



Equality Before the Stop

Analyzing Racial Bias in Traffic Stops and
Identifying Solutions to End Racial Profiling

August 2019

ACLU
Nebraska

Introduction

For over 50 years in Nebraska, the ACLU has worked in courts, legislatures, and communities to protect the constitutional and individual rights of all people. With a nationwide network of offices and millions of members and supporters, we take up the toughest civil liberties fights. Beyond one person, party, or side — we the people dare to create a more perfect union.

The ACLU of Nebraska works in coalition with other civil rights groups to educate communities about racial justice issues, litigates racial discrimination cases, and brings proactive policy reform solutions to the halls of power because Nebraskans of color must not be excluded from our state motto of “Equality Before the Law.” A few recent examples of our work grounded in racial justice include: our pending class action lawsuit against the Nebraska Department of Correctional Services on behalf of prisoners,¹ providing rapid legal response support in the aftermath of the large-scale O’Neill immigration raid,² actively opposing the Dakota County Sheriff’s decision to join the Department of Homeland Security’s (DHS) 287(g) program known to invite racially biased policing,³ successfully advocating for legislation to address missing Native American women⁴ and a constitutional amendment to erase the last vestiges of slavery from our state constitution.⁵

Racial profiling by law enforcement is a longstanding and deeply troubling problem nationally and in Nebraska. Racial profiling occurs when law enforcement officers target people of color for humiliating and often frightening traffic stops, detentions, interrogations, and searches, sometimes by using a pretext stop without evidence of criminal activity. The traffic stop is often the first point of contact with police, so when there is over-policing of people of color in traffic stops this exacerbates and perpetuates disproportionate racial impacts at each and every juncture of our criminal justice system.

Racial profiling is illegal, violates the U.S. Constitution’s core promises of equal protection under the law,⁶ freedom from unreasonable searches and seizures,⁷ and ultimately hurts us all because it alienates communities from law enforcement instead of advancing our shared public safety goals. As the U.S. Department of Justice has stated in guidance to all law enforcement: “[b]iased practices...are unfair, promote mistrust of law enforcement, and perpetuate negative and harmful stereotypes...Law



Author: *Rose Godinez, ACLU of Nebraska Legal and Policy Counsel*

enforcement practices free from inappropriate considerations, by contrast, strengthen trust in law enforcement agencies and foster collaborative efforts between law enforcement and communities to fight crime and keep the nation safe.”⁸

The ACLU fully acknowledges that Nebraska is fortunate to have dedicated and hard-working law enforcement officers. However, the ACLU remains deeply concerned that Nebraskans of color continue to be overrepresented in traffic stops and searches and that the trends of this troubling data are moving in the wrong direction year after year.⁹ Since 2001 when Nebraska began collecting data on who is pulled over and who is searched by police, the statistics have shown an unchanging stark picture: Black, Latinx, and Native American drivers are two to three times more likely to be pulled over or searched in comparison to white drivers.¹⁰ See **Appendix A** for an analysis of the Nebraska Crime Commission’s (NCC) 2018 traffic stop data report.

As such, the ACLU decided to conduct a first of its kind investigation on how the Nebraska State Patrol and law enforcement agencies in Nebraska’s largest and most diverse counties are complying with existing state laws meant to mitigate and eradicate racial profiling. Specifically, we took an in-depth look into existing anti-racial profiling policies and law enforcement’s efforts, if any, to utilize anti-bias training in their work. Finally, this report details specific and practical policy solutions for all stakeholders to explore and implement so that together we can work to change the trajectory of persistent, unfair, and growing racial disparities in traffic stops and pursue our shared public safety goals more effectively.

NEBRASKA STORIES

Individual Impact Stories

ACLU of Nebraska regularly receives complaints from Nebraskans of color who report being pulled over in a manner that they report as pretextual. Individuals who reach out to us say they are contacting the ACLU rather than the police themselves because some Nebraska law enforcement agencies' complaint processes are unclear or because they tried to make an internal complaint but the investigation process was unsatisfactory.

Dashawn *pseudonym to protect privacy*

Race: Black

Dashawn, a police officer in Nebraska, believes he was racially profiled when he was pulled over for a traffic stop. Dashawn and a passenger were pulled over in downtown Omaha after Dashawn made a right turn without a turn signal. Dashawn informed the police officer that he was also a police officer and that he had his service weapon in his vehicle. He was then told to exit the vehicle and handcuffed outside of the vehicle. Soon thereafter, the officer's partner arrived, uncuffed him, and apologized.

