

Racial Profiling Update



2008

7138Z

Rules

- What is a “Balk”?
- How many ways can you balk?
- What is an “infield fly” rule?
- How many bases can you get on a over throw that leaves the playing field?
- Why is it important to know the rules?
- What does this have to do with Racial Profiling?

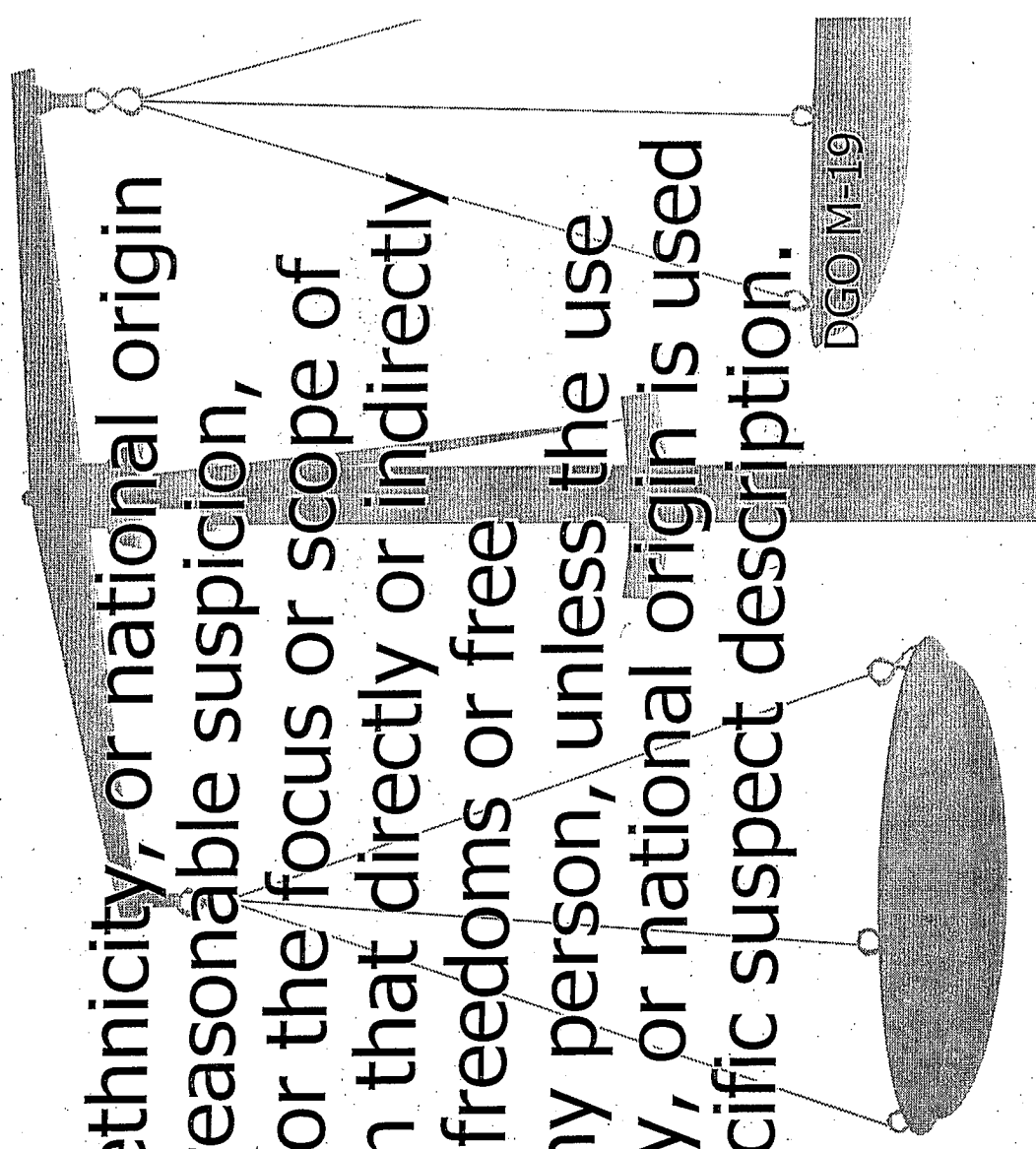


What is Racial Profiling?

Definition:

The use of race, ethnicity, or national origin in determining reasonable suspicion, probable cause or the focus or scope of any police action that directly or indirectly imposes on the freedoms or free movement of any person, unless the use of race, ethnicity, or national origin is used as part of a specific suspect description.

DGOM-19



Racial Profiling

- Does racial profiling occur?
- Does the Oakland Police Department racially profile?
How do you know?
- What steps are we (OPD) taking to address this issue?
- Do you think certain areas of the United States, racially profile more or less than others?

Racial Profiling

- Can the same race profile each other?
- Is one race of officers accused of racially profiling more than another?
- ✚ ■ What does the term “race out of place” mean to you?
- Have you or anyone you know ever been racially profiled?

