Allen Police Department General Order

Chapter 5300
RACIAL PROFILING

NOTE: This General Order is for internal use only and does not enhance an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this General Order, if proven, can only form the basis of a complaint by this Department and only in a non-judicial, administrative setting.

INDEX WORDS:

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Collection of Information
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I. PURPOSE

A. The purpose of this order is to reaffirm the City of Allen Police Department's commitment to unbiased policing in all its encounters with any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.

II. POLICY

A. It is the policy of this department to police in a proactive manner and to aggressively investigate suspected violations of the law. Officers shall actively enforce local, state and federal laws in a responsible and professional manner, without regard to race, ethnicity or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. Racial profiling is an unacceptable police tactic and will not be condoned.

B. This General Order is adopted in compliance with the requirements of Articles 2.131 through 2.138, Texas Code of Criminal Procedure, which prohibits Texas peace officers from engaging in racial profiling.

III. DEFINITIONS

A. Racial Profiling - a law enforcement-initiated action based on an individual's race, ethnicity, national origin, rather than on behavior or information identifying the individual as having engaged in criminal activity. Racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains to witnesses, complainants, persons needing assistance, or other citizen contacts.

B. Race or Ethnicity - persons of a particular descent, including Caucasian, African, Hispanic, Asian, Middle Eastern or Native American descent.

C. Acts Constituting Racial Profiling - acts initiating law enforcement action, such as a traffic stop, a detention, a search, issuance of a citation, or an arrest based solely upon an individual's race, ethnicity, or national origin or on the basis of racial or ethnic stereotypes, rather than upon the individual's behavior, information identifying the individual as having possibly engaged in criminal activity, or other lawful reasons for the law enforcement action.

D. Motor Vehicle Contact – means an occasion in which a peace officer stops a motor vehicle for an alleged violation of law or ordinance.

IV. PROHIBITION

A. Officers of the Allen Police Department are strictly prohibited from engaging in racial profiling. The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision by an officer. Race, ethnicity or national origin may be legitimate factors in such a decision when used as part of a description of a suspect or witness for whom an officer is searching.

B. Officers of the Allen Police Department shall not engage in profiling based solely on gender, sexual orientation, religion, economic status, age, culture, or any other identifiable group.

V. COMPLAINT PROCESS

A. No person shall be discouraged, intimidated or coerced from filing a complaint, or be discriminated against because they have filed a complaint.

B. Any person who believes that a peace officer employed by the Allen Police Department has engaged in racial profiling with respect to that person, may file a complaint in accordance with the provisions of General Order 300, Discipline/Complaints Against Police Personnel.

1. An employee who is contacted regarding a complaint against an officer shall follow the procedures set forth in General Order 300, Section X. Investigation of Externally Originated Complaints.

2. Citizens who appear in person wishing to file a complaint shall be provided with a departmental brochure, "How to File a Complaint." Brochures are maintained in the Allen Police Department lobby, and at Allen City Hall. Citizens may also be directed to the Departmental website to file a complaint.

C. Any supervisor who becomes aware of an alleged or suspected violation of this General Order shall report the alleged violation in accordance with General Order 300, Discipline, Section XI. Investigation of Internally Originated Complaints.

D. Complaints of racial profiling shall be classified as a Level I complaint, and shall be investigated by the Internal Affairs Division, unless otherwise directed by the Chief of Police. A log of all Racial Profiling Complaints will be maintained by the Internal Affairs Division.

VI. DISCIPLINARY AND CORRECTIVE ACTIONS

A. Any officer of this Department who is found, after investigation, to have engaged in racial profiling in violation of this General Order may be subject to disciplinary action, up to and including termination. Disciplinary or corrective actions may include diversity, sensitivity or other appropriate training or counseling, as determined by the Chief of Police.