Roberto *pseudonym to protect privacy*

Race: Latino

Roberto and his son-in-law had to pull over to the side of the road after their car broke down. Roberto is a U.S. citizen by birth. Shortly after, a county sheriff's officer came to the vehicle and asked Roberto and his son-in-law for identification. Roberto provided the officer with his driver's license and the sheriff asked for another form of identification to "make sure it was him." Roberto believes this was done because the officer suspected Roberto, being Latinx, was also undocumented. Before they could respond, another officer came over, corrected the situation and returned the documents to Roberto.

Anti-Racial Profiling Best Practices

Anti-Racial Profiling Policy Formulation

Nebraska state law requires a written anti-racial profiling policy for every Nebraska law enforcement agency.¹¹ The Nebraska Crime Commission has developed a model policy for local law enforcement agencies on racial profiling.¹²

Additionally, best practices as identified by the International Association of Chiefs of Police has explained why a clear, robust written anti-racial profiling policy is important: "[t]he first step in preventing racial profiling

is the development of a clear departmental policy banning the practice. This policy directive must unambiguously define and denounce racial profiling. Ambiguous policy definitions and directives are of no assistance to officers on the street and have no value for developing relationships of trust between the department and the community.”¹³

Anti-Bias Training

“The rate of traffic stops per 1000 individuals over 18 years of age shows that in the ten Nebraska counties where the Hispanic/Latino population is largest, there is a trend of disparity between traffic stops of white individuals vs Hispanic/Latino individuals. This trend persists through time regardless of the number, percentage or year.”

Lazaro Spindola
Executive Director
Latino-American Commission

The U.S. Department of Justice and other subject matter experts have identified anti-bias training as a way to combat racial profiling.¹⁴ Anti-bias training, also known as implicit bias training, arose from psychology and neurology studies that demonstrated that all of us have unconscious biases on many subjects: race, national origin, gender, age, and religion. Unconscious assumptions lead to making automatic and unexamined decisions that have been described as “racism without racists.” people acting on a racial prejudice despite good intentions.¹⁵

Anti-bias training is highly recommended for all law enforcement agencies based on the latest research and best practices in law enforcement.¹⁶ It is important to recognize that experts in the field recommend ongoing training to ensure lasting long-term positive effects.¹⁷ Further, the training’s success depends on how experienced the trainer is and whether police departments participate in follow-up assessments that include rigorous testing after classes are completed to test whether officers’ reactions, behavior, or perceptions were actually changed by the material.¹⁸

Analysis

Methodology

To better understand the Nebraska landscape on law enforcement agencies’ efforts to end racial profiling, the ACLU of Nebraska utilized census data to identify 12 of Nebraska’s most populous and racially diverse counties. We sent an open records request to every law enforcement agency in those 12 counties, for a total of 23 agencies that included city police, county sheriffs, and the Nebraska State Patrol. Note that two of the 23 law enforcement agencies did not respond to our request: Johnson County Sheriff’s office and Schuyler Police Department. See **Appendix B** for a copy of our open records request. Complete copies of the law enforcement agencies’ responses are on file at the ACLU of Nebraska and available upon request.

Our open records request sought two categories of information: 1) whether the agency had an anti-racial profiling policy and 2) information about any anti-bias trainings or implicit bias trainings attended by any member of the agency in the last two years.

Survey Results for Nebraska Anti-Racial Profiling Policies

- 7 of the 21 responding law enforcement agencies (33%) surveyed did not have a written anti-racial policy.
- 16 of the 21 responding law enforcement agencies (76%) surveyed provided an anti-racial profiling policy.
- Evaluation of these policies concluded that there is a striking lack of uniformity in terms of the written anti-racial profiling policies.

See **Appendix C** for a summary of the law enforcement agencies' responses.

Professional police organizations have clearly identified components that a good anti-racial profiling policy should contain.¹⁹ As such, we encourage the NCC to reach out to all agencies to work with them to first ensure every Nebraska law enforcement agency is in compliance with existing state law and promulgates an explicit written anti-racial profiling policy. Second, the NCC should assist all agencies to adopt a policy that follows recommended best practices.

Survey Results for Nebraska Anti-Bias Trainings

All new law enforcement officers must attend basic training at the Nebraska Law Enforcement Training Center (NLETC). NLETC reports that racial profiling awareness training is incorporated into the basic training all law enforcement officers complete for certification.²⁰ For example, students at NLETC are taught that all traffic stops must be based on a legal justification and cannot be based solely upon the person's (or driver's) race or ethnic makeup.²¹

While we applaud NLETC for incorporating basic racial profiling awareness into the new officer training curriculum it is important to note that according to best practices one time basic training is not enough. Moreover, ongoing anti-bias training for new recruits and veterans alike is necessary to directly confront internal prejudices and specifically learn skills to mitigate and counteract bias.

