

Data Check Offs Recommended by the Traffic Stops Committee
March 9, 2021

VSR data document that Black drivers in Columbia are disproportionately affected by officers' actions during traffic stops but the data often do not include enough details to begin to assess the reasons why they take the actions or whether they apply the same standards to all drivers. Chief Geoff Jones has formed a committee to advise him on the data needed to flag possible problems and track progress toward bias-free policing.

The Chief wants to make sure the data document all the variables that officers might act on—speed, location, time of day, agency bulletins and so on. Many of the variable facts are already captured but more check offs might be needed.

Columbia's Bias-Free Policing Policy requires officers to document the facts that lead them to detain someone:

Officers detaining any person shall be prepared to articulate sufficient reasonable suspicion to justify the detention independent of the specified characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, Field Interview), the involved officer should include those facts giving rise to the officer's reasonable suspicion or probable cause for the detention as applicable.

"Detain" means "stop." "Reasonable suspicion" is shorthand for specific and articulable facts. The policy also uses the phrase "credible, timely intelligence" to describe the evidentiary standard that is expected of officers: not necessarily probable cause evidence in every situation but facts appropriate to the action taken. Probable cause evidence is not necessary for an officer to ask for consent to a search, but the officer still must act on convincing facts. "Specified characteristics" are "Race, ethnicity, national origin, gender, gender identity, sexual orientation, socio-economic status, religion, disability, and/or age." In traffic stops, race and ethnicity are the main concerns; the facts they base their decisions on must be independent of race.

Officers are required by state law 590.650, which mandates the Vehicle Stops Report, to provide written documentation of traffic stops by completing a check off sheet for each stop. The check offs cover the initial detention and everything else that occurs during the stop (citations, arrests, searches, contraband found and so on), as well as details related to the detention (age, gender and racial or ethnic group of the driver, location, time, and so on). To some extent, the check offs indicate the facts which gave rise to the officers' actions, but expanded check offs would reduce the need for officers to provide supplemental information.

The facts are usually in the forms and reports officers complete when they take an action. They can also be in body camera videos and other departmental records, such as instructions from dispatch and bulletins alerting officers to criminal activity. But CPD needs easy ways to access the information without digging through records so that patterns can be seen, alerting command staff to situations that demand closer attention.

Officers currently use a computerized check off form mandated by the state. The data, for instance, documented that in 2014 Black drivers were subjected to consent searches at a rate per stop 4.39 times the rate for White drivers. The disproportion in 2019 fell to 1.15, so the data flag possible problems but also document improvements. The disproportion is now low enough that it is possible that officers are

routinely acting on credible intelligence when they ask for consent, and not being distracted by racial stereotypes. A review of each incident might find convincing facts, but the right check offs could streamline the review process.

For instance, the 2019 VSR check off sheet includes a check off for when officers are following instructions in a crime bulletin telling them to watch out for a specific individual under investigation for serious criminal activity. If the officer has checked off an investigative stop based on a crime bulletin and also checked off consent search, then the data indicate the officer was acting on reliable facts provided in the bulletin, facts independent of race. If there's any question about the officer's action—perhaps the driver files a complaint—documents and videos can be reviewed, but the data are sufficient for an initial review of this incident.

The Traffic Stop Committee recommends, for instance, that a check off for “pretext stops” be added. A pretext stop occurs when an officer follows a driver until a violation is observed, often a minor violation that would not usually result in a stop. The check off will make it easier to assess whether pretext stops are contributing to stop disproportions. A pretext stop accompanied by a check off for a crime-bulletin investigation documents credible intelligence. A pretext stop made only on the officer's own initiative might prompt closer review of the incident; did the officer know facts credible enough to document that the stop was made independent of race?

The database is not limited to the check offs officers use. For instance, the age of vehicles might be a factor in some disproportions, but officers do not have to have a check off because that information can be retrieved from a linked database. The check off for driver age would not be necessary if that information can be linked to. Officers might be recording in another database when a request for consent is refused. If so the recommended check off might not be necessary.

As an example of what he was looking for, Chief Geoff Jones told the committee that as a new officer riding with his supervisor they had observed two cars with minor equipment violations. The supervisor asked him which one he would stop, then advised him to stop the older vehicle because an older vehicle is more likely to be associated with other violations or more serious criminal activity.

The Chief said he now doubts the fairness of basing the decision to make a stop on the age of the vehicle because it unfairly affects individuals with lower incomes, and Black drivers are more likely to have low incomes. Both socioeconomic status and race are protected characteristics under the Bias-Free Policing Policy.

In order to address this situation, the committee recommends that the check offs for equipment violations be expanded so that the severity of defects can be assessed. The age of the vehicle is not a check off, but that information can probably be retrieved from a linked database. CPD should be able to filter its incident-based data to see incidents in which a stop of an older vehicle is made for an equipment violation that is not likely to cause a threat to public safety. Is there a disproportion against any group? Is there a disproportion in the outcome for the stop—warning, citation and so on? If a pattern is revealed in the data, CPD can consider whether changes in policies, supervision and training are needed.