Racial Profiling

- What is the negative impact of racially profiling?
- What does the 4th Amendment of the Constitution have to do with racial profiling?
- What does the 14th Amendment of the Constitution have to do with racial profiling?

The 4th Amendment

Definition:

The right of the people to be secure in their persons, houses, papers and effects

↪ against **unreasonable searches and**

seizures, shall not be violated and no

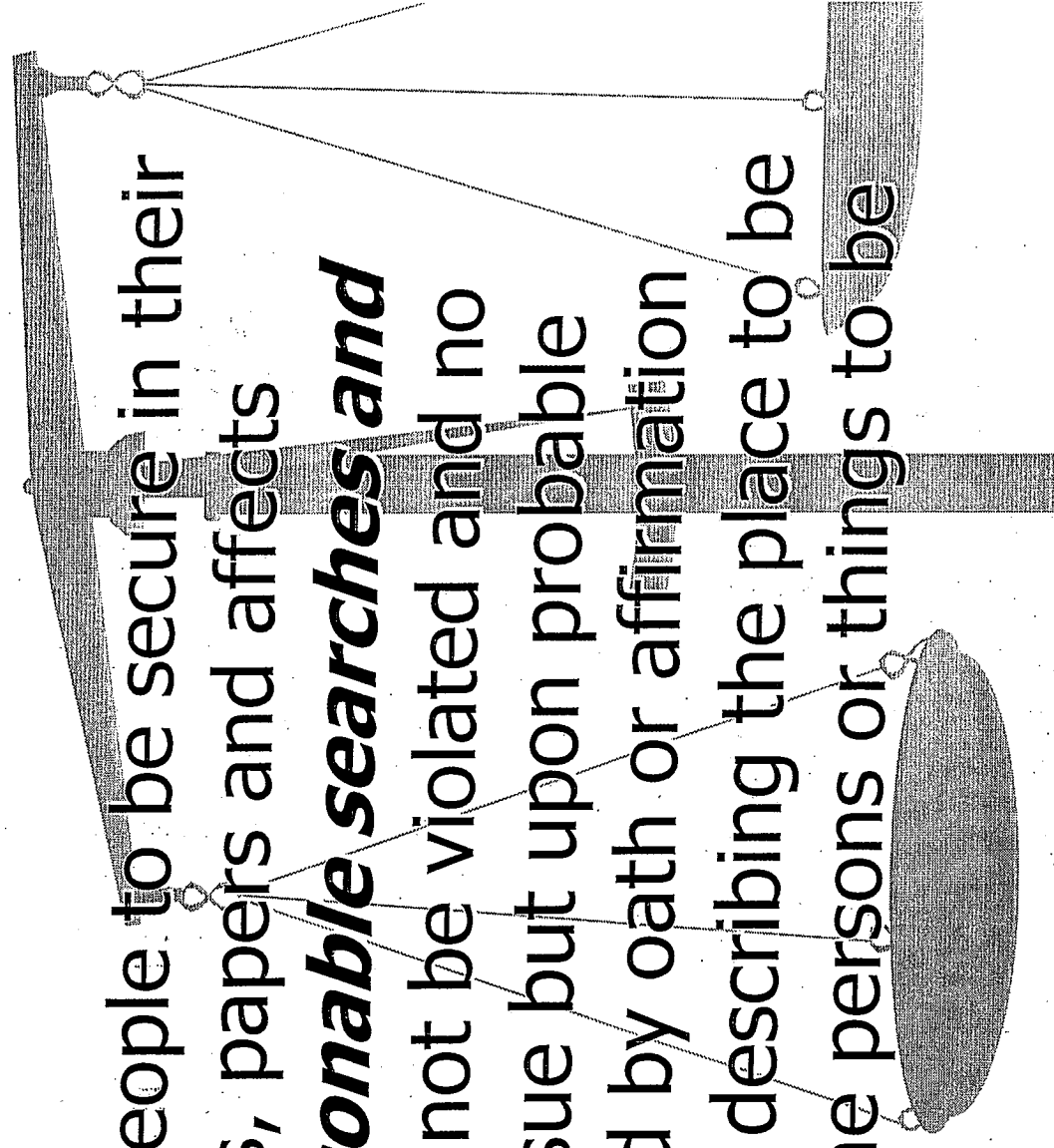
warrant shall issue but upon probable

cause supported by oath or affirmation

and particularly describing the place to be

searched and the persons or things to be

seized.



The 4th Amendment

Key points:

- Before any individual can be stopped or detained, law enforcement must have **individualized suspicion** that the person being stopped is either engaged in, is about to engage in, or has engaged in unlawful activity.
- Law enforcement needs to have reasonable suspicion or probable cause to search, whether it's a vehicle or a person.