The results of our survey revealed that over the two year survey period very few Nebraska law enforcement employees received specific anti-bias training. The few agencies that did offer anti-bias or implicit bias training had very few employees attend the training.

- 11 of the 21 responding law enforcement agencies (52%) had an employee participate in anti-bias training.
- Of those 11 agencies only about 6% of their employees attended an anti-bias training.
- Commendably, the Chadron Police Department reported 100% employee participation in anti-bias training.

Disappointingly, some of the largest law enforcement agencies surveyed reported very few employees received anti-bias training during the survey period:

- Nebraska State Patrol: 31 of 697 (4%)
- Omaha Police Department: 0 of 1,056 (0%)
- Douglas County Sheriff: 0 of 125 (0%)
- Lincoln Police Department: 94 of 508 (19%)
- Lancaster County Sheriff: 3 of 106 (3%)
- Grand Island Police Department: 5 of 105 (5%)
- Hall County Sheriff: 0 of 42 (0%)

Nebraska state law does require that all certified law enforcement officers receive 20 hours of annual continuing education.²² However, state law does not currently require any specific type or amount of anti-bias or implicit bias training. Instead the curriculum for the 20 hour continuing education requirement in state law is left up to each department and officer to decide what subjects they will choose for their continuing education.²³ For example, Nebraska attorneys are required to complete 10 continuing education hours annually and 2 of those 10 hours must be specifically focused on attorney's ethical obligations. We recommend that Nebraska policymakers consider adding similar specificity to law enforcement continuing education requirements to require annual anti-bias or implicit bias training for each officer.

Recommendations

"The Lincoln Branch NAACP stands against racism in any form to include Racial Profiling."

Dewayne Mays
President
Lincoln Branch NAACP

The ACLU of Nebraska encourages individual law enforcement agencies to utilize this opportunity to immediately review their policies and practices surrounding racial profiling and anti-bias training and to make improvements.

The time is also ripe for policymakers in Nebraska at the state and local level to conduct further review and analysis of the following policy reform solutions to ensure all Nebraskans are being treated fairly, that our communities are safe, and that core principles of the Constitution are affirmed. Additional awareness and collaborative reforms can mitigate the real and harmful impacts of racial bias and racial profiling. Reform solutions may include, but are not limited to, the following:

1. Ensure compliance with existing Nebraska law mandating anti-racial profiling policies.

Having an anti-racial profiling policy is required by Nebraska law, but some law enforcement agencies are not in compliance. The NCC should ensure all agencies have adopted NCC's model anti-racial profiling policy and continually review their model policy and local anti-racial profiling policies to ensure they meet established best practices.

2. Ensure compliance with existing Nebraska law mandating data collection and reporting of traffic stop data.

The Nebraska Crime Commission reports reveal several law enforcement agencies have failed to either report or completely report the mandated traffic stop data required by state law.²⁴ In the most recent reporting period, those agencies included: Banner County Sheriff's Office, Blaine County Sheriff's Office, Crete Police Department, Loup County Sheriff's Office, Minatare Police Department, Niobrara Police Department, Plainview Police Department, Randolph Police Department, South Sioux City Police Department, and Wisner Police Department.²⁵ Nebraska law could be amended to ensure compliance by providing a certification penalty or strengthening incentives by establishing eligibility standards to receive competitive grant funds that flow through the NCC.

3. Strengthen data collection and reporting.

Existing data collection and reporting is valuable but could be improved by amending state law in two specific ways. First, the existing data does not provide the reason for the traffic stop and that critical data should be collected. Second, the existing data does not distinguish whether searches were by consent or pursuant to an arrest and that critical data should be collected. Reforms to consent searches are an emerging trend worthy of additional consideration in Nebraska because this information can help to determine to what extent officers are using their discretion to request a search of drivers of color.²⁶ Both of these pieces of data are already collected by officers during traffic stops — but not preserved in a way that would allow stakeholders to do further analysis. Better data collection would allow law enforcement and the public together to understand, discuss, and address the existing disparities and explore whether or not additional reforms to consent searches should be introduced in Nebraska as they have been in Minnesota,²⁷ New Jersey,²⁸ and Rhode Island.²⁹

