a "census tract" category and a "census block" category.

3.5.j.1. The census tract category shall enable individual law enforcement officers to indicate the complete census tract identifier in which the stop took place.

3.5.j.2. The census block category shall enable individual law enforcement officers to indicate the complete census block identifier in which the stop took place.

3.5.j.3. It shall be at the discretion of the chief executive or law enforcement official of the law enforcement agency to require that their officers complete this component of the MVSF. Should this requirement be issued, it is the responsibility of the chief executive or law enforcement official of the law enforcement agency to provide appropriate maps to his or her officers which contain census tract and census block identification numbers to record on the MVSF.

3.5.k. Type of roadway. -- This component shall enable an individual law enforcement officer to indicate whether the stop took place on an interstate, US route, West Virginia route, city street, turnpike or other location.

3.5.l. Stop directed by. -- This component shall enable an individual law enforcement officer to indicate whether:

- 3.5.l.1. The stop was initiated solely by the officer;
- 3.5.l.2. The stop was made at the request of a citizen;
- 3.5.l.3. The stop was made at the direction of a supervisor; or,
- 3.5.l.4. The stop was made by direction of dispatch.

3.5.m. The traffic violation or violations alleged to have been committed that led to the stop. -- This component shall be divided into a "vehicle code violation" category and a "penal code violation" category.

3.5.m.1. The vehicle code violation category shall enable an individual law enforcement officer to indicate the primary and secondary reasons for the stop and be limited to the following:

- 3.5.m.1.A. Red light/stop sign;
- 3.5.m.1.B. Speeding (<10mph over);
- 3.5.m.1.C. Speeding (>10mph over);
- 3.5.m.1.D. Lane violation/failure to signal;
- 3.5.m.1.E. Other moving violation; or,
- 3.5.m.1.F. Other nonmoving violation.

3.5.m.2. The penal code violation category shall enable an individual law enforcement officer to indicate the primary and secondary reasons for the stop and be limited to the following:

- 3.5.m.2.A. Nuisance/vice;
- 3.5.m.2.B. Suspicious circumstances;
- 3.5.m.2.C. Be on the lookout (BOLO)/wanted persons;
- 3.5.m.2.D. Property crime;
- 3.5.m.2.E. Violent crime; or,
- 3.5.m.2.F. Local ordinance.

3.5.n. Disposition. -- This component shall enable an individual law enforcement officer to indicate the disposition of the stop and be limited to the following:

- 3.5.n.1. Arrest;
- 3.5.n.2. Criminal citation;
- 3.5.n.3. Traffic citation;
- 3.5.n.4. Written warning;
- 3.5.n.5. Verbal warning; or,
- 3.5.n.6. No action.

3.5.o. The perceived identifying characteristics of the operator stopped, including:

3.5.o.1. Gender. -- This component shall enable an individual law enforcement officer to indicate whether the operator was male or female.

3.5.o.2. Race. -- This component shall enable an individual law enforcement officer to indicate whether the operator was:

- 3.5.o.2.A. White (W);
- 3.5.o.2.B. Black/African American (B/AA);
- 3.5.o.2.C. Asian/Pacific Islander (A/PI);
- 3.5.o.2.D. Native American (NA);
- 3.5.o.2.E. Middle Eastern (ME); or,
- 3.5.o.2.F. Other (Oth).

3.5.o.3. Ethnicity. -- This component shall enable an individual law enforcement officer to indicate whether the operator was:

- 3.5.o.3.A. Hispanic/Latino (H/L); or,
- 3.5.o.3.B. Nonhispanic/Latino (NH/L).

3.5.o.4. Age. -- This component shall enable an individual law enforcement officer to indicate the age of the operator stopped.

3.5.p. Residence (ZIP code). -- This component shall enable an individual law enforcement officer to indicate the place of residence of the operator stopped based on ZIP code.

3.5.q. Number of passengers. -- This component shall enable an individual law

enforcement officer to indicate whether there were no passengers in the vehicle stopped, or whether there was one (1), two (2), three (3), four (4), or five (5) or more passenger(s) in the vehicle stopped.

3.5.r. Whether a search was performed as a result of the stop and, if a search was performed:

3.5.r.1. Whether the officer requested consent to search.