The 14th Amendment

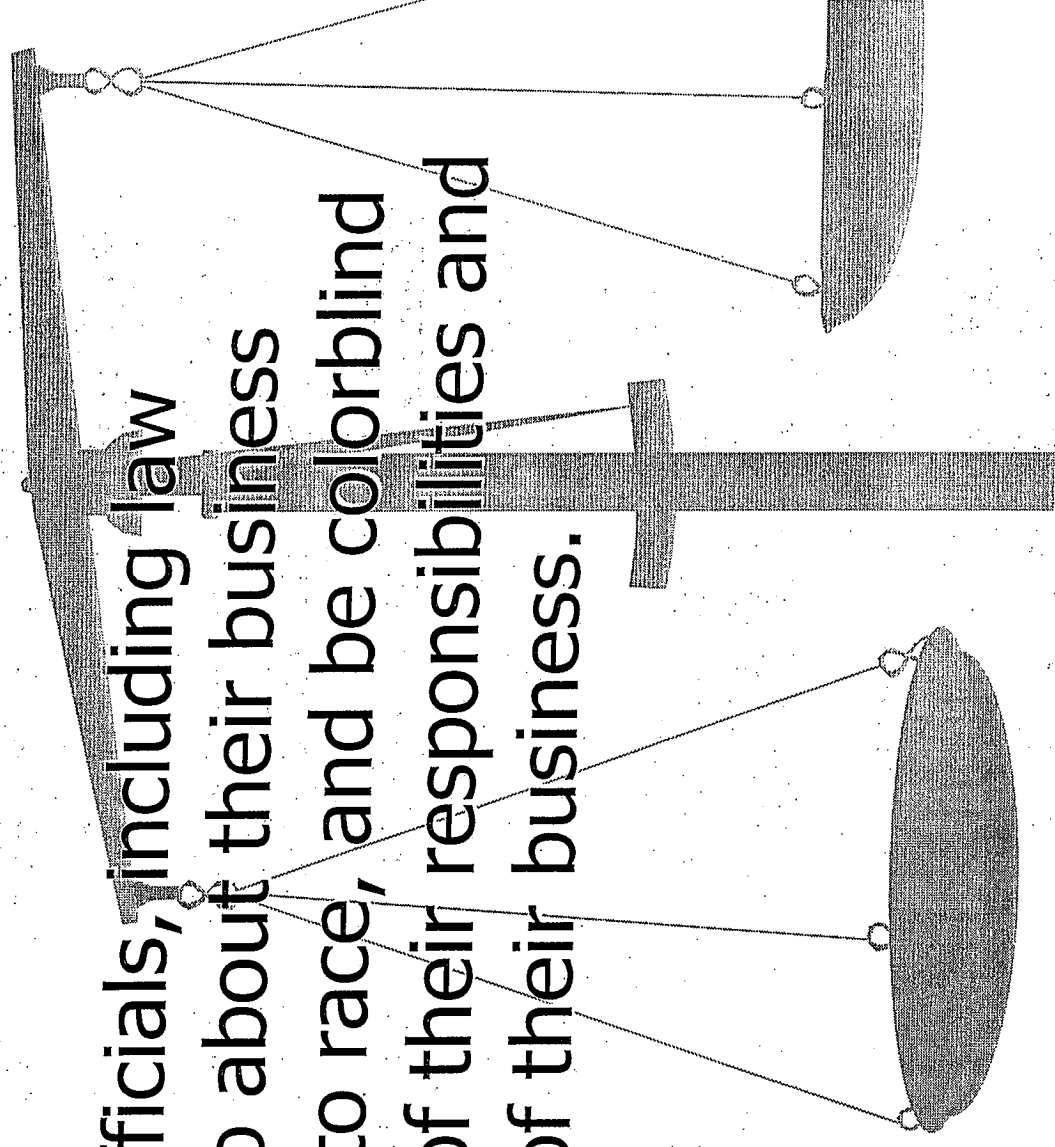
Definition:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

The 14th Amendment

Key points:

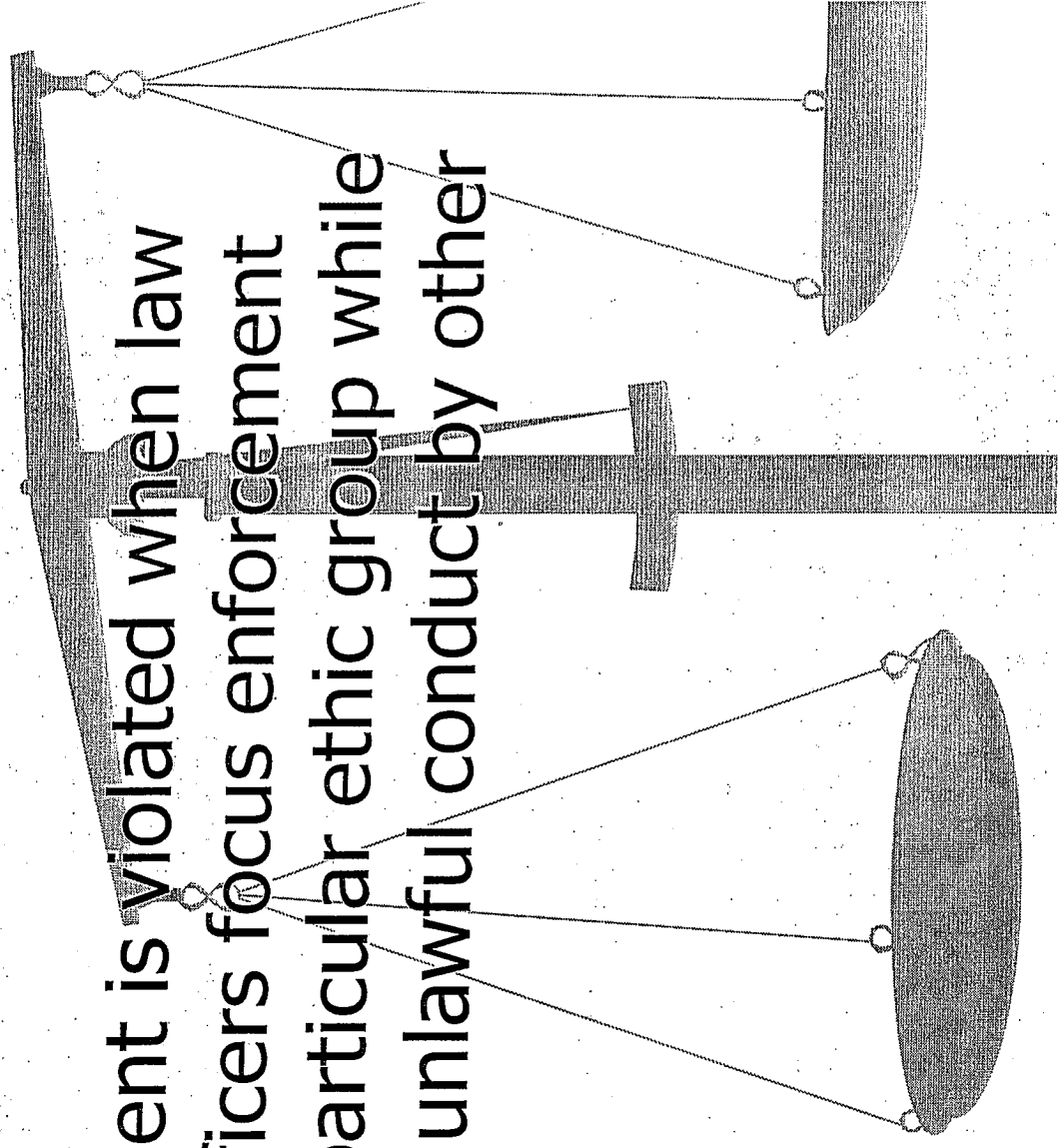
All government officials, including law enforcement, go about their business without regard to race, and be colorblind in the conduct of their responsibilities and in the conduct of their business.



The 14th Amendment

Key points:

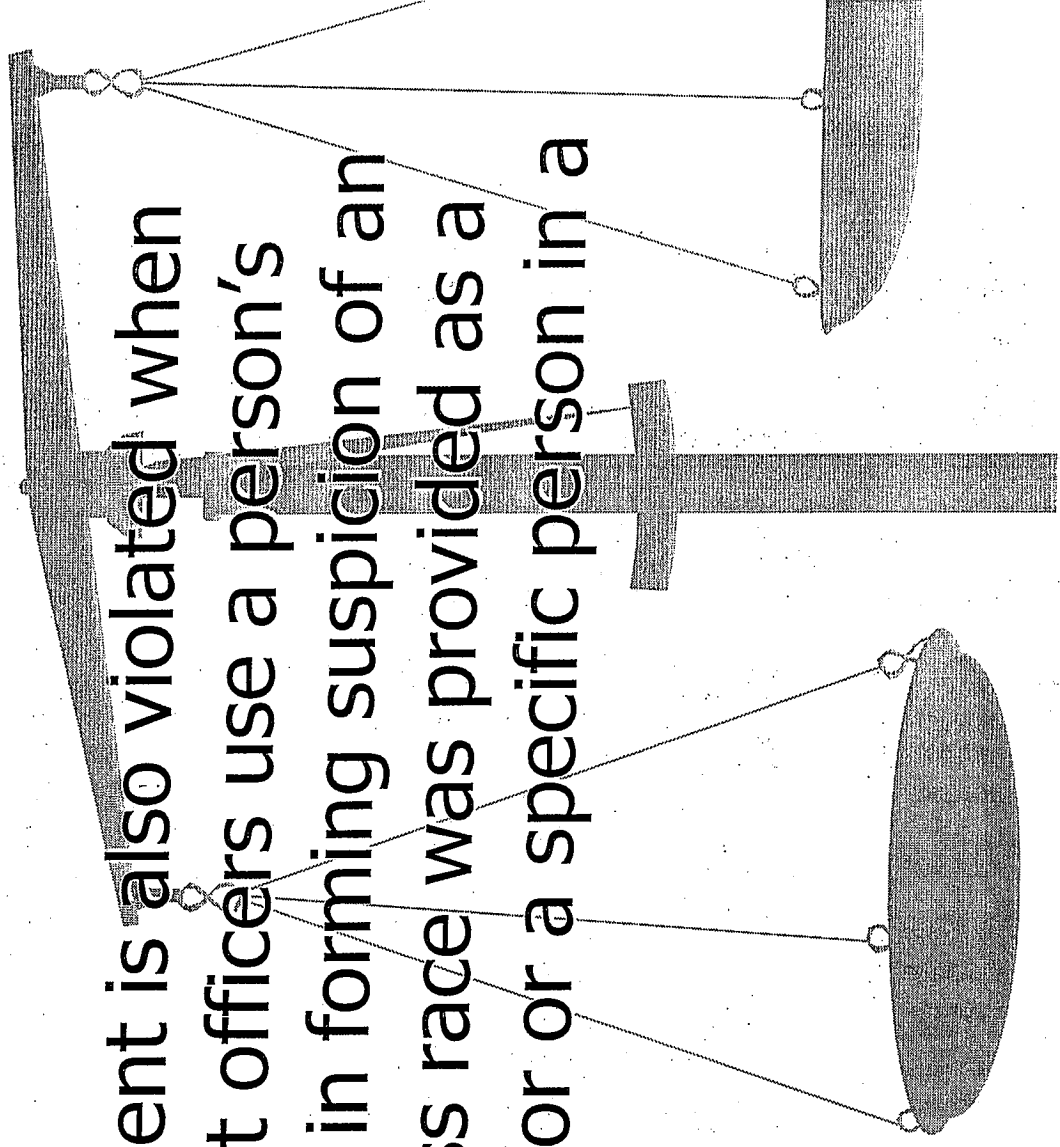
The 14th Amendment is violated when law enforcement officers focus enforcement efforts on one particular ethnic group while ignoring similar unlawful conduct by other ethnic groups.



The 14th Amendment

Key points:

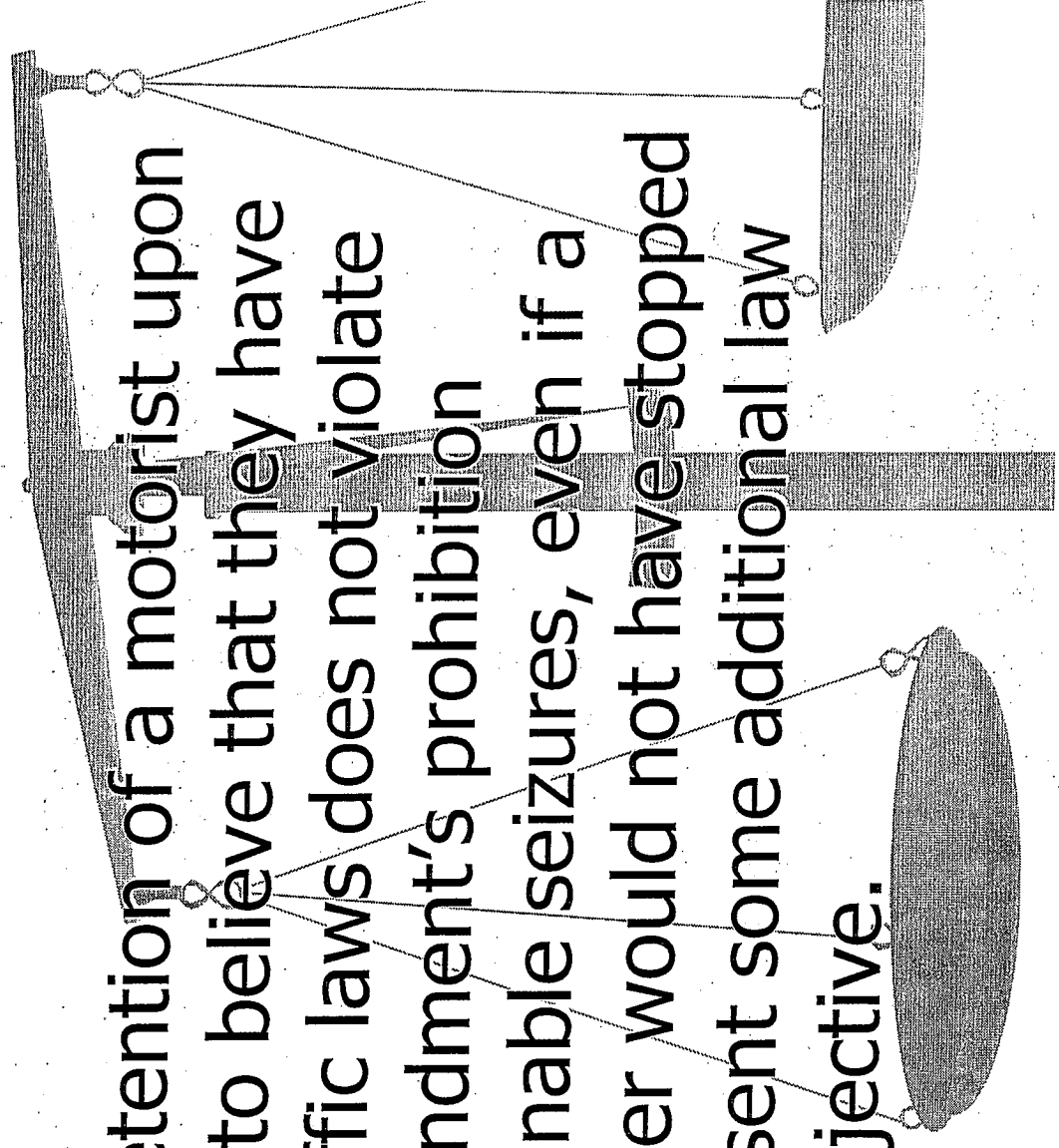
The 14th Amendment is also violated when law enforcement officers use a person's race as a factor in forming suspicion of an individual, unless race was provided as a specific descriptor or a specific person in a specific crime.



