

[R.I. Gen. Laws § 31-21.2-1](#)

Current through the January 2016 Session (Ch. 542)

[General Laws of Rhode Island](#) > [TITLE 31. MOTOR AND OTHER VEHICLES](#) > [CHAPTER 21.2. COMPREHENSIVE COMMUNITY-POLICE RELATIONSHIP ACT OF 2015](#)

§ 31-21.2-1. Title

This chapter may be cited as "Racial Profiling Prevention Act of 2004."

History

[P.L. 2004, ch. 331, § 1](#); [P.L. 2004, ch. 356, § 1](#).

General Laws of Rhode Island

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[R.I. Gen. Laws § 31-21.2-2](#)

Current through the January 2016 Session (Ch. 542)

[General Laws of Rhode Island](#) > [TITLE 31. MOTOR AND OTHER VEHICLES](#) > [CHAPTER 21.2. COMPREHENSIVE COMMUNITY-POLICE RELATIONSHIP ACT OF 2015](#)

§ 31-21.2-2. Findings

- (a) Municipal and state law enforcement officers play a vital role in protecting the public from crime. The vast majority of police officers discharge their duties professionally and without bias.
- (b) The use by police officers of race, ethnicity, or national origin solely in deciding which persons should be subject to traffic stops, searches and seizures is improper.
- (c) In many communities nonwhite drivers in Rhode Island, subjected to discretionary searches, are twice as likely as whites to be searched.
- (d) In some instances, law enforcement practices may have the unintended effect of promoting racially disparate stops and searches.
- (e) Racial profiling harms individuals subjected to it because they experience fear, anxiety, humiliation, anger, resentment and cynicism when they are unjustifiably treated as criminal suspects.
- (f) Racial profiling damages law enforcement and the criminal justice system as a whole by undermining public confidence and trust in the police, the courts, and criminal law, and thereby undermining law enforcement efforts and ability to solve and reduce crime.
- (g) A comprehensive solution is needed to address racial profiling at the state and local levels.

History

[P.L. 2004, ch. 331, § 1](#); [P.L. 2004, ch. 356, § 1](#).

General Laws of Rhode Island

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[R.I. Gen. Laws § 31-21.2-3](#)

Current through the January 2016 Session (Ch. 542)

[General Laws of Rhode Island](#) > [TITLE 31. MOTOR AND OTHER VEHICLES](#) > [CHAPTER 21.2. COMPREHENSIVE COMMUNITY-POLICE RELATIONSHIP ACT OF 2015](#)

§ 31-21.2-3. Ban on racial profiling

No state or municipal law enforcement officer or law enforcement agency shall engage in racial profiling. For purposes of this chapter, "racial profiling" means the detention, interdiction or other disparate treatment of an individual on the basis, in whole or in part, of the racial or ethnic status of such individual, except when such status is used in combination with other identifying factors seeking to apprehend a specific suspect whose racial or ethnic status is part of the description of the suspect, which description is timely and reliable.

History

[P.L. 2004, ch. 331, § 1](#); [P.L. 2004, ch. 356, § 1](#).

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[R.I. Gen. Laws § 31-21.2-4](#)

Current through the January 2016 Session (Ch. 542)

[General Laws of Rhode Island](#) > **[TITLE 31. MOTOR AND OTHER VEHICLES](#) > **[CHAPTER 21.2. COMPREHENSIVE COMMUNITY-POLICE RELATIONSHIP ACT OF 2015](#)****

§ 31-21.2-4. Enforcement

Any individual who alleges a violation of this chapter, other than [§ 31-21.2-6](#), may file a civil action for damages and any appropriate and equitable relief in Superior Court. The court may allow a prevailing plaintiff reasonable attorneys' fees as part of the costs.

History

[P.L. 2004, ch. 331, § 1](#); [P.L. 2004, ch. 356, § 1](#).