3.5.r.2. The number of passengers searched. -- This component shall enable an individual law enforcement officer to indicate whether there were no passengers searched in the vehicle stopped, or whether there was one (1), two (2), three (3), four (4), or five (5) or more passenger(s) searched in the vehicle stopped.

3.5.r.3. Search authority. -- This component shall enable an individual law enforcement officer to indicate by what authority the search was conducted and be limited to:

3.5.r.3.A. Consent;

3.5.r.3.B. Reasonable Suspicion/Weapon;

3.5.r.3.C. Incident to Arrest;

3.5.r.3.D. Inventory;

3.5.r.3.E. Probable Cause;

3.5.r.3.F. Plain View;

3.5.r.3.G. Probation/Parole Waiver; and,

3.5.r.3.H. Other.

3.5.r.4. Mode of search. -- This component shall enable an individual law enforcement officer to indicate what type of search took place and be limited to:

3.5.r.4.A. Officer;

3.5.r.4.B. Canine Unit;

3.5.r.4.C. Portable Breath Analyzer;

3.5.r.4.D. Drug Test Kit;

3.5.r.4.E. Warrant Check; and,

3.5.r.4.F. Other.

3.5.r.5. Persons/items searched. -- This component shall enable an individual law enforcement officer to indicate specifically what was searched and be limited to:

- 3.5.r.5.A. Vehicle;
- 3.5.r.5.B. Driver;
- 3.5.r.5.C. Passenger(s);
- 3.5.r.5.D. Personal Effects; and,
- 3.5.r.5.E. No Search Conducted.

3.5.r.6. Contraband found. -- This component shall enable an individual law enforcement officer to indicate whether any contraband was discovered or seized in the course of the search and the type of any contraband discovered or seized, and be limited to:

- 3.5.r.6.A. None;
- 3.5.r.6.B. Illegal Drugs;
- 3.5.r.6.C. Drug Paraphernalia;
- 3.5.r.6.D. Alcohol;
- 3.5.r.6.E. Firearm(s);
- 3.5.r.6.F. Other Weapon(s);
- 3.5.r.6.G. Currency;
- 3.5.r.6.H. Stolen Property; and,
- 3.5.r.6.I. Other.

3.5.s. Passenger information. -- If a search was of a passenger(s) in the motor vehicle, this component shall enable an individual law enforcement officer to indicate the perceived gender, race, ethnicity and age of the passenger(s) searched. This component shall enable the individual law enforcement officer to indicate this information for up to four (4) passengers searched.

3.5.t. Instructions detailing how an individual law enforcement officer should complete and submit the form. These instructions may be included on the MVSF itself, or provided as an attachment to law enforcement agencies or officers.

3.6. MVSF Distribution. -- The Division of Motor Vehicles shall distribute the MVSF to all West

Virginia law enforcement agencies in hard copy format on a monthly basis. The Division of Motor Vehicles may distribute the MVSF on a bimonthly, quarterly, semiannual or annual basis to a particular agency if the Division of Motor Vehicles determines, in its discretion, that the needs of that agency do not necessitate monthly delivery. The number of forms distributed to a law enforcement agency shall allow for the reporting of data for the greatest anticipated amount of motor vehicle stops for that agency, for any given calendar month, regardless of whether the forms are provided on a monthly, bimonthly, quarterly, semiannual or annual basis. Law enforcement agencies may request additional MVSFs from the Division of Motor Vehicles as the need arises.

3.7. Additional Responsibilities of the Division of Motor Vehicles. -- It is the responsibility of the Division of Motor Vehicles to detect missing, incomplete, or erroneous data submitted pursuant to the requirements of this rule. In furtherance of this responsibility, the Division of Motor Vehicles shall establish a mechanism to:

3.7.a. Periodically review data submitted on the MVSF;

3.7.b. Ensure that data submitted on the MVSF is correct and usable pursuant to the requirements of this rule;

3.7.c. Return incomplete or rejected MVSFs to law enforcement agencies;

3.7.d. Remove duplicate data; and,

3.7.e. Perform any other measures necessary to ensure the provisions of this rule are carried out.

#### **§149-5-4. Data Reporting.**

4.1. Reporting. -- Beginning January 1, 2005, each law enforcement agency shall submit all completed MVSFs as required by this rule to the Division of Motor Vehicles, via United States Postal Service or any other reputable mail delivery service, hand-delivery or, and at the discretion of the Division of Motor Vehicles, electronically.