4. Mandate specific and continuing anti-bias training and testing.

Ongoing, robust anti-bias training should be mandated for all law enforcement officers. This training should happen at the NLETC at the outset of every officer's career, and should be required annually as continuing education. The U.S. Department of Justice has identified and tested effective anti-bias training curriculum.³⁰ Moreover, other states have already started requiring anti-bias training for law enforcement officers, including our neighboring states of Colorado,³¹ Kansas,³² and Missouri.³³

5. Improve civilian complaint mechanisms to investigate racial profiling allegations and report outcomes of complaints.

In order to earn and maintain trust, law enforcement agencies must demonstrate to the public that they take civilian complaints and internal investigations seriously and that there is appropriate accountability when an officer has acted inappropriately. As previously reported by ACLU of Nebraska, civilian complaint procedures vary widely across law enforcement agencies.³⁴ We suggest that every law enforcement agency in Nebraska adopt best practices as defined by the Department of Justice³⁵ to improve their civilian complaint processes. Further, we encourage community organizations to promote these accountability measures through their existing public education and community empowerment efforts. See **Appendix D** for Know Your Rights materials.

6. Terminate 287(g) agreements with the Department of Homeland Security (DHS) to prevent increased racial profiling.

287(g) agreements authorize local law enforcement agencies to enforce federal immigration law. Research has demonstrated that these programs bring with them a host of potential problems, including increased racial profiling.³⁶ Law enforcement agencies should be discouraged from joining such programs and state legislators should revisit legislation, such as LB 369,³⁷ to ensure communities are given notice if their law enforcement agency decides to sign an agreement and dedicate resources to enforce federal immigration law.

7. Review and amend labor agreements to prevent barriers to officer accountability.

Currently, NCC is not able to fully analyze reports of racial profiling due to certain provisions in labor agreements.³⁸ Promising recent efforts in Nebraska to improve law enforcement accountability in the sexual harassment context, such as LB 791,³⁹ could be expanded to address racial profiling allegations and investigations more robustly.

Conclusion

Some Nebraska law enforcement agencies have made an earnest effort to address racial profiling by adopting a racial profiling policy and having some staff attend anti-bias training. However, racial disparities in traffic stops continue to increase and too many Nebraskans of color report feeling they have been discriminated against by police on the basis of race. Racial profiling hurts and humiliates people and does irreparable damage to the relationships between law enforcement and the community. Nebraska law enforcement agencies must explore new strategies to address these persistent and unfair disparities in traffic stops and to combat racial profiling.

Appendix A: Racial Disparities Analysis

Nebraska law enforcement agencies are required to document data on traffic stops, pursuant to state law.⁴⁰ This data collection includes the driver's race, why the driver was stopped, whether a search was conducted, and the outcome of the stop (e.g., verbal warning, ticket, or arrest).⁴¹ The Nebraska Crime Commission on Law Enforcement and Criminal Justice (NCC) annually collects and reports this data on traffic stops from 197 law enforcement agencies across the state.⁴² This data provides insight into the effectiveness and consequences of certain law enforcement tactics; gives agencies an opportunity to evaluate their own departments; and allows law enforcement leaders to compare themselves to other agencies across the state.

In 2018 the NCC reported that 197 local law enforcement agencies conducted 428,249 traffic stops.⁴³ As reflected below, there were significant racial disparities in who was stopped and searched by law enforcement. In Table 1 we included the Nebraska population percentage for comparison to each racial or ethnic group's percentage of traffic stops. Note that the Nebraska population percentage includes minors and non-drivers and necessarily reflects a larger percentage than that of the actual driving population.

Table 1: Racial Disparities in Nebraskans' Traffic Stops

Race/Ethnicity	% of Nebraska Population	# of Traffic Stops	% of Total Traffic Stops
Asian/Pacific Islander	2.6%	7,349	1.7%
Black	5.1%	35,606	8.3%
Latinx	11%	42,489	9.9%
Native American	1.5%	4,085	1%
Other	2.3%	7,198	1.7%
White	79%	331,522	77.4%

Source: Nebraska Crime Commission's 2018 Traffic Stops in Nebraska report

Latinx and Other races (which would include other races, biracial and multiracial people) are conflated due to Census categorizing Hispanic, Latino, or Spanish origin as an ethnicity and not a race.

Red Text = Race/ethnic group is overrepresented in traffic stops when compared to the corresponding Nebraska population percentage.

Traffic Stops

- Black drivers are nearly 2 times more likely to be stopped compared to white drivers in traffic stops. The percentage of traffic stops conducted on Black drivers has continued to increase since 2013 despite the fact that Black drivers do not commit more crimes than white drivers.⁴⁴
- 1 in every 5 traffic stops is conducted on a Black, Latinx, Native American, or Other non-white driver.

