

INTRADEPARTMENTAL CORRESPONDENCE

January 26, 2022

1.14

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: POLICY – LIMITATION ON USE OF PRETEXTUAL STOPS - ESTABLISHED

RECOMMENDED ACTION

That the Board of Police Commissioners REVIEW and APPROVE the revised policy pertaining to pretextual stops.

DISCUSSION

Members of our community and communities around the country have expressed concern regarding the manner and frequency with which officers are stopping individuals (pedestrians, cyclists, and motorists) for perceived minor violations to investigate other crimes (a subset of which are known as and approved by the United States Supreme Court as “pretextual stops” in *Whren v. United States*). Their fears stem in large measure from a belief that such enforcement activities are arbitrary, capricious, and a reflection of an individual officer’s implicit or explicit bias(es). Moreover, some community members question the impact such pretextual stops have on crime reduction.

The Department continually assesses community concerns and expectations with respect to its responsibility to ensure public safety. The Department works regularly with various City entities (e.g., City of Los Angeles’ Vision Zero for 2025 initiative) to identify and resolve problematic street corridors, which requires that officers actively engage motorists, bicyclists, and pedestrians – via education and enforcement of California Vehicle Code violations (e.g., red light and stop sign violations, distracted driving, unsafe speed, driving under the influence) to improve roadway safety in all communities throughout the City of Los Angeles. In addition, the increase in violent crime necessitates proactive and vigilant enforcement efforts to ensure public safety.

In fulfilling its mission to increase safety and reduce the incidence and fear of crime, the Department seeks to eliminate bias in any form from within its ranks and practices. The Department also strives to reduce and, if possible, ultimately eliminate any perception of bias within the LAPD. For these reasons, the Department seeks to hone the focus of its traffic enforcement and crime prevention strategies to reduce traffic injuries and fatalities, and address crime (especially violent crime) while also strengthening trust and improving community

relations. This mandate requires the judicious use of our legitimate authority as we endeavor to protect the various communities we serve. Therefore, absent intelligence or information connecting an individual to a crime or public safety concern, less attention should be given to observations of vehicle equipment violations where no strong causal connection to collisions – and hence public safety – exists. This re-prioritization of efforts and other Department policies (e.g., *Policy Prohibiting Biased Policing*) as well as training are part of the Department’s goal of eliminating any actual or perceived disparities in treatment.

The newly established policy provides parameters and responsibilities for Department personnel when utilizing pretextual stops so that they remain in compliance with the 4th and 14th Amendments to the United States Constitution.

The revised policy adds Section 1/240.06, *Policy – Limitation on Use of Pretextual Stops*, to the Department Manual.

Should you have any questions regarding this matter, please contact Director Lizabeth Rhodes, Office of Constitutional Policing and Policy, at (213) 486-8730.

Respectfully,



MICHEL R. MOORE
Chief of Police

Attachments

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO.

APPROVED BY THE BOARD OF POLICE COMMISSIONERS ON

SUBJECT: POLICY - LIMITATION ON USE OF PRETEXTUAL STOPS – ESTABLISHED

BACKGROUND: Members of our community and communities around the country have expressed concern regarding the manner and frequency with which officers are stopping individuals (pedestrians, cyclists, and motorists) for perceived minor violations to investigate other crimes (a subset of which are known as and approved by the United States Supreme Court as “pretextual stops”). Their fears stem in large measure from a belief that such enforcement activities are arbitrary, capricious, and a reflection of an individual officer’s implicit or explicit bias(es). Moreover, some community members question the impact such pretextual stops have on crime reduction.

The Department continually assesses community concerns and expectations with respect to its responsibility to ensure public safety. The Department works regularly with various City entities (e.g., City of Los Angeles’ Vision Zero for 2025 initiative) to identify and resolve problematic street corridors, which requires that officers actively engage motorists, bicyclists, and pedestrians – via education and enforcement of California Vehicle Code violations (e.g., red light and stop sign violations, distracted driving, unsafe speed, driving under the influence) to improve roadway safety in all communities throughout the City of Los Angeles. In addition, the increase in violent crime necessitates proactive and vigilant enforcement efforts to ensure public safety.

In fulfilling its mission to increase safety and reduce the incidence and fear of crime, the Department seeks to eliminate bias in any form from within its ranks and practices. The Department also strives to reduce and, if possible, ultimately eliminate any perception of bias within the LAPD. For these reasons, the Department seeks to hone the focus of its traffic enforcement and crime prevention strategies to reduce traffic injuries and fatalities, and address crime (especially violent crime) while also strengthening trust and improving community relations. This mandate requires the judicious use of our legitimate authority as we endeavor to protect the various communities we serve. Therefore, absent intelligence or information connecting an individual to a crime or public safety concern, less attention should be given to observations of vehicle equipment violations where no strong causal connection to collisions – and hence public safety – exists. This re-prioritization of efforts and other Department policies (e.g., *Policy Prohibiting Biased Policing*) as well as training are part of the Department’s goal of eliminating any actual or perceived disparities in treatment.

SPECIAL ORDER

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PURPOSE: The purpose of this Order is to establish Department Manual Section 1/240.06, *Policy - Limitation on Use of Pretextual Stops*. The policy provides parameters and responsibilities for Department personnel when utilizing pretextual stops so that they remain in compliance with the 4th and 14th Amendments to the United States Constitution.

PROCEDURE:

- I. POLICY - LIMITATION ON USE OF PRETEXTUAL STOPS – ESTABLISHED.** Department Manual Section 1/240.06, *Policy - Limitation on Use of Pretextual Stops*, has been established and is attached.

AMENDMENTS: This Order adds Section 1/240.06 to the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.

If you have any questions, you may contact the Office of Constitutional Policing and Policy, at (213) 486-8730.



MICHEL R. MOORE
Chief of Police

Attachment

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DEPARTMENT MANUAL
VOLUME I
Established by Special Order No. , 2022

240. 06 POLICY - LIMITATION ON USE OF PRETEXTUAL STOPS

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

Pretext Stops Defined. *A pretextual or pretext stop is one where officers use reasonable suspicion or probable cause of a minor traffic or code violation (e.g., Municipal Code or Health and Safety Code) as a pretext to investigate another, more serious crime that is unrelated to that violation.*

Policy.

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

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

Pretext Stops – Restricted. *It is the Department's policy that pretextual stops shall not be conducted **unless** officers are acting upon articulable information in addition to the traffic violation, which may or may not amount to reasonable suspicion, regarding a serious crime (i.e., a crime with potential for great bodily injury or death), such as a Part I violent crime, driving under the influence (DUI), reckless driving, street racing, street takeovers, hit and run, human or narcotics trafficking, gun violence, burglary, or another similarly serious crime. Such decisions should not be based on a mere hunch or on generalized characteristics such as a person's race, gender, age, homeless circumstance, or presence in a high-crime location.*

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

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

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

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

***Conduct During the Stop.** Officers are to ensure their conduct during the course of any stop demonstrates the tenets of Procedural Justice, fairness, and impartiality. Consistent with the Department's procedural justice and community engagement initiatives, when tactics, operational security, and investigative continuity permit, officers shall, as early as practicable, provide the detainee(s) with the information that caused officers to stop them. These precepts are further discussed in the Department Training Bulletins, such as:*

- *Legal Contacts with the Public, dated February 2001;*
- *Contacts with the Public – Part II, Procedural Justice, dated April 2020; and,*
- *Contacts with the Public – Part I, Legal Considerations, dated March 2021.*

***Note:** Training Bulletins are often revised over time. Personnel are encouraged to query the Department Local Area Network (LAN) to ensure review of the most current information.*