4.2. Reporting Frequency. -- Each law enforcement agency shall submit all MVSFs as required by this rule on a monthly basis. MVSFs must be received by the Division of Motor Vehicles no later than close of business, normal operating hours, on the fifteenth (15<sup>th</sup>) day following the end of the reporting calendar month.

4.3. MVSFs Condition and Usability. -- All MVSFs shall be completed correctly, be free of dirt and debris, and be submitted in usable condition for the purposes outlined in this rule.

4.4. MVSF Completion Training. -- On or after the effective date of this rule, all law enforcement officers shall, prior to duty, and as deemed appropriate by the chief executive or law enforcement official of the law enforcement agency with regard to time and content, receive training on the completion of the MVSF. The law enforcement agency shall develop and deliver this training based on the instructions, as provided by the Division of Motor Vehicles pursuant to §149-5-3.5.t.

Upon completion of this training, law enforcement officers must be able to successfully complete and submit the MVSF in a manner usable for the purposes of this rule. Additional and/or ongoing training may be required by the law enforcement agency or by the Division of Motor Vehicles if problematic reporting is identified.

4.5. It is the responsibility of the chief executive or law enforcement official of the law enforcement agency to ensure that the requirements of this section are met. In furtherance of this responsibility, the chief executive or law enforcement official shall periodically audit and review MVSFs submitted by law enforcement officers within his or her agency to ensure that the facts of the stops taking place are not being intentionally misrepresented.

#### **§149-5-5. Non-compliance of Reporting.**

5.1. Non-compliance. -- If a law enforcement agency fails to comply with the provisions of §149-5-4., that law enforcement agency shall be non-compliant. The Division of Motor Vehicles shall notify the agency by certified mail of its failure to comply and require the agency to comply within fifteen (15) calendar days. If the law enforcement agency fails to comply within this fifteen (15) day extension period, the Division of Motor Vehicles shall recommend to the Governor in writing, that state controlled funds appropriated to the non-compliant law enforcement agency be withheld until the requirements of §149-5-4. are met. At that time, the Governor may withhold state controlled funds appropriated to the non-compliant law enforcement agency.

#### **§149-5-6. Receipt and Retention of MVSF.**

6.1. MVSF Receiving and Retaining. -- The Division of Motor Vehicles shall establish a written policy designed to address the reasonably foreseeable complications which may arise as a result of receiving and retaining MVSFs submitted by a law enforcement agency, whether in hard copy or electronic format. This policy may change, from time to time and at the discretion of the Division of Motor Vehicles, as necessity dictates. This policy shall include, but not be limited to:

6.1.a. A mechanism for identifying the time, day, date and year the MVSF was received by the Division of Motor Vehicles;

6.1.b. A mechanism for maintaining accurate and easily accessible data regarding the reporting habits of individual law enforcement agencies; and,

6.1.c. The identification of an appropriate and logistically feasible time period to retain MVSFs submitted in hard copy format; as well as any data stored electronically as a result of this rule.

#### **§149-5-7. Individual Law Enforcement Agency Data Request and Release.**

7.1. Individual Agency Data Release Request. -- The chief executive or law enforcement official of a law enforcement agency may request from the Division of Motor Vehicles, release of data regarding his or her law enforcement agency and law enforcement officers only. This request must be in writing and must be received by the Division of Motor Vehicles no earlier than thirty (30)

days following the end of the calendar month for which individual agency data is being requested. The Division of Motor Vehicles shall provide the individual agency data to the requesting agency no later than thirty (30) calendar days following receipt of the request.

7.2. Individual Agency Data Release. -- Data regarding individual law enforcement agencies and officers shall be available for release from the Division of Motor Vehicles, to a requesting chief executive or law enforcement official of that law enforcement agency. At a minimum, this data shall be organized in such a manner as to allow the chief executive or law enforcement official of a law enforcement agency the ability to review the information collected from the MVSF for his or her particular agency and officers. This information shall be grouped for periods covering at least one calendar month, for each month of a year. Data regarding individual law enforcement agencies and officers may be released for other varying time periods at the discretion of the Division of Motor Vehicles.

**§149-5-8. Data limitations and individual officer anonymity and exemption.**

8.1. Any and all data collected, reported, compiled and issued as a result of this rule will be utilized expressly for the purposes outlined in this rule.