Table 2: Racial Disparities in Nebraskans' Traffic Stops Resulting in Search and/or Arrest

Race/Ethnicity of Stopped Individual	% of Stops within Racial/Ethnic Category Resulting in Searches	% of Stops within Racial/Ethnic Category Resulting in Arrests
Asian/Pacific Islander	2.5%	2.9%
Black	8.8%	18.2%
Latinx	5.5%	6.9%
Native American	7.7%	11.1%
Other	7.1%	6.8%
White	2.8%	2.8%

Source: Nebraska Crime Commission's 2018 Traffic Stops in Nebraska report

Latinx and Other races (which would include other races, biracial and multiracial people) are conflated due to Census categorizing Hispanic, Latino, or Spanish origin as an ethnicity and not a race.

Red Text = Race/ethnic group is overrepresented in traffic stops resulting in a search or arrest when compared to the white driver population.

Searches

- Black, Latinx, Native American, and Other non-white drivers were all more likely to be searched than white drivers.
- Black drivers are 3 times more likely to be searched as a result of a traffic stop than a white driver.
- Native Americans and Other non-white drivers are 2 – 3 times more likely to be searched than white drivers.
- In Douglas County, 2 of every 5 traffic stops is conducted on a Black driver.
- In Hall County, 2 of every 5 traffic stops is conducted on a Latinx driver.

Arrests

- Black drivers are nearly 7 times more likely to be arrested as a result of a traffic stop than white drivers.
- Native American drivers are nearly 4 times more likely to be arrested as a result of a traffic stop than white drivers.

Appendix B: Open Records Request



Nebraska

134 S. 13th St. #1010
Lincoln, NE 68508
(402) 476-8091
aclunebraska.org

March 19, 2018



RE: Open Records Request

Dear [REDACTED]:

We are writing to collect information relating to your agency's policies and practices regarding two categories of training: (1) anti-bias, cultural competency or fair and impartial policing trainings and (2) crisis intervention training or other trainings on dealing with a person with physical and mental disability. ACLU of Nebraska is studying how continuing education for law enforcement might help remedy problems such as racial profiling, interactions with people in mental health crisis, and community relations.

The purpose of this request is to obtain information relating to the policies and training relating to anti-bias training in police forces in Nebraska.

This is a request under Nebraska public records law, Neb. Rev. Stat. §84-712:

In the following request, "document" is not limited to written policy but includes any informal or procedural policy. For the purposes of this request, "document" includes e-mails; instructions; memos; directives; guidance documents; formal and informal presentations; training documents; bulletins; alerts; updates; advisories; reports; minutes or notes of meetings and phone calls; and memoranda of understanding.

As you may know, Nebraska law requires a response to an open records request to be made within four (4) days of receipt.

The materials we are requesting are limited to the time period of March 1, 2017, to March 1, 2018.

We request the following information from your agency:

Any office policy you have relating to anti-bias conduct;

Any policy or practice of working with other organizations, such as non-profit agencies or churches, which work with racial minorities and



individuals with mental or physical disabilities.

Any document reflecting the total number of employees in your office;

Any document reflecting the total number of trained employees relating to anti-bias conduct;

The name(s) of the program(s) and/or presenter(s) and/or company doing the training;

Date(s) of the training(s);

We do not require the names of individuals. This request simply applies to any training, whether it was done in house, through another entity, or through long distance webinar-style training.

When the documents relevant to this request are ready, you may provide them in electronic form to my email at rgodinez@aclunebraska.org or in paper form at the address on this letterhead.

Feel free to contact me with any questions. You can reach me directly at (402) 476-8091 ext. 105.

Thank you for your attention in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rose Godinez".

Rose Godinez
Legal and Policy Counsel

Appendix C: Law Enforcement's Anti-Bias Training, Anti-Racial Profiling Policies, and Racial Disparities Summary

