

## Chapter OJA 1

### TRAFFIC STOP DATA COLLECTION AND ANALYSIS

OJA 1.01	Purpose.	OJA 1.06	Process and format for submitting data.
OJA 1.02	Authority.	OJA 1.07	The types of data analyses that OJA will perform.
OJA 1.03	Definitions.	OJA 1.08	Reports.
OJA 1.04	Memorandum of understanding.	OJA 1.09	Availability of records.
OJA 1.05	Types of information required to be collected.	OJA 1.10	Penalties.

**OJA 1.01 Purpose.** The purpose of this chapter is to establish rules describing the types of information that law enforcement agencies must collect at traffic stops, including the circumstances under which this information must be collected, the process and format that law enforcement agencies must use to submit the collected information to OJA, the types of analyses that OJA will perform, and requirements for OJA–authored reports.

**History:** CR 10–010: cr. Register August 2010 No. 656, eff. 9–1–10.

**OJA 1.02 Authority.** This chapter is promulgated under the authority of ss. 16.964 (16) (b) and 349.027, Stats.

**History:** CR 10–010: cr. Register August 2010 No. 656, eff. 9–1–10.

**OJA 1.03 Definitions.** As used in this chapter:

(1) “Department of transportation” or “DOT” means the Wisconsin department of transportation.

(2) “Law enforcement agency” means either of the following:

(a) A governmental agency of one or more persons comprising at least one full–time equivalent position, employed by this state or a political subdivision of this state, for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(b) A “tribal law enforcement agency” as defined in s. 165.83 (1) (e), Stats.

(3) “Law enforcement officer” or “officer” means either of the following:

(a) A person employed by the state or any political subdivision of the state for the purpose of detecting and preventing crime and enforcing laws or ordinances, and who is authorized to make arrests for violations of the laws or ordinances the person is employed to enforce.

(b) A tribal law enforcement officer who is empowered to exercise state law enforcement powers under s. 165.92, Stats.

(4) “MOU” means the memorandum of understanding between DOT and OJA described in s. OJA 1.04.

(5) “Office of justice assistance” or “OJA” means the Wisconsin office of justice assistance.

(6) “Officer number” means a unique number assigned by a law enforcement agency to identify a law enforcement officer authorized to act for the law enforcement agency.

(7) “Operator” means a person who drives or is in actual physical control of a motor vehicle.

(8) “Person in charge of a law enforcement agency employing the law enforcement officer” as used in s. 349.027, Stats., or “chief officer of the agency” means either of the following:

(a) The chief officer of the law enforcement agency who has the authority to direct and supervise the law enforcement officers in the agency.

(b) The person who exercises daily supervision and control over law enforcement officers participating in a cooperative county–tribal law enforcement program as described in s. 165.90 (2) (e), Stats.

(9) “Race or ethnicity” means the following race and ethnic categories utilized by the U.S. Census Bureau and the department of transportation division of motor vehicles in operator license applications: “American Indian or Alaskan native,” “Asian/Pacific islander,” “Black,” “Hispanic origin” and “White.”

(10) “Statistical analysis center” means the unit of OJA required by s. 16.964 (1m) (f), Stats., to serve as a clearinghouse of justice system data and information and conduct justice system research and data analysis.

(11) “Traffic stop” or “motor vehicle stop” as used in ss. 16.964 and 349.027, Stats., means any contact by an officer with a motor vehicle operator on a public street or highway, initiated by the officer, resulting in the detention of a motor vehicle.

**Note:** See Appendix for examples of a traffic stop.

(12) “Traffic stop data” means the categories of data collected under s. 349.027, Stats., and s. OJA 1.05.

(13) “Motor vehicle” means a vehicle, including a combination of 2 or more vehicles or an articulated vehicle, which is self–propelled, except a vehicle operated exclusively on a rail. “Motor vehicle” includes, without limitation, a commercial motor vehicle or a vehicle which is propelled by electric power obtained from overhead trolley wires but not operated on rails. Snowmobiles and all–terrain vehicles shall not be considered motor vehicles for purposes of this chapter.

**History:** CR 10–010: cr. Register August 2010 No. 656, eff. 9–1–10.

**OJA 1.04 Memorandum of understanding.** (1) DOT and OJA shall enter into a MOU no later than June 30, 2010, which shall set forth the agreement between the two departments with respect to all of the following:

(a) Establishing traffic stop data collection procedures that meet the requirements of the law while minimizing impact on the time and expense of law enforcement agencies.

(b) Emphasizing the use of data systems that use mobile data terminals and minimize use of written reports and forms.

(c) Modifying existing forms, data tables and data fields for use in collecting traffic stop data.

(d) Specifying the procedures, schedules and forms that will be used to collect traffic stop data.

(e) Training that DOT and OJA will provide to law enforcement agencies through the Internet and at classes and conferences.

(2) The MOU may be amended by agreement of the parties.

**History:** CR 10–010: cr. Register August 2010 No. 656, eff. 9–1–10.

**OJA 1.05 Types of information required to be collected.** Beginning January 1, 2011, for each traffic stop, the chief officer of an agency shall require the officer making the traffic stop to record the following information using a computer or a paper form:

(1) OPERATOR DATA. With respect to the motor vehicle operator, the officer shall record all of the following:

(a) The operator’s residential zip code, age and gender.