8.2. Except as provided for in §149-5-7., no individual officer information may be released in any manner to any entity, and the Division of Motor Vehicles, the Governor's Committee on Crime, Delinquency and Correction, and any chief executive or law enforcement official of a law enforcement agency shall make appropriate safeguards to protect the identity of individual law enforcement officers collecting data required by this rule at all times.

**§149-5-9. Methodology of Data Collection and Analysis of Data.**

9.1. Methodology. -- Data will be collected and compiled pursuant to the provisions established in this rule.

9.2. Analysis of Data. -- Data will be analyzed in a manner appropriate for fulfilling the requirements set forth in subsection 10.2. of this rule.

**§149-5-10. Governor's Committee on Crime Delinquency and Correction Annual Report.**

10.1. Protocols for reporting collected data by the Division of Motor Vehicles. -- On or before the sixteenth day of January, two thousand six, and each year thereafter, the Commissioner of the Division of Motor Vehicles shall provide the Executive Director of the Governor's Committee on Crime, Delinquency and Correction, in electronic delimited text format, the data collected from the MVSF. In addition to the data collected from the MVSF, the Commissioner of the Division of Motor Vehicles shall provide other data deemed necessary by the Governor's Committee on Crime, Delinquency and Correction for fulfilling the requirements set forth in subsection 10.2. of this rule. This data shall include, but not be limited to:

10.1.a. Estimates of the number of vehicles traveling on the public highways; and,

10.1.b. Demographic characteristics of registered vehicle owners and/or licensed drivers by zip codes and/or other geographical identifiers.

10.2. Governor's Committee Annual Report. -- On or before the first day of February, two thousand six and each year thereafter, the Executive Director of the Governor's Committee on Crime, Delinquency and Correction shall publish a public report of the data collected and provide a copy thereof to all law enforcement agencies subject to this rule in hard copy or electronic format. A copy of the report and analysis of the data collected shall also be provided to the Governor and to the Joint Committee on Government and Finance. At a minimum, this public report shall include, but not be limited to, the following information resulting from the provisions of this rule:

10.2.a. An executive summary which summarizes the findings of the report;

10.2.b. The number of motor vehicle stops and searches of motor vehicles occupied by members of a perceived minority group;

10.2.c. The number of motor vehicle stops and searches of motor vehicles occupied by persons who are not members of a minority group;

10.2.d. The population of minorities in the areas where the stops occurred;

10.2.e. Estimates of the number of all vehicles traveling on the public highways where the stops occurred;

10.2.f. Factors to be included in any evaluation that the data may indicate racial profiling, racial stereotyping or other race-based discrimination or selective enforcement; and,

10.2.g. Other data deemed appropriate by the Governor's Committee on Crime, Delinquency and Correction for the analysis of the protection of constitutional rights.

## **149CSR5 ATTACHMENTS**

These attachments represent examples of products to be created by the West Virginia Division of Motor Vehicles as a result of the rule and are intended for informational purposes ONLY. The final products generated may be different from those attached.

- 1.) *EXAMPLE* West Virginia Motor Vehicle Stop Form (MVSF)
- 2.) *EXAMPLE* West Virginia MVSF Instructions

# West Virginia Motor Vehicle Stop Form (MVSF)

### ORI Number (Your agency)

- 0 1 2 3 4 5 6 7 8 9
- 0 1 2 3 4 5 6 7 8 9
- 0 1 2 3 4 5 6 7 8 9
- 0 1 2 3 4 5 6 7 8 9
- 0 1 2 3 4 5 6 7 8 9
- 0 1 2 3 4 5 6 7 8 9
- 0 1 2 3 4 5 6 7 8 9

### Officer Primary Assignment

- 1 Patrol
- 2 Traffic
- 3 Investigation
- 4 Drug Task Force
- 5 Violent Crime TF
- 6 Special Event
- 7 Other

### Officer Identifier

- 0 1 2 3 4 5 6 7 8 9
- 0 1 2 3 4 5 6 7 8 9
- 0 1 2 3 4 5 6 7 8 9
- 0 1 2 3 4 5 6 7 8 9