Table 3

Law Enforcement Agency	Anti-Bias Training / Racial Profiling Policy?	Total # of Employees - Employees Trained	% of Employees Trained	% of Traffic Stops B / L / NA / W	% of Searches B / L / NA / W	% of Arrests B / L / NA / W	% of Population B / L / NA / W
Bellevue PD	No / Yes	112-0	0%	14 / 17 / .2 / 66	9 / 10 / 25 / 4	6 / 5 / 50 / 4	7 / 16 / .4 / 71
Chadron PD	Yes / Yes	25-25	100%	4 / .3 / 12 / 80	3 / 0 / 22 / 6	0 / 0 / 12 / 3	2 / 4 / 6 / 80
Colfax County Sheriff	No / Yes	N/A-0	0%	3 / 29 / .4 / 67	19 / 22 / 33 / 7	0 / 1 / 0 / .2	5 / 46 / 3 / 49
Crete PD	Yes / No	16-11	69%	3 / 42 / .2 / 50	0 / 1 / 100 / 1	11 / 5 / 0 / 3	.5 / 38 / .3 / 55
Dakota County Sheriff	No / Yes	50-0	0%	8 / 17 / 9 / 62	6 / 3 / 11 / 3	4 / 8 / 26 / 5	5 / 40 / 4 / 85
Dawes County Sheriff	No / No	14-0	0%	2 / 5 / 6 / 85	0 / 0 / 0 / 3	0 / 0 / 0 / 0	2 / 5 / 4 / 85
Dawson County Sheriff	No / No	69-0	0%	6 / 18 / .4 / 74	4 / 2 / 0 / 2	15 / 8 / 11 / 5	6 / 34 / 2 / 59
Douglas County Sheriff	No / Yes	125-0	0%	15 / 7 / .3 / 72	9 / 9 / 0 / 5	7 / 6 / 15 / 4	11 / 13 / 1 / 70
Gering PD	Yes / No	20-6	30%	2 / 24 / 1 / 73	7 / 2 / 25 / 2	0 / 1 / 33 / 2	1 / 14 / 1 / 83
Grand Island PD	Yes / Yes	105-5	5%	6 / 38 / .2 / 55	9 / 9 / 8 / 6	8 / 8 / 17 / 5	3 / 30 / 1 / 64
Hall County Sheriff	No / Yes	42-0	0%	3 / 17 / .1 / 79	10 / 5 / 0 / 1	4 / 3 / 0 / 1	3 / 28 / 2 / 67
Johnson County Sheriff	N/A / N/A	N/A	N/A	3 / 7 / .3 / 88	7 / 4 / 67 / 3	14 / 7 / 67 / 5	6 / 10 / 2 / 80
Lancaster County Sheriff	Yes / Yes	106-3	3%	5 / 6 / .3 / 85	10 / 11 / 0 / 4	4 / 5 / 0 / 3	4 / 7 / 1 / 81
Lexington PD	Yes / Yes	23-1	4%	16 / 53 / .3 / 30	5 / 10 / 13 / 5	5 / 9 / 25 / 5	11 / 62 / 1 / 26
Lincoln PD	Yes / Yes	508-94	19%	11 / 7 / 1 / 75	7 / 5 / 11 / 3	5 / 2 / 9 / 1	4 / 7 / 1 / 81

Table 3 continued

Law Enforcement Agency	Anti-Bias Training / Racial Profiling Policy?	Total # of Employees - Employees Trained	% of Employees Trained	% of Traffic Stops B / L / NA / W	% of Searches B / L / NA / W	% of Arrests B / L / NA / W	% of Population B / L / NA / W
Nebraska State Patrol	Yes / Yes	697-31	4%	N/A	N/A	N/A	N/A
Omaha PD	No / Yes	1,056-0	0%	29 / 11 / 1 / 53	12 / 8 / 13 / 4	39 / 26 / 42 / 14	12 / 14 / 1 / 67
Saline County Sheriff	No / No	19-0	0%	3 / 15 / .1 / 81	25 / 20 / 0 / 17	19 / 16 / 0 / 12	2 / 26 / 2 / 69
Sarpy County Sheriff	No / Yes	153-0	0%	6 / 6 / .1 / 85	13 / 6 / 0 / 2	6 / 1 / 0 / 2	4 / 9 / 1 / 81
Schuyler PD	N/A / N/A	N/A	N/A	9 / 63 / 0 / 28	4 / 17 / 0 / 5	2 / 2 / 0 / 2	4 / 73 / 2 / 23
Scotts Bluff County Sheriff	Yes / No	13%	13%	1 / 26 / 3 / 70	25 / 6 / 0 / 8	0 / 3 / 19 / 3	1 / 24 / 3 / 72
South Sioux City PD	Yes / Yes	N/A-1	N/A	N/A	N/A	N/A	N/A
Thurston County Sheriff	No / No	27-0	0%	2 / 6 / 36 / 43	11 / 4 / 6 / 4	4 / 5 / 9 / 2	1 / 6 / 59 / 36

All percentages >.5 are rounded to the nearest whole number, if possible.

The population percentage of each race group is based on the most recent Census data and reflects the entire population percentage, including minors and non-drivers. The actual driving population is necessarily a smaller percentage.

The number of employees trained in anti-bias training may be smaller than the actual count of employees reflected on the table depending on whether one employee participated in multiple trainings.

