

## QUESTIONS

### **1. How does your department define pretextual stops, and what policies are in place to govern their use?**

Pretextual traffic stops are vehicle stops initiated for a legitimate and observable traffic or equipment violation, which also serve as an opportunity to investigate potential criminal activity not immediately related to the observed infraction. This practice is supported by *Whren v. United States*, which allows for stops based on any valid legal justification, even if officers have an additional investigatory intent.

It is critically important to emphasize that **all pretextual stops, like any police-initiated stop, are subject to fundamental constitutional constraints. Race, ethnicity, gender, age, socioeconomic status, or any other protected characteristic may not be used—explicitly or implicitly—as a factor in the decision to initiate a stop, unless those characteristics are part of a suspect-specific description based on credible information.** This reflects our commitment to both the Fourth Amendment’s protections against unreasonable searches and seizures and the Equal Protection Clause of the Fourteenth Amendment.

While SLPD does not have a standalone policy on pretextual stops, our overall traffic enforcement policies are grounded in principles of constitutional policing, fairness, and respect for the rights of all individuals. Officers are trained to ensure that any stop—whether of a vehicle or pedestrian—is lawful, professional, and conducted without bias.

### **2. Do SLPD patrol officers, traffic division officers, or any other division of SLPD perform pretextual traffic stops?**

Yes. Patrol officers, traffic enforcement officers, and other specialized units are authorized to conduct traffic stops, including stops that may be considered pretextual. However, each stop must be based on a lawful and objective reason, such as a vehicle code violation or a warrant hit and must comply with department policy and constitutional requirements.

### **3. Is there training or guidance within the SLPD on use of discretion and how to conduct pretextual traffic stops? Does it include implicit bias training?**

SLPD provides foundational and ongoing training on officer discretion, constitutional policing, and ethical conduct. All officers receive training at the academy level and throughout their careers as part of our continuous professional development program.

A critical component of this training is the **recognition and mitigation of implicit bias**. Officers are instructed to base their enforcement decisions on facts, not assumptions or stereotypes, and to ensure their actions are equitable and legally justified. We last conducted department-wide implicit bias training in 2020. We are preparing to implement an updated training module later this year.

**4. When a traffic stop occurs, what documents are motorists or pedestrians asked to provide?**

In accordance with standard practice and California law, officers typically request a driver's license, vehicle registration, and proof of insurance. As of January 1, 2024, under AB 2773, officers must also **state the reason for the stop before engaging in further questioning**. This policy reinforces transparency and aligns with our commitment to fair policing.

**5. Can an SLPD officer inspect the glove box or trunk, or order a driver out of the vehicle during a pretextual stop? How are Fourth Amendment protections maintained?**

Officers may request consent to search any portion of the vehicle, including the glove box or trunk. Consent must be voluntary, and a motorist may refuse without consequence unless probable cause exists (e.g., plain view of contraband, odor of narcotics, active search clause, etc.). If consent is refused and no legal exception applies, a search may not be conducted.

There is no legal requirement to advise drivers that they may refuse consent. However, SLPD officers capture the request to search and the subsequent explicit consent, or refusal, on body camera.

To ensure constitutional compliance, officers are required to activate both body-worn and in-car cameras during traffic stops. These recordings provide an auditable record of the stop and serve as a safeguard for both the public and our personnel.

**6. What questions can SLPD officers ask, and are motorists required to answer them? Are rights explained during stops?**

Officers may ask reasonable investigative questions, including "Do you know why I stopped you?" or "Where are you headed?" However, aside from providing name, driver's license, vehicle registration, and proof of insurance, individuals are not legally required to answer other questions and may state, "I choose not to answer." A motorist has the right to refuse

to answer questions **unless the refusal obstructs or delays the lawful investigation by the officer per penal code section 148 (a)(1) PC.**

Officers do not routinely provide Miranda warnings during traffic stops unless a subject is taken into custody and is subject to interrogation. We reaffirm every individual's right to remain silent and encourage respectful, lawful engagement between officers and community members.