### STOP INFORMATION

#### Date of Stop

- Month 0 1 2 3 4 5 6 7 8 9
- Day 0 1 2 3 4 5 6 7 8 9
- Year 0 1 2 3 4 5 6 7 8 9

#### Time of Stop

- Hour 0 1 2 3 4 5 6 7 8 9
- Minute 0 1 2 3 4 5 6 7 8 9

#### Duration of Stop

- Hours 0 1 2 3 4 5 6 7 8 9
- Minutes 0 1 2 3 4 5 6 7 8 9

#### License Check (Prior to stop) 1 Yes 2 No

#### County of Stop

- 0 1 2 3 4 5 6 7 8 9
- 0 1 2 3 4 5 6 7 8 9

#### Location of Stop (Optional)

- |                     |                     |
|---------------------|---------------------|
| <i>Census tract</i> | <i>Census block</i> |
| 0 1 2 3 4 5 6 7 8 9 | 0 1 2 3 4 5 6 7 8 9 |
| 0 1 2 3 4 5 6 7 8 9 | 0 1 2 3 4 5 6 7 8 9 |
| 0 1 2 3 4 5 6 7 8 9 | 0 1 2 3 4 5 6 7 8 9 |
| 0 1 2 3 4 5 6 7 8 9 | 0 1 2 3 4 5 6 7 8 9 |
| .                   |                     |
| 0 1 2 3 4 5 6 7 8 9 |                     |
| 0 1 2 3 4 5 6 7 8 9 |                     |

#### Type of Roadway (Select one)

- 1 Interstate
- 2 US Route
- 3 WV Route
- 4 City Street
- 5 Turnpike
- 6 Other

#### Stop Directed by (Select one)

- 1 Self-initiated
- 2 Citizen Request
- 3 Supervisor Direction
- 4 Direct Dispatch

#### Reason for Stop (P = Primary, S = Secondary)

- |                                      |                             |
|--------------------------------------|-----------------------------|
| <i>Vehicle Code Violation</i>        | <i>Penal Code Violation</i> |
| P S Red Light/Stop Sign              | P S Nuisance/Vice           |
| P S Speeding (<10mph over)           | P S Suspicious Circum       |
| P S Speeding (>10mph over)           | P S BOLO/Wanted Per         |
| P S Lane violation/failure to signal | P S Property Crime          |
| P S Other Moving violation           | P S Violent Crime           |
| P S Other Nonmoving violation        | P S Local Ordinance         |

#### Disposition (Most serious)

- 1 Arrest
- 2 Criminal Citation
- 3 Traffic Citation
- 4 Written Warning
- 5 Verbal Warning
- 6 No Action

**DRIVER CHARACTERISTICS**

Gender ① Male ② Female

**Race**

- ① White (W)
- ② Black/African Am (B/AA)
- ③ Asian/Pacific Islander (A/PI)
- ④ Native American (NA)
- ⑤ Middle Eastern (ME)
- ⑥ Other (Oth)

**ZIP Code (Driver's residence)**

①②③④⑤⑥⑦⑧⑨  
 ①②③④⑤⑥⑦⑧⑨  
 ①②③④⑤⑥⑦⑧⑨  
 ①②③④⑤⑥⑦⑧⑨  
 ①②③④⑤⑥⑦⑧⑨

**Ethnicity**

- ① Hispanic/Latino (H/L)
- ② Nonhispanic (NH/L)

**Age**

①②③④⑤⑥⑦⑧⑨  
 ①②③④⑤⑥⑦⑧⑨

Number of Passengers ①②③④ ⑤ 5 or more

**SEARCH INFORMATION**

Consent Requested to Search ① Yes ② No

Number of Passengers Searched ①②③④ ⑤ 5 or more

**Search Authority (Select one)**

- ① Consent
- ② Reasonable Susp/Weapon
- ③ Incident to Arrest
- ④ Inventory
- ⑤ Probable Cause
- ⑥ Plain View
- ⑦ Prob/Parole Waiver
- ⑧ Other

**Mode of Search (Mark all that apply)**

- ① Officer
- ② Canine Unit
- ③ Portable Breath Analyzer
- ④ Drug Test Kit
- ⑤ Warrant Check
- ⑥ Other

**Persons/Items Searched (Mark all that apply)**

- ① Vehicle
- ② Driver
- ③ Passenger(s)
- ④ Personal Effects
- ⑤ No search conducted