(b) The race or ethnicity of the motor vehicle operator. The race or ethnicity recorded for the operator shall be the race or ethnicity identified on records of the DOT. If the operator’s race or

ethnicity is not available to the officer from the DOT, the operator's race or ethnicity shall be determined by the perception of the law enforcement officer responsible for reporting the traffic stop. The officer shall not require the person stopped to provide race or ethnicity information.

(2) **OCCUPANT DATA.** With respect to the motor vehicle occupants, the officer shall record all of the following:

(a) The number of occupants.

(b) Whether any occupant other than the operator is a member of a racial minority or ethnicity. The officer shall not require the person stopped to provide race or ethnicity information.

(3) **EVENT DATA.** With respect to the traffic stop, the officer shall record all of the following:

(a) The date, time and location of the traffic stop, the name of the law enforcement agency and officer number of the officer making the traffic stop.

(b) The location of the stop using global positioning system coordinates if available, DOT standards for identifying the location of traffic accidents, or any other method that identifies the location with a reasonable degree of accuracy.

(c) The make and model of the motor vehicle, type of motor vehicle, state of motor vehicle registration and the motor vehicle license plate number.

(d) The reason for the stop.

(e) The outcome of the stop.

(f) The duration of the stop.

(4) **SEARCH DATA.** Whether the operator, any occupant, or the motor vehicle was searched and if so, all of the following:

(a) Whether a consent to search was requested, and, if so, whether it was granted or denied.

(b) The basis for the search.

(c) The race or ethnicity of each person searched determined according to the procedure in sub. (1) (b).

(d) Type of contraband, if found.

**History:** CR 10-010: cr. Register August 2010 No. 656, eff. 1-1-11.

#### **OJA 1.06 Process and format for submitting data.**

(1) The chief officer of each agency shall arrange to have all traffic stop data submitted to OJA under one of the following procedures:

(a) A law enforcement officer who makes a traffic stop may submit the traffic stop data directly to OJA if the officer has suitable electronic equipment to make the submittal in accordance with accepted DOT standards and procedures.

(b) If a law enforcement officer who makes a traffic stop is unable to submit the traffic stop data directly to OJA under par. (a), the law enforcement officer shall record the traffic stop data at the site of the stop either electronically or on a paper form approved by OJA. The chief officer of the agency shall arrange to have traffic stop data recorded under this subsection submitted to OJA electronically under the procedures identified in the MOU. The chief officer of the agency shall not submit more than one set of traffic stop data for each traffic stop. Paper submission of traffic stop data to OJA may be made only after approval from OJA.

(2) Submissions of traffic stop data shall be received at OJA no later than 31 days after the stop occurred.

**History:** CR 10-010: cr. Register August 2010 No. 656, eff. 9-1-10.

**OJA 1.07 The types of data analyses that OJA will perform.** (1) The office of justice assistance through its statistical analysis center shall analyze the traffic stop data received to determine all of the following:

(a) Whether the number of traffic stops involving motor vehicles operated or occupied by members of a racial minority is disproportionate to the number of traffic stops involving motor vehicles operated or occupied solely by persons who are not members of a racial minority.

(b) Whether the number of searches involving motor vehicles operated or occupied by members of a racial minority is disproportionate to the number of searches involving motor vehicles operated or occupied solely by persons who are not members of a racial minority.

(2) As part of its analysis, OJA may analyze traffic stop data to determine the extent to which a correlation exists between the race and ethnicity of motor vehicle operators and occupants and traffic stop event data described in s. OJA 1.05 (3) (d) to (f) and (4). OJA may also note whether the existence of other factors, such as specific law enforcement strategies, may contribute to disproportionalities in the number of traffic stops involving motor vehicles operated or occupied by members of a racial minority compared with traffic stops involving motor vehicles operated or occupied solely by persons who are not members of a racial minority.

(3) The office of justice assistance shall use benchmarks and other analytical tools that enable it to make the analyses and prepare the reports identified in s. OJA 1.08.

**History:** CR 10-010: cr. Register August 2010 No. 656, eff. 9-1-10.

**OJA 1.08 Reports.** (1) Reports by OJA of its analysis of traffic stop data collected under this chapter shall be submitted to the governor, the director of state courts, the president of the senate, and the speaker of the assembly.

(2) Reports by OJA under this chapter shall identify benchmarks used in preparing the reports and include both:

(a) Analyses that are statewide in scope, and,

(b) Data sufficiently specific to permit analysis of traffic stop activity in a local jurisdiction by law enforcement agencies and the public.

(3) Law enforcement agencies shall have access to the results of their data submissions at least 30 days prior to the release of a statewide report that includes the data.

(4) Reports shall be released to the public no less frequently than once each year. The first report shall be filed no later than July 1, 2012.

**History:** CR 10-010: cr. Register August 2010 No. 656, eff. 9-1-10.

**OJA 1.09 Availability of records.** The office of justice assistance shall distribute information about the release of each OJA report to the news media and by an announcement on its website. All reports of OJA made under this chapter shall be published on the OJA website.

**Note:** The OJA website address is <http://oja.wi.gov>.

**History:** CR 10-010: cr. Register August 2010 No. 656, eff. 9-1-10.

**OJA 1.10 Penalties.** In addition to utilizing other available remedies to enforce the provisions of this chapter, OJA shall identify in its reports any law enforcement agency that fails to collect or submit traffic stop data as required under this chapter.

**History:** CR 10-010: cr. Register August 2010 No. 656, eff. 9-1-10.