What is the Whren Decision?

Definition:

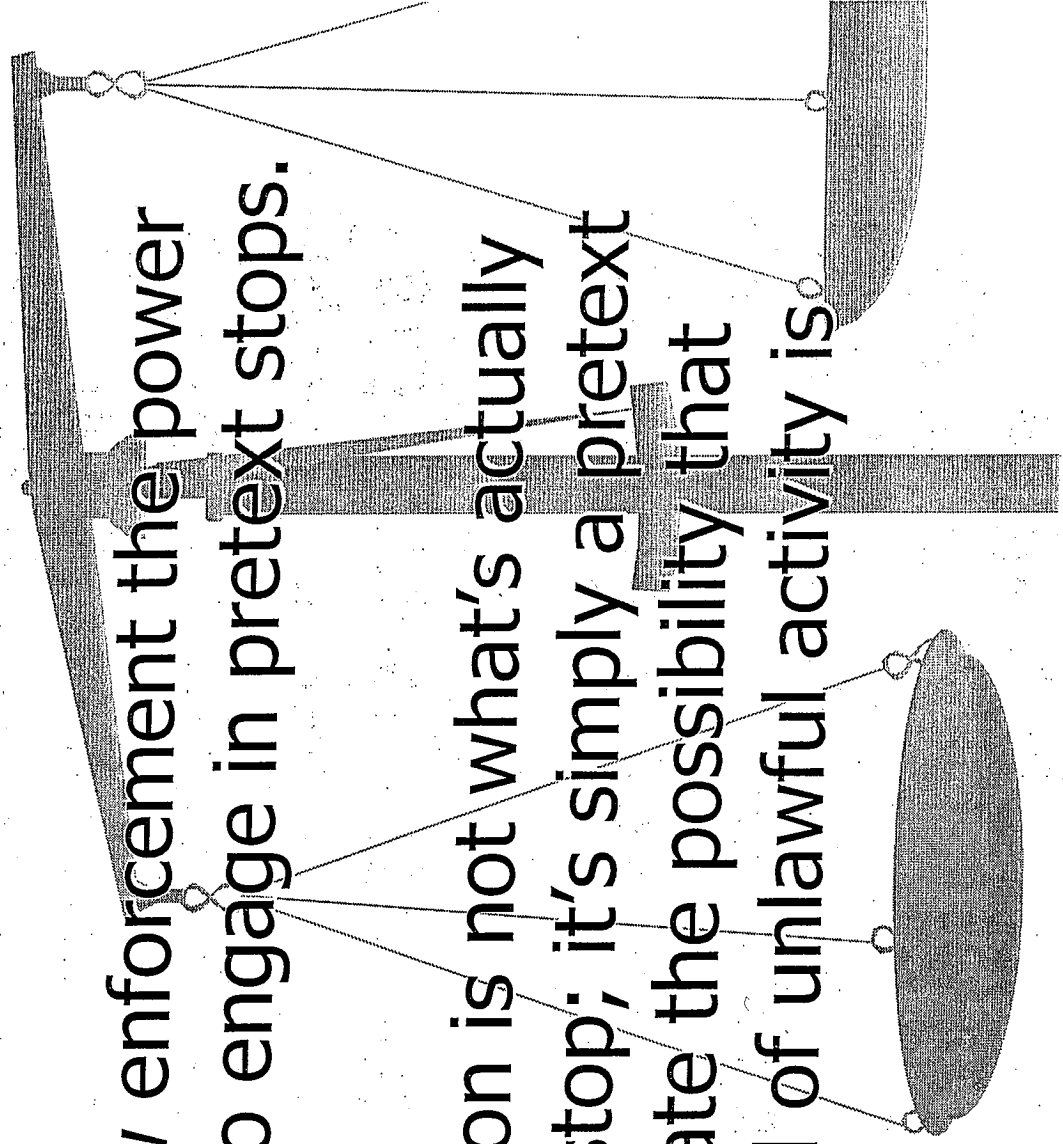
The temporary detention of a motorist upon probable cause to believe that they have violated the traffic laws does not violate the Fourth Amendment's prohibition against unreasonable seizures, even if a reasonable officer would not have stopped the motorist absent some additional law enforcement objective.