## **7. Does your department collect data on pretextual stops?**

While SLPD does not separately track pretextual stops as a category, all vehicle and pedestrian stops are reported through the **Racial and Identity Profiling Act (RIPA)** system. This data includes race, gender, age, reason for the stop, outcome, and other factors. The data is reviewed by the Independent Police Auditor (IPA), internal command staff, and shared with the public to promote transparency and improvement.

## **8. What privacy safeguards are in place for use of technology such as body-worn cameras or automated license plate readers (ALPRs)?**

SLPD policies 426 (Body-Worn Cameras) and 351 (ALPRs) establish privacy protections. Officers are instructed to deactivate cameras during privileged conversations, such as attorney-client communications. Access to recorded footage is limited to authorized personnel and managed in accordance with applicable law and department policy.

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## **COMMUNITY ENGAGEMENT QUESTIONS**

### **1. How do you respond to concerns that pretextual stops disproportionately affect certain racial or socioeconomic groups?**

We acknowledge the reality that **racial disparities exist in traffic stop data**, as demonstrated by RIPA reporting. While the data does not in itself indicate intentional discrimination, the presence of disparities demands thoughtful inquiry and response. We do not assume that all traffic stops are pretextual or racially motivated, but we do take concerns of disparate impact seriously.

Recent analysis, including comparisons between daytime and nighttime stops, has revealed that while there are disparities, those disparities are relatively consistent between daytime and nighttime (when the assumption is that the characteristics of the driver cannot be ascertained by the stopping officer). We are committed to deeper evaluation, dialogue with our community, and corrective action where warranted. As Chief of Police, I

do not tolerate racial profiling or bias in policing and remain committed to upholding both the spirit and letter of the law.

## **2. What initiatives has your department implemented to build trust with communities that may feel targeted by pretextual stops?**

SLPD has taken several steps to foster trust and transparency, including:

- Partnering with non-law enforcement organizations such as the NAACP for training.
- Convening a Chief's Advisory Board representing diverse community voices.
- Collaborating with the CPRB and IPA on policy development and accountability.
- Regularly publishing stop data and engaging in public discussion on its implications.

We operate under a philosophy of **continuous improvement**, updating our practices to reflect the expectations and needs of our community.

## **3. How does your department ensure transparency and accountability in the use of pretextual stops?**

In addition to required RIPA reporting and camera activation policies, SLPD has implemented a **Transparency Portal** on its public website. This portal includes data dashboards, policies, training outlines, and use of force information. Oversight is provided by both the Independent Police Auditor and the CPRB.

Training, supervision, and policy reviews are routinely conducted to ensure our officers act within legal and ethical bounds. Any deviations are addressed through retraining, discipline, or structural reform, depending on the severity of the issue.

## **4. Does SLPD use elements of restorative justice in response to concerns about pretextual stops?**

Restorative justice principles—acknowledging harm and fostering accountability—are integral to how we respond to concerns. When issues arise from a stop, we investigate thoroughly, respond transparently, and take appropriate corrective action. This may include retraining, policy updates, and/or discipline.

We value open communication with the CPRB and other community representatives to ensure our approach reflects public concerns and constitutional values. This dialogue is not merely procedural—it is central to how we define our identity as a department.

## **NON-SAFETY STOPS: Enforcement of Minor Infractions**

SLPD officers are authorized to enforce violations of the California Vehicle Code, including but not limited to non-safety infractions such as:

- Missing front license plate
- Expired registration (even if less than one year)
- No license plate illumination
- Obstructed view due to hanging items
- One inoperable taillight
- Incomplete use of turn signals
- Sleeping in a vehicle
- Excessive window tint
- Cracked windshield
- Missing bumper
- \*Jaywalking was decriminalized through the Freedom to Walk Act which went into effect on January 1, 2023.

Each stop must be lawful, reasonable, and proportional. Officers are trained to use discretion and to consider the broader context, including whether a stop serves a legitimate public safety purpose.

### **Closing Statement**

The San Leandro Police Department remains firmly committed to **constitutional policing** rooted in dignity, objectivity, and accountability. We welcome community input and scrutiny, and we pledge to continuously examine and improve our practices, especially where they intersect with concerns about fairness, bias, and the responsible use of discretion.