General Laws of Rhode Island

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[R.I. Gen. Laws § 31-21.2-5](#)

Current through the January 2016 Session (Ch. 542)

[General Laws of Rhode Island](#) > [TITLE 31. MOTOR AND OTHER VEHICLES](#) > [CHAPTER 21.2. COMPREHENSIVE COMMUNITY-POLICE RELATIONSHIP ACT OF 2015](#)

§ 31-21.2-5. Law enforcement practices

- (a) Unless there exists reasonable suspicion or probable cause of criminal activity, no motor vehicle stopped for a traffic violation shall be detained beyond the time needed to address the violation. Nothing contained herein shall prohibit the detention of a motor vehicle for a reasonable period of time for the arrival of a canine unit or subsequent criminal investigation if there is reasonable suspicion or probable cause of criminal activity.
- (b) No operator or owner-passenger of a motor vehicle shall be requested to consent to a search by a law enforcement officer of his or her motor vehicle, that is stopped solely for a traffic violation, unless there exists reasonable suspicion or probable cause of criminal activity. No pedestrian shall be requested to consent to a search by a law enforcement officer of his or her person, unless there exists reasonable suspicion or probable cause of criminal activity. No juvenile shall be requested to consent to a search by a law enforcement officer unless there exists reasonable suspicion or probable cause of criminal activity. In those instances in which a warrant would be required, a law enforcement officer must advise the juvenile that he or she may refuse to consent to, or limit the scope of, any requested search. The determination of age of the individual shall be based on the perception of the officer making a good faith effort in advance of requesting consent. Nothing contained in this subsection shall be construed to prohibit a law enforcement officer from conducting a pat down search for weapons based upon a reasonable belief that the officer's personal safety may be jeopardized.
- (c) Each search conducted by a law enforcement officer that does not result in criminal charges shall be documented in a computer-aided dispatch (CAD) entry or other police-generated report. Each search conducted by a law enforcement officer that results in criminal charges shall be documented in a police-generated report. The CAD entry or formal police report shall include the date, time, and location of the stop/search, along with the "reasonable suspicion" or "probable cause" leading to the search. The CAD entry or formal police report shall also include the race, age, and gender of the individual(s) searched and the results of the search. The document, exclusive of information identifying the law enforcement officer, shall be a public record, subject to the access to public records act, [§ 38-2-2\(4\)\(D\)](#), law enforcement exemptions. For purposes of this section, "computer-aided dispatch" (CAD) means an electronic system used by public safety agencies to facilitate incident response and communications in the field that electronically records information on call taking, dispatching, location verification, mapping, and other functions for public safety.
- (d) With the exception of operators who are subject to federal motor carrier regulations, no operator of a motor vehicle shall be requested to provide any documentation or identification other than a driver's license, motor vehicle registration, and/or proof of insurance when the motor vehicle has been stopped solely for a traffic violation, unless there exists reasonable suspicion or probable cause of criminal activity or the operator has failed to produce a valid driver's license.
- (e) If a violation of the traffic laws in this title is used to stop a motor vehicle for non-related investigatory reasons, the law enforcement officer shall document in writing or electronically the investigatory basis for the stop. The documentation of such stops shall commence no later than twelve (12) months after passage of this act and shall be assessed every six (6) months by the respective police department as to whether

R.I. Gen. Laws § 31-21.2-5

the suspicion was justified and the data be made publicly available, subject to the access to public records act, [§ 38-2-2\(4\)\(D\)](#), law enforcement exemptions.