Whren

Key points:

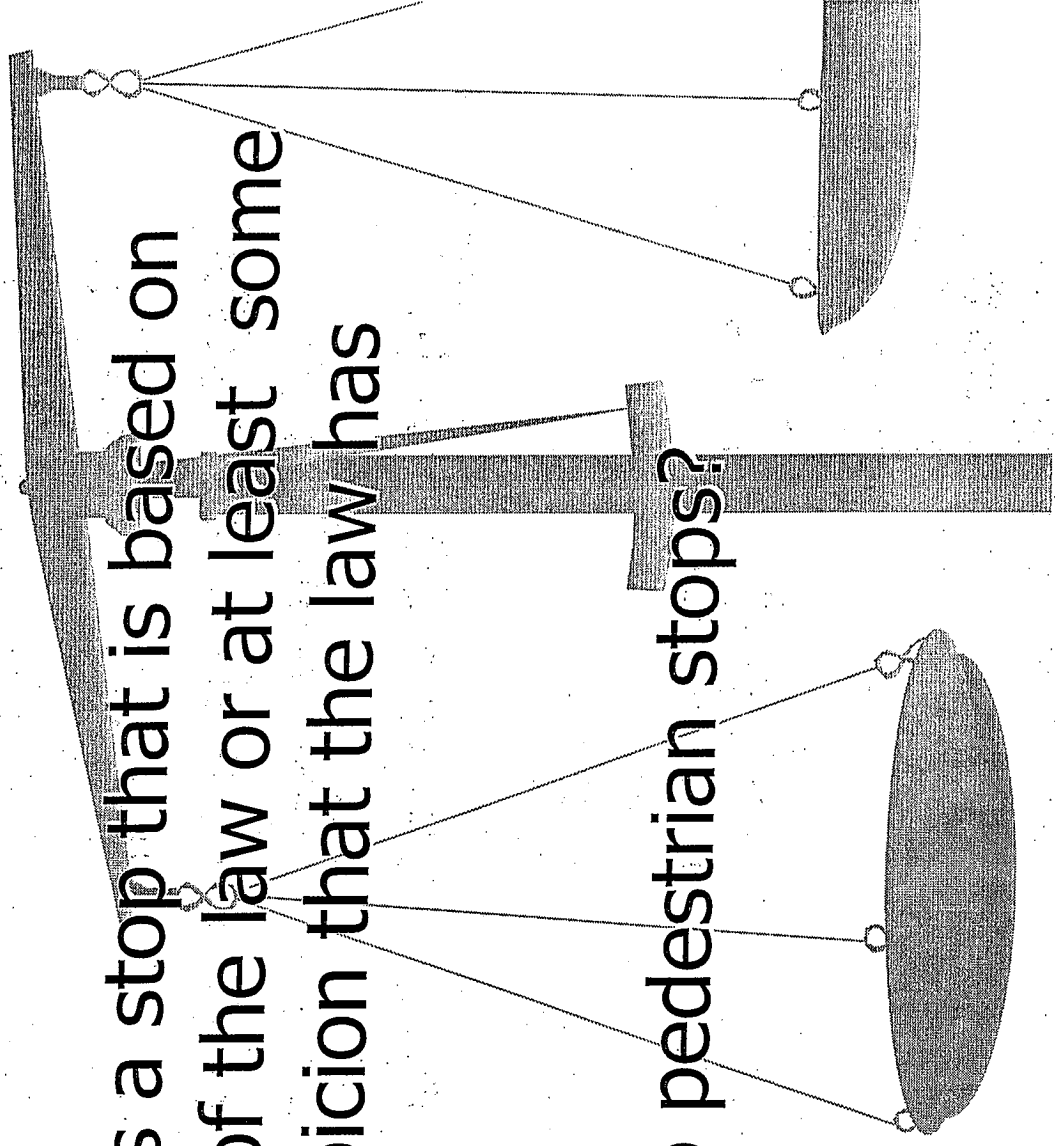
- Whren gives law enforcement the power and the ability to engage in pretext stops.
- The legal violation is not what's actually motivating the stop; it's simply a pretext stop to investigate the possibility that some other kind of unlawful activity is afoot.