The committee considered asking for check offs related to use of force but decided the information would be available without them.

The committee considered recommending a check off for when the officer asked questions unrelated to the reason for the stop. Black drivers see their stops as illegitimate when an officer makes a stop for a minor violation then, provides no explanation of the public safety reason for the stop, but instead questions the driver like a criminal. The committee decided the check off would probably not return useful information, but the situation deserves attention.

The committee considered asking for check offs related to sobriety tests and their outcome. White drivers are arrested for DWI/BAC at a rate per stop 1.45 times Black drivers, but officers could suspect Black drivers of intoxicated driving. The check offs would provide information needed to determine disproportions in the way officers use sobriety tests and disproportions in test outcomes. But the committee decided the information was important but the check off was unnecessary because it could be retrieved from other databases.

More check offs might be found to be useful. Some check offs might be removed if they do not prove to be useful.

The VSR does not collect information on sobriety check points. Officers are not likely to discriminate in their use of check points because they are just following orders to stop every driver in specific spots at specific times, but the spots and times selected by command staff might result in a disproportion against a group. Command staff should then document the spots and times were based on credible intelligence clearly independent of race.

The procedures officers are told to follow might be causing the disproportions. Law enforcement agencies try to focus patrols on areas where violations and accidents occur, where complaints are made, where crime is occurring, and so on. If drivers from one group are concentrated in an area that officers patrol heavily, they will experience more stops.

If, for instance, a stop disproportion exists against Black drivers in stops made because officers are investigating a 911 call about suspicious behavior, the CPD needs to make sure public safety concerns justify the disproportion. The officers are not discriminating; they are just following the standard operating procedure of responding to every "call for service." Are the calls credible intelligence or do they reflect bias on the part of the caller? Do the stops catch criminals or deter crime?

Check Offs Recommended by the Vehicle Stops Committee

VSR check offs in black. Recommended changes in red. Additional suggestion in blue.

Date and Time

1. Officer Assignment (time of stop): General Patrol, Dedicated Traffic Enforcement, Special Assignment.

If Special Assignment: Detective, DWI, School Resource Officer, Other Assignment

2. Location of Stop: Interstate, US Highway, State Highway, County Road, City Street, Other.

3. Reason for Stop. Check all that apply.

Moving Violation, Equipment Violation, Vehicle License/Registration Violation, Investigation.

Moving Violations. Check all that apply.

Speeding, Lane Violation, Following Too Close, Commercial Vehicle Enforcement, Failure to Signal, School or Construction Zone, Running a Red Light or Stop Sign, Failure to Yield, Distracted Driving, Careless Driving, Invalid Driver License, Other Moving Violation.

If speeding, category of speeding above limit.

1 to 5 mph, 6 to 10 mph, 11 to 20 mph, 21+.

Equipment violations. Check all that apply.

Headlights, taillights, brake lights, turn signal lights, license plate light, windshield wipers, defective windshield/vision obscuring material, improper exhaust or muffler, seatbelt, other equipment violation.

Investigative Stops. Check all that apply.

Call for Service, Detective or Crime Bulletin, Officer Initiative, Pretext Stop, Computer-assisted Alert (license plate scanner, etc.), Check Point, Welfare Check, Other Investigative Stop.

4. Driver's Race/Minority Status (Based only on visual observation after stop)

White, African-American/Black, Hispanic/Latino, American Indian/Alaska Native, Asian, Other.

5. Driver's Age: Under 18, 18-29, 30-39, 40-64, 65+

6. Driver's Gender: Male, Female

7. ZIP Code of Driver's Current Residence

8. Is Driver a Resident of Law Enforcement Agency's Jurisdiction? Yes, No

9. Was a Search Initiated? Yes, No

If "Yes," probable cause/authority for search. Check all that apply.

Consent, Reasonable Suspicion-Weapon (Terry stop), Incident to Arrest, Plain View Contraband, Drug Dog Alert, Inventory, Alcohol Odor, Marijuana Odor, Other Drug Odor, Other Authority for Search.

Consent requested but denied. Yes, No.

Drug dog summoned but failed to alert. Yes, No.

10. What Was Searched? Driver Only; Property Only; Driver and Property

11. Duration of Search? 0 to 15 minutes; 15+ to 30 minutes; 30+ minutes

12. Was Contraband Discovered? Yes; No.

If YES, type of contraband. Check all that apply.

Marijuana, Other Drugs, Paraphernalia, Alcohol, Currency, Weapon, Stolen Property, Other Contraband.

Result of Contraband Found. Check all that apply.

Citation, Warning, Custodial Arrest, No Action.

13. Result of Stop (other than search). Check all that apply.
Citation, Warning, Custodial Arrest, No Action, Other Result.

14 If citation issued, violation alleged. Check all that apply.
Moving, Equipment, License/registration.

If warning given, violation alleged. Check all that apply.
Moving, Equipment, License/registration.

15. If arrest made, crime/violation alleged. Check all that apply.
Outstanding warrant, Offense against person, Resisting arrest, Drug Violation, DWI/BAC, Property Crime,
Traffic violation, **Weapon Violation**, Other Violation.