

RESOLUTION NO. 2009-86

**RESOLUTION BY PUBLIC PROTECTION & JUSTICE SYSTEM COMMITTEE EXPRESSING
OPPOSITION TO PROVISIONS OF 2009 WISCONSIN ACT 28 REQUIRING LAW
ENFORCEMENT AGENCIES TO COLLECT AND REPORT INFORMATION CONCERNING
TRAFFIC STOPS**

To the Honorable Members of the Racine County Board of Supervisors:

WHEREAS, two provisions of 2009 Wisconsin Act 28 (Wisconsin's 2009-11 biennial budget) place substantial new burdens on law enforcement agencies in the state:

- Section 2993t (creating § 349.027, Wisconsin Statutes) requires each law enforcement agency, beginning in 2011, to collect certain data specified by, and report the same to, the State's Office of Justice Assistance (OJA); and
- Section 158m (creating § 16.964(16), Wisconsin Statutes) directs OJA to specify the data to be collected and its processing after collection, and to analyze such data to determine 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 of vehicles "solely occupied by persons who are not members of a racial minority"; and

WHEREAS, these provisions apparently arose out of concern that other changes created by 2009 Wisconsin Act 28 could cause more traffic stops of vehicles operated or occupied by members of minority groups than the frequency of violations by members of those groups would justify; and

WHEREAS, the Racine County Board of Supervisors finds unacceptable the initiation of law enforcement action based solely on the perceived minority status of an individual; and

WHEREAS, notwithstanding its agreement on the importance of, and its commitment to, impartial application of the law, the Racine County Board of Supervisors considers these provisions of 2009 Wisconsin Act 28 to be a severe administrative burden; an unwarranted encroachment by the State's executive branch on the authority of local law enforcement agencies; an impediment to efficient law enforcement, especially in a time of reduced resources; and, ultimately, more likely to be a cause of misunderstandings between minority group members and law enforcement.

NOW, THEREFORE, BE IT RESOLVED that the Racine County Board of Supervisors hereby opposes sections 158m and 2993t of 2009 Wisconsin Act 28 (now sections 16.964(16) and 349.027 of the Wisconsin Statutes); that it calls upon the Governor and the State Legislature to repeal them as soon as possible; and that, in the event that they are not repealed, it calls upon the Office of Justice Assistance to prescribe regulations that impose the minimum possible burden on law enforcement and calls upon the State Legislature to subject those regulations to the closest possible scrutiny.

BE IT FURTHER RESOLVED by the Racine County Board of Supervisors that the Racine County Clerk is directed to transmit a copy of this Resolution to the Governor of the State of Wisconsin, Racine County's state legislative delegation, and the Wisconsin Counties Association.

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Respectfully submitted,

**PUBLIC PROTECTION & JUSTICE SYSTEM
COMMITTEE**

3
4 1st Reading _____

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6 2nd Reading _____

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8 **BOARD ACTION**

Van H. Wanggaard, Chairman

9 Adopted _____

10 For _____

Mike Dawson, Vice-Chairman

11 Against _____

12 Absent _____

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14 **VOTE REQUIRED:** Majority

Kay Buske, Secretary

Jim E. Kaplan

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19 Prepared by:
20 Corporation Counsel

Diane M. Lange

Michael J. Miklasevich

Dan F. Sharkozy

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29 **The foregoing legislation adopted by the County Board of Supervisors of
30 Racine County, Wisconsin, is hereby:**

31 **Approved:** _____

32 **Vetoed:** _____

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34 **Date:** _____,

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37 _____
38 **William L. McReynolds, County Executive**

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40 **INFORMATION ONLY**

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42 **WHEREAS**, Sections 158m and 2993t of 2009 Wisconsin Act 28 (now sections
43 16.964(16) and 349.027 of the Wisconsin Statutes) require every state and local law enforcement
44 agency to collect and submit data as directed by OJA for the purpose of determining whether the
45 number of traffic stops “involving motor vehicles operated or occupied by members of a racial
46 minority is disproportionate to” the number of traffic stops of vehicles “solely occupied by persons
47 who are not members of a racial minority”; and

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49 **WHEREAS**, because these sections envision the collection and reporting of data not
50 currently required in a traffic stop situation, they necessarily place added administrative burden
51 on law enforcement patrol officers, as well as on headquarters staff that must collate and report
52 such data to OJA; and

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1 **WHEREAS**, because of the uncertainty and, in some cases, the subjectivity of racial and
2 ethnic designations, and because these statutory provisions mandate determinations regarding
3 the minority or non-minority status of every vehicle occupant, the additional time demands upon
4 patrol officers are likely to significantly delay their return to their patrols, thereby resulting in
5 reduced law enforcement presence on the highways and a consequent detriment to public safety;
6 and
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8 **WHEREAS**, by mandating collection and reporting of data by local law enforcement
9 agencies in the course of carrying out their enforcement responsibilities, the State Legislature is
10 restricting the legitimate freedom of action of local law enforcement agencies; and
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12 **WHEREAS**, by assigning to OJA the authority to specify the data to be gathered and the
13 circumstances under which it is gathered, the State Legislature has delegated to a State
14 executive branch agency responsibilities that, if proper at all, should be exercised by the
15 Legislature itself; and
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17 **WHEREAS**, given this delegation of authority by the State Legislature to OJA, in the event
18 that the Legislature does not see fit to repeal these sections, it is incumbent on the Legislature to
19 accord the closest possible scrutiny to any regulations issued by OJA; and
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21 **WHEREAS**, especially given the tensions that can accompany traffic stops even for minor
22 infractions, requiring a patrol officer to collect racial or ethnic information about the driver and
23 every occupant of a vehicle could exacerbate tensions in individual situations; and, over time,
24 repeated incidents could have the counterproductive effect of increasing, rather than decreasing,
25 the perception of disproportionate treatment of minority group members.
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