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FACT SHEET

REQUIRE WRITTEN CONSENT AT TRAFFIC STOPS TO MINIMIZE UNPRODUCTIVE PRACTICES AND IMPROVE CONFIDENCE IN THE CRIMINAL JUSTICE SYSTEM

ISSUE

Texas law enforcement officers can conduct a search at a traffic stop without having a legal basis for it (like probable cause or a warrant), as long as the person detained provides consent for the search.

However, officers are not required to obtain a person's written consent prior to conducting a consent search.

PROBLEMS

- Without written consent policies, the number of prosecutable cases declines: persons found with contraband or other evidence of wrongdoing during consent searches can more easily contest the search in court and have that evidence thrown out due to lack of documentation of valid consent.
- Many people do not realize that they have the right to say 'no' to consent searches, and officers are not required to inform citizens that they are free to leave before providing their consent to a vehicle search. This – added to the anxiety and intimidation that many people generally feel at traffic stops – leads to them consenting to searches.
- The overwhelming majority of consent searches in Texas continue to be of Black and Latino motorists, pointing to possible sources of bias-based policing. However, in some Texas communities, law enforcement agencies seem to have general policies encouraging officers to conduct consent searches at *all* stops – resulting in thousands of people of all races being subjected to searches without legal basis.

SOLUTION: SUPPORT THIS INITIATIVE BY CHAIRMAN HAROLD DUTTON

Require officers to obtain written consent prior to conducting a consensual search at a traffic stop.

- **Written consent policies decrease the likelihood that the hard work of law enforcement officers is lost on technicalities.** This better ensures that roadside searches stand up in court by preventing the “he-said, she-said” problems that surface in the courtroom when defendants claim they never consented to a search.
- **Written consent policies ensure that drivers are informed of their rights at the scene before they waive them,** thus helping to build a better relationship between police and community members who have sometimes expressed they feel unfairly bullied through the use of consent searches.
- **Written consent policies could reduce the number of consent searches conducted without decreasing public safety.** After the Austin Police Department implemented a 2004 policy requiring written consent at traffic stops, approximately 63% fewer drivers consented to police searches of their vehicles when they knew they had the right to refuse. Officials say there was no harm to public safety.

ALTHOUGH WRITTEN CONSENT POLICIES ARE ALREADY IN PLACE AT SOME AGENCIES THROUGHOUT TEXAS, A STATEWIDE REQUIREMENT WOULD GIVE DRIVERS UNIFORM PROTECTION AND ENSURE THAT OFFICERS' VALUABLE TIME IS FREED UP FOR MORE PRODUCTIVE USES (LIKE IMPROVING 911 RESPONSE TIMES). TAXPAYERS COULD FEEL CONFIDENT KNOWING THAT POLICE RESOURCES THEY ARE FUNDING ARE BEING MOST EFFICIENTLY AND EFFECTIVELY ALLOCATED.