N/A = Not Available as some law enforcement agencies did not respond to our open records request or the data was not provided to NCC.

Red Text = Black/Latinx/Native American drivers are overrepresented in traffic stops based on either their population in the city/county or Black/Latinx/Native American drivers are overrepresented in search or arrest rates in comparison to white drivers.

Appendix D: Know Your Rights

What to do if you believe your rights have been violated by law enforcement:

- When you can, write down everything you remember, including the officers' badge and patrol car numbers and the agency they work for.
- Get contact information for witnesses.
- If you're injured, seek medical attention immediately and take photographs of your injuries.
- File a written complaint with the agency's internal affairs division or civilian complaint board.
- If the complaint is not satisfactorily addressed by the agency or board, contact your local ACLU affiliate.

What you can do if you think you're witnessing police abuse or brutality:

- Download "Mobile Justice-NE" app available for Android and iPhone. The app allows you to send reports and automatically upload video to the ACLU of Nebraska.
- Stand at a safe distance and, if possible, use your phone to record video of what is happening. As long as you do not interfere with what the officers are doing and do not stand close enough to obstruct their movements, you have the right to observe and record events that are plainly visible in public spaces.
- Police officers may not confiscate or demand to view your photographs or video without a warrant, and they may not delete your photographs or video under any circumstances. If an officer orders you to stop recording or orders you to hand over your phone, you should politely but firmly tell the officer that you do not consent to doing so, and remind the officer that taking photographs or video is your right under the First Amendment. Be aware that some officers may arrest you for refusing to comply even though their orders are illegal. The arrest would be unlawful, but you will need to weigh the personal risks of arrest (including the risk that officer may search you upon arrest) against the value of continuing to record.
- Write down everything you remember, including officers' badge and patrol car numbers, which agency the officers were from, how many officers were present and what their names were, any use of weapons (including less-lethal weapons such as Tasers or batons), and any injuries suffered by the person stopped.

Your rights during a traffic stop:

- Stop the car in a safe place as quickly as possible.
- Both drivers and passengers have the right to remain silent. One exception: Nebraska law requires you to state your name to a law enforcement officer if asked. Otherwise, you have the right to remain silent.
- If you're a passenger, you can ask if you're free to leave. If yes, you may silently leave.
- Turn off the car, turn on the internal light, open the window part way, and place your hands on the wheel. If you're in the passenger seat, put your hands on the dashboard.
- Upon request, show police your driver's license, registration, and proof of insurance.
- Avoid making sudden movements, and keep your hands where the officer can see them.
- You have the right to refuse consent to a search. Officers can only search your car with your consent or if they have probable cause to believe you are involved in criminal activity.