**Contraband Found (Mark all that apply)**

- ① None
- ② Illegal Drugs
- ③ Drug Paraphernalia
- ④ Alcohol
- ⑤ Firearm(s)
- ⑥ Other Weapon(s)
- ⑦ Currency
- ⑧ Stolen Property
- ⑨ Other

**PASSENGER INFORMATION (Complete only if search conducted)**

**Gender**

Passenger #1 ①M ②F Passenger #3 ①M ②F  
 Passenger #2 ①M ②F Passenger #4 ①M ②F

**Race**

Passenger #1 ①W ②B/AA ③A/PI ④NA ⑤ME ⑥Oth  
 Passenger #2 ①W ②B/AA ③A/PI ④NA ⑤ME ⑥Oth  
 Passenger #3 ①W ②B/AA ③A/PI ④NA ⑤ME ⑥Oth  
 Passenger #4 ①W ②B/AA ③A/PI ④NA ⑤ME ⑥Oth

**Ethnicity**

Passenger #1 ①H/L ②NH/L Passenger #3 ①H/L ②NH/L  
 Passenger #2 ①H/L ②NH/L Passenger #4 ①H/L ②NH/L

**Age**

Passenger #1 ①②③④⑤⑥⑦⑧⑨ ①②③④⑤⑥⑦⑧⑨  
 Passenger #2 ①②③④⑤⑥⑦⑧⑨ ①②③④⑤⑥⑦⑧⑨  
 Passenger #3 ①②③④⑤⑥⑦⑧⑨ ①②③④⑤⑥⑦⑧⑨  
 Passenger #4 ①②③④⑤⑥⑦⑧⑨ ①②③④⑤⑥⑦⑧⑨

- EXAMPLE INSTRUCTIONS -  
**FINAL INSTRUCTIONS TO BE PRODUCED AND PROMULGATED BY THE  
WEST VIRGINIA DIVISION OF MOTOR VEHICLES**

**WEST VIRGINIA  
MOTOR VEHICLE STOP FORM (MVSF)  
- INSTRUCTIONS -**

Pursuant to §149-5-4.4. of the West Virginia Code of State Rules, on or after January 1, 2005, all law enforcement officers must, prior to duty, receive training on how to properly complete and submit the MVSF. This training must be developed by the chief executive or law enforcement official (or designated individual) of the law enforcement agency. Time and content of the training are at the discretion of those developing and/or administering the training; however, the law enforcement agency must use these instructions as a guide when developing and delivering the training. Following completion of the training, law enforcement officers must be able to successfully complete and submit the MVSF pursuant to these instructions and and 149CSR5.

The MVSF must be completed using a number two (2) pencil or black pen to darken the components (bubbles) contained on the form. MVSFs must remain free of wrinkles, creases and dirt/debris at all times. **All** applicable bubbles on the form are to be completely darkened, taking care to only darken the individual bubble and not go outside the lines of that bubble.

**By darkening the corresponding number(s) and/or letter(s) on the MVSF, the law enforcement officer should indicate the following:**

**Originating Agency Identifier (Your agency):** The last seven (7) digits of the law enforcement agency's Originating Agency Identifier (ORI). All agencies will exclude the first two letters "WV" from the ORI number. West Virginia State Police agencies should substitute the "WSP" of their ORI number with "977."

**Officer primary assignment:** The officer's "primary" assignment *at the time of the stop*.

**Officer identifier:** The four (4) digit identifier (assigned by the chief executive or law enforcement official) of the individual officer completing the MVSF.

**Date of stop:** The month, day and year of the stop. For example, February 16, 2005, would be indicated as follows:

Month: 01      0123456789  
Day:    0123    0123456789  
Year:    01      0123456789

**Time of stop:** Utilizing military time, the approximate hour and minute of the stop. For example, 9:30 p.m. would be indicated as follows:

Hour:            012                    0123456789  
Minute:        012345    05

**Duration of the stop:** How long, in hours and/or minutes, the stop actually lasted. For example, a stop which took approximately one (1) hour and forty-five (45) minutes would be indicated as follows:

Hour:            0123  
Minute:        012345 05

**License check:** Whether or not a license check was conducted on the vehicle *prior to the stop*.

**County of stop:** The County in which the stop took place (all fifty-five (55) West Virginia Counties are coded numerically). For example, Pendleton County (#36) would be entered as follows:

012345  
0123456789

**Location of stop:** The completion of this individual component of the MVSF is optional, at the discretion of the chief executive or law enforcement official of the law enforcement agency. *If* the chief executive or law enforcement official directs their law enforcement officers to complete the "location of stop" component of the MVSF, the officer should utilize the instructions below.