- (f) Any evidence obtained as a result of a search prohibited by subsection (a) or (b) shall be inadmissible in any judicial proceeding. Nothing contained herein shall be construed to preclude any search otherwise based upon any legally sufficient cause.
- (g) Law enforcement agencies using video and/or audio surveillance cameras in their vehicles shall adopt written policies and procedures regarding the use of such cameras, which shall be public records, and which shall include, but not be limited to, the following standards:
 - (1) All motor vehicle stops conducted by police vehicles with such equipment shall be recorded barring exceptions outlined below. In an effort to objectively memorialize relevant observations, the recording shall begin no later than when an officer first signals the vehicle to stop; and, barring conditions that could compromise a sensitive investigation, jeopardize the safety of a vehicle occupant or cooperating victim/witness and/or unforeseen equipment malfunction, the recording shall continue until the motor vehicle stop is completed and the stopped vehicle departs, or until the officer's participation in the motor vehicle stop ends;
 - (2) Law enforcement agencies that acquire video and/or audio surveillance cameras for use in their vehicles shall:
 - (i) Notify the office of highway safety of the Rhode Island department of transportation that such equipment has been acquired and will be in use and the department of transportation shall post notice of such use on its website;
 - (ii) Issue a press release advising the public that such equipment will be in use; and
 - (iii) Post notice on its website that such equipment will be in use;
 - (3) A chain of custody of the video/audio recordings, hereafter referred to as "recording(s)", shall be maintained;
 - (4)
 - (i) A driver of a motor vehicle who was recorded by a video/audio surveillance camera, and/or his or her legal counsel, shall have the right to view the in-car recording at the police station, provided that the viewing does not compromise an active investigation;
 - (ii) A passenger of a motor vehicle who was recorded by a video/audio surveillance camera, and/or his or her legal counsel, shall have the right to view the in-car recording at the police station if that passenger became the subject of the police interaction recorded, provided that the viewing does not compromise an active investigation;
 - (5) The policy shall address the period of retention for such recordings, and procedures to be used to ensure that the recording equipment is in proper working order, and shall bar the destruction of any recording of an incident that is the subject of a pending complaint, misconduct investigation, or civil or criminal proceeding. Such recordings shall be retained for a minimum of ten (10) days after the final resolution of such investigation or proceeding, including the time for any appeal;
 - (6) The policy shall explicitly prohibit any violation of these requirements, including any attempts to disengage or tamper with the video/audio surveillance equipment, deliberately and prematurely erase or alter a recording, or to otherwise fail to record stops as specified herein barring the aforementioned limited exceptions; and
 - (7) The video/audio surveillance recordings regulated by this section shall not be deemed public records under the access to public records act, [§ 38-2-1](#), et seq. A court may impose any appropriate remedy in any civil or criminal proceeding where a knowing and willful violation of these standards is found to have been committed.
- (h) Law enforcement officers shall advise any motorist who is stopped of the reason for the stop.

R.I. Gen. Laws § 31-21.2-5

- (i) Law enforcement agencies with mobile display terminals in police vehicles shall adopt policies and procedures governing their use that shall include the criteria necessary to initiate a record check on a motor vehicle license or registrant. All law enforcement agencies must comply with state and federal guidelines related to the use and access of Rhode Island law enforcement telecommunication system (RILETS) and National Criminal Identification Center (NCIC).
- (j) The policies and procedures established by this section shall be added to, and prominently placed in, all relevant departmental policy and training manuals. Other appropriate training about the requirements of this chapter shall also be provided to all officers.

History

[*P.L. 2004, ch. 331, § 1*](#); [*P.L. 2004, ch. 356, § 1*](#); [*P.L. 2015, ch. 214, § 2*](#); [*P.L. 2015, ch. 235, § 2*](#).

General Laws of Rhode Island

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End of Document

[R.I. Gen. Laws § 31-21.2-6](#)

Current through the January 2016 Session (Ch. 542)

[General Laws of Rhode Island](#) > [TITLE 31. MOTOR AND OTHER VEHICLES](#) > [CHAPTER 21.2. COMPREHENSIVE COMMUNITY-POLICE RELATIONSHIP ACT OF 2015](#)