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ENDNOTES

- 1 *Sabata v. Neb. Dep't of Corr. Serv.*, No. 4:17cv3107, 2018 WL 3141846 (D. Neb. June 27, 2018).
- 2 Emily Nitcher, *ACLU Claims ICE mistreated people rounded up in immigration raid*, Omaha World Herald (Aug. 17, 2018), https://www.omaha.com/news/nebraska/aclu-claims-ice-mistreated-people-rounded-up-in-immigration-raid/article_9ab6078d-59f6-5a12-80a2-f8ce5778a759.html; Rose Godinez, *ICE vs. Nebraska Nice: An Account of the Immigration Enforcement Raid in O'Neill*, ACLU Neb. (Aug. 15, 2018), <https://www.aclunebbraska.org/en/news/ice-vs-nebraska-nice-account-immigration-enforcement-raid-oneill-1>.
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- 4 LB 154, 106th Leg., 1st Sess. (Neb. 2019).
- 5 Neb. Const. art. I § 2, amended by LR1CA, 106th Leg., 1st Sess.
- 6 U.S. Const. amend. XIV, § 1.
- 7 U.S. Const. amend. IV.
- 8 U.S. Dep't of Just., *Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity 2* (2014), <https://www.justice.gov/sites/default/files/ag/pages/attachments/2014/12/08/use-of-race-policy.pdf>.
- 9 Neb. Crime Comm'n, *Traffic Stops in Nebraska*, <https://ncc.nebraska.gov/traffic-stops-nebraska> (last visited May 8, 2019).
- 10 *Id.*
- 11 Neb. Rev. Stat. §20-504 (requiring every law enforcement agency to adopt a policy that "prohibits the detention of any person or a motor vehicle stop when such action is motivated by racial profiling").
- 12 Neb. Crime Comm'n, *Model Policies*, <https://ncc.nebraska.gov/model-policies> (last visited May 8, 2019).
- 13 Int'l Ass'n of Chiefs of Police, *Addressing Racial Profiling: Creating a Comprehensive Commitment to Bias-Free Policing* 161-62 (2006), https://www.theiacp.org/sites/default/files/all/p-r/PCR_LdrshpGde_Part3.pdf.
- 14 In 2014, the U.S. Department of Justice created the National Initiative for Building Community Trust and Justice, a collaboration between the Urban Institute, the Center for Policing Equity, Yale Law School and others. The initiative seeks to use a variety of tools—including anti-bias training—to improve relationships between law enforcement and minority communities. Sonia Tsuruoka, *The National Initiative for Building Community Trust and Justice: Improving Police-Community Relations in Six U.S. Cities*, 9 e-newsletter COPS office (2016), https://cops.usdoj.gov/html/dispatch/12-2016/national_initiative_for_building_community_trust.asp.
- 15 See generally Nat'l Initiative for Bldg. Cmty., <https://trustandjustice.org/resources/intervention/implicit-bias> (last visited May 8, 2019) (The U.S. Department of Justice National Initiative for Building Community Trust and Justice outlines the scientific background how implicit bias affects human psychology and how training can address it).
- 16 Justice News, U.S. Dep't of Just., Department of Justice Announces New Department-Wide Implicit Bias Training for Personnel (June 27, 2016), <https://www.justice.gov/opa/pr/departement-justice-announces-new-department-wide-implicit-bias-training-personnel>.
- 17 The Center for Policing Equity at City University of New York was tapped by the U.S. Department of Justice in 2014 to begin trainings in implicit bias; their head emphasizes the need for repeat trainings with rigorous assessments. Center for Policing Equity, <https://www.policingequity.org/> (last visited May 8, 2019).
- 18 *Id.* See also Tom James, *Can Cops Unlearn Their Unconscious Biases?*, The Atlantic (Dec. 23, 2017), <https://www.theatlantic.com/politics/archive/2017/12/implicit-bias-training-salt-lake/548996/>.
- 19 Int'l Ass'n of Chiefs of Police, *supra* note 13.
- 20 *Id.*; Neb. Crime Comm'n, *supra* note 9.
- 21 Int'l Ass'n of Chiefs of Police, *supra* note 13; *Id.*
- 22 Neb. Rev. Stat. §81-1414.07.
- 23 *Id.*

- 24 Neb. Crime Comm'n, *supra* note 9.
- 25 *Id.*
- 26 Consent searches have very little enforcement value and overwhelmingly lead to harassment of Black, Latinx, and Native American drivers. Moreover, consent searches are a misnomer: the imbalance of power makes them coercive and invasive of the privacy of drivers of all races. The Minnesota and New Jersey Supreme Courts have banned consent searches and Rhode Island introduced a statute banning consent searches; with this emerging national conversation around searches, Nebraska policymakers deserve more information about searches of drivers in our state.
- 27 *Minnesota v. Mustafaa Naji Fort*, 660 N.W.2d 415 (Minn. 2003).
- 28 *State v. Carty*, 170 N.J. 632, 790 A.2d 903 (2002).
- 29 31 R.I. Gen. Laws § 31-21.2-5.
- 30 They currently recommend 1) Fair and Impartial Policing Training Program and 2) Anti-Bias Training for Law Enforcement Professionals by the Anti-Defamation League. U.S. Dep't of Just., *Understanding Bias: A Resource Guide* 9, <https://www.justice.gov/crs/file/836431/download>.
- 31 Colo. Rev. Stat. §24-31-315.
- 32 Kan. Stat. Ann. §22-4610(d).
- 33 Mo. Rev. Stat. §590.050.
- 34 ACLU Neb., *Civilian Complaints in Nebraska* (Aug. 21, 2016), <https://www.aclunebraska.org/en/publications/civilian-complaints-nebraska>.
- 35 U.S. Dep't of Just., *Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement* 3 (2009), <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=253930>.
- 36 Am. Immigr. Council, *The 287(g) Program: An Overview* (2017), <https://www.americanimmigrationcouncil.org/research/287g-program-immigration>.
- 37 LB 369, 106th Leg., 1st Sess. (Neb. 2019).
- 38 Neb. Crime Comm'n, *supra* note 9.
- 39 LB 791, 105th Leg., 2nd Sess. (Neb. 2018).
- 40 Neb. Rev. Stat. §20-504(3)(b).
- 41 *Id.*
- 42 Neb. Crime Comm'n, *supra* note 9.
- 43 *Id.*
- 44 *Id.*



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