Using U.S. Census tract and block information, record the approximate location of the traffic stop. (Note: county, tract, and block MUST be identified to determine approximate stop location).

**Census tract:** Enter the six-digit tract number that corresponds to the census tract where the stop took place. *All six (6) digits must be entered. Blank digits should be zero-filled.* For example, an officer would enter "0007.00" for a stop made in Census track "7." This would be indicated on the form as follows:

0123456789  
0123456789  
0123456789  
0123456789  
.  
0123456789  
0123456789

For a traffic stop made in census track "2952.02", the officer would simply enter "2952.02" as:

0123456789  
0123456789  
0123456789  
0123456789  
.  
0123456789  
0123456789

- EXAMPLE INSTRUCTIONS -  
**FINAL INSTRUCTIONS TO BE PRODUCED AND PROMULGATED BY THE  
WEST VIRGINIA DIVISION OF MOTOR VEHICLES**

**Census block:** Enter the four (4) digit block number that corresponds to the census block (within the census tract identified above) where the traffic stop took place. For example, an officer would enter "3011" for a stop made in the City of Charleston between 1<sup>st</sup> and 2<sup>nd</sup> Avenues & Stockton and Bream Streets (Note: block "3011" is within census tract "7").

If the requirement to collect census block and tract information is issued, it is the responsibility of the chief executive or law enforcement official of the law enforcement agency to provide appropriate maps to his or her officers which contain census tract and block identification numbers to record on the MVSF. Agency representatives may contact the U.S. Census Bureau for information on obtaining maps for specific jurisdictions or the WV Division of Motor Vehicles for guidance.

**Type of roadway:** The type of roadway where the stop took place. *Select one.*

**Stop directed by:** The circumstance that initiated the stop. *Select one.*

**Self-initiated:** Stop solely on officer's own initiative (e.g., traffic stop while on patrol).

**Citizen request:** Stop initiated by direct citizen contact or request.

**Supervisor direction:** Stop based on special detail or assignment (e.g., hot-spot enforcement, targeted enforcement area, DUI reduction initiative).

**Direct dispatch:** Stop initiated by dispatcher request.

**Reason(s) for stop:** The primary (P) and secondary (S) vehicle and/or penal code violation(s) which led to the traffic stop. *Select only one primary and, if present, only one secondary reason for the stop.*

**Disposition:** The *most serious* disposition or outcome of the stop. *Select one.*

**Gender:** The gender of the operator stopped (e.g., male or female).

**Race:** The perceived race of the operator stopped. *Select one.*

**ZIP code (Driver's Residence):** The place of residence for the operator of the vehicle stopped based on ZIP code retrieved from the operator's driver's license. For example, if the operator of the vehicle is from Huntington, WV and resides in the ZIP code 25701, the officer would enter the information as follows:

0123456789  
0123456789  
0123456789  
0123456789  
0123456789

**Ethnicity:** The perceived ethnicity of the operator stopped.

**Age:** The perceived age of the operator stopped. For example, 25 years of age would be indicated as follows:

0123456789  
0123456789

**Number of passengers:** The number of passengers in the vehicle at time of stop.

**Consent requested to search:** Whether or not the officer requested consent to search.

**Number of passengers searched:** The number of passengers searched which were in the vehicle at the time of the stop.

**Search authority:** The legal authority for which the search was conducted. *Select one.*

**Mode of search:** The manner in which the search took place. *Mark all that apply.*

**Persons/items searched:** What was searched. *Mark all that apply.*

**Contraband found:** The contraband (if any) discovered or seized due to the search. *Mark all that apply.*

**Passenger information:** Complete this section ONLY if a "search" took place of a passenger(s) in the motor vehicle.

Record the perceived gender, race, ethnicity, and age of the passenger(s) searched. This information will be recorded for each individual passenger searched, up to four (4) passengers. *Mark only one for each.*

**END.**

*Upon completion, the MVSF should be submitted to the chief executive or law enforcement official (or designated individual) of the law enforcement agency to be submitted pursuant to the requirements established in 149CSR5.*