What is a Pretext Stop?

A **pretext stop** is a stop that is based on some violation of the law or at least some reasonable suspicion that the law has been violated.

Does this apply to pedestrian stops?

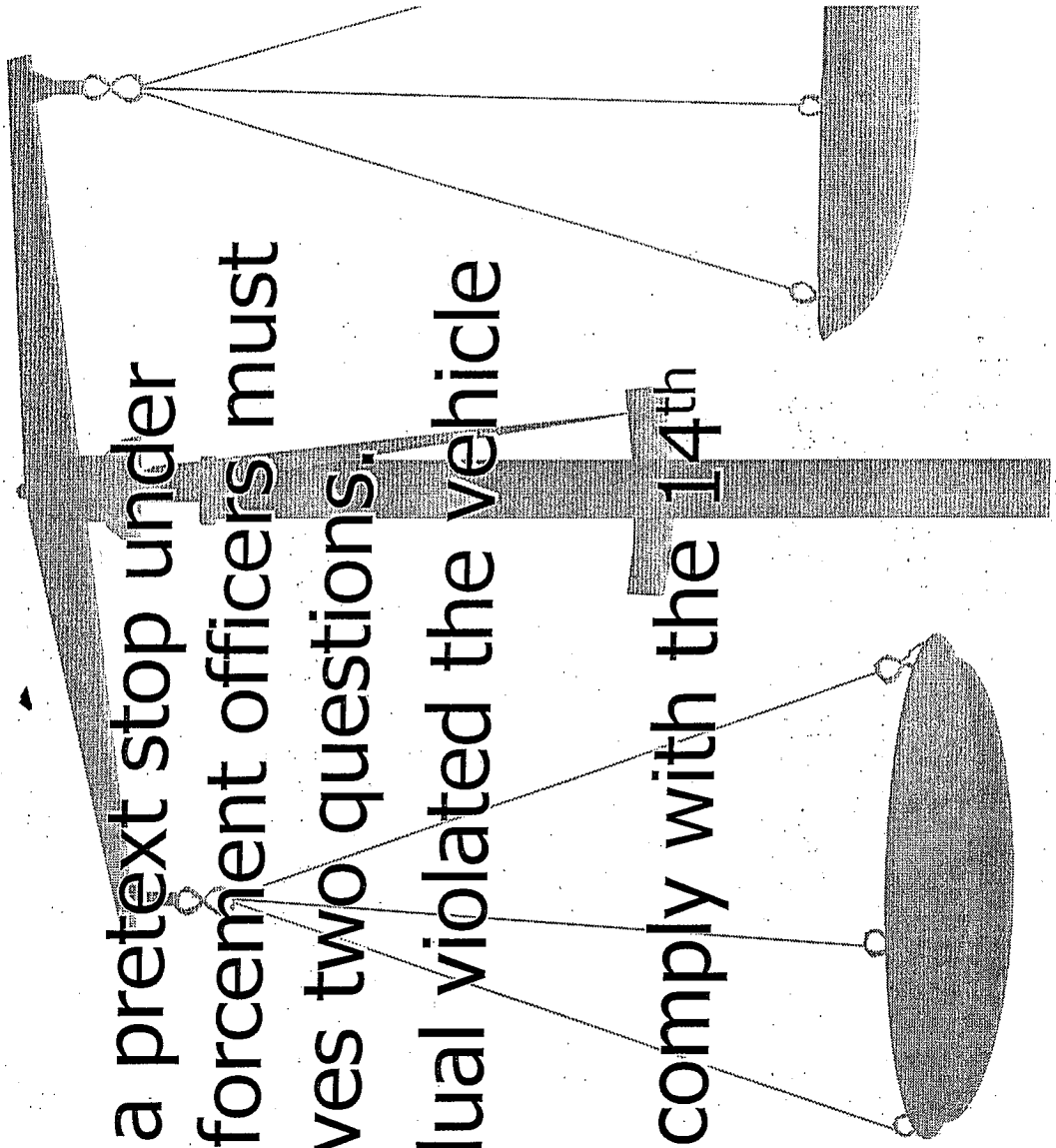


Whren

Key points:

When conducting a pretext stop under Whren, law enforcement officers must ask themselves two questions.

1. Has the individual violated the vehicle code?
2. Does the stop comply with the 14th Amendment?



What is Criminal Profiling?

Criminal profiling is a legitimate practice based on articulable behaviors or characteristics that can be analyzed and evaluated.

- Officers must have individualized suspicion based on articulable behavior or characteristics to detain anyone.
- Racial profiling occurs when race alone is used to predict criminality.