§ 31-21.2-6. Continued data collection

- (a) The office of highway safety of the Rhode Island department of transportation or a designee to be chosen by the department of transportation by January 1, 2017, is authorized to and shall conduct a study of routine traffic stops by the Rhode Island state police and each municipal police department in order to determine whether racial disparities in traffic stops exist, and to examine whether searches of vehicles and motorists are being conducted in a disparate manner.
- (b) The office of highway safety of the Rhode Island department of transportation or its designee shall, no later than January 1, 2016, develop a form or electronic equivalent to be used by each police officer when making a traffic stop to record the data required under this chapter, which form shall include for each motor vehicle stop, the race and ethnicity of the driver based on the officer's perception, and the information listed in [§ 31-21.1-4](#).
- (c) The office of highway safety of the Rhode Island department of transportation or its designee shall advise the Rhode Island state police and each municipal police department of the date that data collection shall commence. Data collection shall begin not later than January 1, 2016, but may begin prior to that time upon notification to police departments from the office of highway safety of the Rhode Island department of transportation or its designee.
- (d) A traffic stop data collection card or electronic equivalent shall be completed for each routine traffic stop by the Rhode Island state police and municipal police department during the term of this study.
- (e) Upon commencement of data collection, and monthly thereafter, each municipal police department and the Rhode Island state police shall transmit to the office of highway safety of the Rhode Island department of transportation or its designee all forms or electronic data collected to date of motorists who were stopped, and any other information the police department or the Rhode Island state police deem appropriate. Data collection shall continue for forty-eight (48) months following commencement of data collection.
- (f) Appropriate funding may be made available to implement the provision of this chapter and completion of this study shall be contingent upon such funding.
- (g) The study shall include a multivariate analysis of the collected data in accordance with general statistical standards and shall be substantially similar to the study prepared pursuant to chapter 21.1 of this title. The study shall be prepared by an organization, company, person, or other entity with sufficient expertise in the field of statistics and the study of traffic stop data collection to assist with the implementation of this chapter, and chosen by the office of highway safety of the Rhode Island department of transportation or its designee. The study shall be released on an annual basis, with the first release not later than eighteen (18) months after commencement of data collection under this chapter. The report, findings, and conclusions submitted pursuant to this subsection shall be a public record.
- (h) The office of highway safety of the Rhode Island department of transportation, or its designee, shall be exempt from the provisions of chapter 2 of title 37 in connection with its procurement of equipment and services necessary to the implementation of this chapter.
- (i) On a quarterly basis, a summary report of the monthly data provided by each police department and the state police for that quarterly period shall be issued. The report shall be a public record. The summary

R.I. Gen. Laws § 31-21.2-6

report shall include, at a minimum, a monthly breakdown by race, age, gender, and outcome for operators for each police department of the number of traffic stops made and of searches conducted. For those police departments collecting data through the use of mobile display terminals in police vehicles, the report shall also include a breakdown by race and outcome for operators. The report shall be released not more than ninety (90) days after the end of each quarterly period. No information revealing the identity of any individual shall be contained in the report.

- (j) Every law enforcement agency collecting data pursuant to this chapter shall ensure that supervisory personnel review each officer's stop and search documentation and data results on a monthly basis to ensure compliance with all policies, prohibitions, and documentation requirements.
- (k) The head of every law enforcement agency subject to this chapter, or his or her designee, shall review the data on a regular basis in an effort to determine whether any racial disparities in the agency's traffic stops enforcement exists, and to appropriately respond to any such disparities. It is understood that disparities may or may not equate to racial profiling.
- (l) An organization chartered for the purpose of combating discrimination, racism, or of safeguarding civil liberties, or of promoting full, free, or equal employment opportunities, and/or a governmental or quasi-governmental entity may seek appropriate relief in a civil action against any police department for failing to collect or transmit the data required in this chapter, and may be awarded its costs, including attorneys' fees, for bringing such an action. As a condition precedent to the filing of a civil action by an organization under this section, the organization shall send a notice to the office of highway safety of the Rhode Island department of transportation or its designee identifying the police department which is failing to collect or transmit the data and the organization shall then allow fifteen (15) days to elapse.
- (m) The the office of highway safety of the Rhode Island department of transportation or its designee shall consult with community, police and civil rights representatives in the development of the form required by subsection (b) and on at least a quarterly basis shall consult on other issues that arise relating to the implementation and enforcement of this chapter including the information generated by the issuance of the reports required by subsection (i).

History

[P.L. 2004, ch. 331, § 1](#); [P.L. 2004, ch. 356, § 1](#); [P.L. 2015, ch. 214, § 2](#); [P.L. 2015, ch. 235, § 2](#).

General Laws of Rhode Island

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[R.I. Gen. Laws § 31-21.2-7](#)

Current through the January 2016 Session (Ch. 542)

[General Laws of Rhode Island](#) > [TITLE 31. MOTOR AND OTHER VEHICLES](#) > [CHAPTER 21.2. COMPREHENSIVE COMMUNITY-POLICE RELATIONSHIP ACT OF 2015](#)

§ 31-21.2-7. Data collection and use

- (a) Data acquired under this chapter shall not be used in any civil proceeding to establish or rebut an inference of discrimination except by court order or when otherwise admissible in accordance with rules of civil procedure. It is understood that disparities may or may not equate to racial profiling. All data collected pursuant to this chapter shall be public. For those motor vehicle stops where a citation was issued or an arrest was made, the forms prepared pursuant to [§ 31-21.2-6\(b\)](#) of this chapter shall include a citation or arrest number for reference. The data collection form shall not include the name or badge number of the officer completing the form. The report from the department of transportation or its designee shall not be officer specific.
- (b) Any police officer who in good faith records traffic stop information pursuant to the requirements of this chapter shall not be held civilly liable for the act of recording the information unless the officer's conduct was reckless.
- (c) All police departments shall submit to the office of highway safety of the department of transportation, or its designee, on an annual basis beginning on July 15, 2016, and for four (4) years following the conclusion of data collection, a report indicating what action, if any, has been taken, to address any racial disparities in traffic stops and/or searches documented in the studies authorized by [§§ 31-21.1-4](#) and [31-21.2-6](#), and to otherwise implement any recommendations of those studies, including, but not limited to, any changes to agency policies; revisions to traffic enforcement practices; detailed analysis and review of traffic stop data and the results of such review; or the initiation of any disciplinary action. Any reference to disciplinary action shall not identify the officer. The office of highway safety of the department of transportation or its designee shall issue guidelines for police departments to follow in preparing these reports. The reports shall be public records and shall contain a certification that the department has complied with [§ 31-21.2-6\(j\)](#) and (k).
- (d) Every twelve (12) months, each state and municipal law enforcement agency shall submit to the office of highway safety of the Rhode Island department of transportation, or its designee, on a brief form prepared by that office, or its designee, information summarizing what, if any, actions were taken by the agency in response to any racial disparities documented in the previous reports issued pursuant to [§ 31-21.2-6\(j\)](#). The summary shall include, but not be limited to: any changes to agency policies; revisions to traffic enforcement practices; detailed analysis and review of traffic stop data and the results of such review; or the initiation of any disciplinary action. Any references to disciplinary action shall not identify the officer. The forms shall be public records, and shall contain a certification that the department has complied with [§ 31-21.2-6\(j\)](#) and (k).

History

[P.L. 2004, ch. 331, § 1](#); [P.L. 2004, ch. 356, § 1](#); [P.L. 2015, ch. 214, § 2](#); [P.L. 2015, ch. 235, § 2](#).

R.I. Gen. Laws § 31-21.2-7

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[R.I. Gen. Laws § 31-21.2-8](#)

Current through the January 2016 Session (Ch. 542)

[General Laws of Rhode Island](#) > [TITLE 31. MOTOR AND OTHER VEHICLES](#) > [CHAPTER 21.2. COMPREHENSIVE COMMUNITY-POLICE RELATIONSHIP ACT OF 2015](#)

§ 31-21.2-8. Complaint procedures

- (a) Each state and municipal law enforcement agency shall establish a procedure to investigate complaints of police misconduct by members of the public against personnel of these agencies, and shall make a written description of the procedure available to the public. Copies of any departmental complaint forms shall be available in at least one governmental location other than the police department. The procedure and forms shall also be made available on any website of a law enforcement agency.
- (b) At a minimum, complaints shall be accepted in person by mail or by facsimile.
- (c) Information on the complaints received by each law enforcement agency shall be compiled on an annual basis by the state police and each municipal law enforcement agency and published in each agency's annual report and/or on its website. The information compiled by each department shall include the total number of complaints received from the public, a breakdown by category of the type of complaint, and a further breakdown by category of the disposition of the complaints.
- (d) The state police and all municipal law enforcement agencies shall make available as a public record subject to the access to public records act, [§ 38-2-2\(4\)\(D\)](#), law enforcement exemptions:
 - (1) Copies of any formal or informal arrangements between the state police or a municipal law enforcement agency and the bureau of immigration and customs enforcement/homeland security investigations concerning the questioning, detention, investigation, arrest, apprehension, stopping, referral or processing of individuals within the state of Rhode Island, including copies of any agreements entered into pursuant to [8 U.S.C. § 1357\(g\)](#); and
 - (2) Any policies or procedures governing the circumstances under which an inquiry to federal authorities is made to determine a person's immigration status.

History

[P.L. 2004, ch. 331, § 1](#); [P.L. 2004, ch. 356, § 1](#); [P.L. 2015, ch. 214, § 2](#); [P.L. 2015, ch. 235, § 2](#).

General Laws of Rhode Island

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