VII. PUBLIC EDUCATION

A. This Department shall provide education to the public concerning the racial profiling complaint process. The primary method of public education shall be through a brochure, "How to File a Complaint" which are maintained in the lobby of the Allen Police Department, and at the Allen City Hall. These brochures are available in both English and Spanish versions. Other education methods may be utilized to inform the public, including news media, civic presentations, Allen City Television, the Internet, and/or public meetings.

VIII. COLLECTION OF INFORMATION AND ANNUAL REPORT WHEN CITATION ISSUED OR ARREST MADE

A. For each motor vehicle contact in which a citation is issued and / or for each arrest resulting from a motor vehicle contact, an officer involved in the stop shall collect the following information:

1. If the person contacted is a resident of the City of Allen it shall be reflected in the data that is entered.

2. The gender of the person being reported.

3. Information identifying the race or ethnicity of the person detained. The following codes will be used to identify the individual's race:

   A = Asian
   B = Black
   C = Caucasian
   H = Hispanic
   M=Middle Eastern
   NA = Native American / American Indian
   O = Other

   Note: Officers may not ask the individual to identify their race. If the officer is unable to determine the race or ethnicity of the person contacted, then the race shall be entered as "Other" on the citation(s) issued.

4. Whether the officer knew the race or ethnicity of the individual detained before detaining that individual;

5. What violation / charge was used to make first contact or was it related to a calls for service.

6. What was the action taken (citation, or arrest).

7. What was the contacted person's with charge?

8. Whether a search was conducted.

9. If a search was conducted did the individual detained consent to the search

10. Whether a search was conducted because probable cause existed;

11. Whether contraband was found; and if so what was the contraband

B. The information collected shall be entered in to a database by entering Racial Profiling data utilizing the in-car Mobile Data Computer (MDC) or the computers available in the Department. All contacts requiring Racial Profiling data collection must be entered.

   1. In the event the data is unable to be collected electronically, the data will be recorded on temporary forms and entered in the database at a later date.

C. The Support Services Division Deputy Chief shall ensure all Racial Profiling Data is collected and reported to the Chief of Police. The data collected shall be compiled in an annual report covering the period January 1 through December 31 of each year, and shall be submitted to the governing body of the City of Allen no later than March 1 of the following year. The report will include:

1. A breakdown of citations by race or ethnicity;

2. Number of citations that resulted in a search;

3. Number of searches that were consensual;

4. Number of citations that resulted in custodial arrest; and

5. Public education efforts concerning the racial profiling complaint process.

D. The annual report shall not include identifying information about any individual stopped or arrested, and shall not include identifying information about any peace officer involved in a stop or arrest.

E. Racial Profiling Data will also be reported to the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) by March 1 of each year, following the Commission's prescribed format.

IX. AUDIO AND VIDEO EQUIPMENT

A. Each motor vehicle regularly used by this department to make motor vehicle contacts shall be equipped with a mobile video camera system capable of recording video and audio, and each motorcycle regularly used by this department to make motor vehicle contacts shall be equipped with audio recording equipment.

B. Each motor vehicle contact made by an officer of this department capable of being recorded by video and audio, or by audio only for motorcycles, shall be recorded.

C. Supervisors and Officers shall ensure that mobile video camera equipment, and/or audio equipment, is properly functioning prior to commencing their tour of duty. Police units with malfunctioning or inoperable mobile video camera equipment shall not be utilized under normal circumstances.

D. Supervisors shall have the authority to assign units with malfunctioning or inoperable mobile video equipment when situations dictate. Officers assigned to such units shall collect and document the information listed below for each motor vehicle contact. All documentation must be submitted to the officer's supervisor prior to ending that tour of duty. Documentation shall include but is not limited to Field Interview Forms, Traffic Citations and Warning Tickets.

1. A physical description of any person operating the motor vehicle, who is detained as a result of the stop, including:

   a. the person's gender; and

   b. the person's race or ethnicity, as stated by the person, or if the person does not state, the person's race or ethnicity, as determined by the officer to the best of his or her ability. Officers will not ask the individual to identify their race or ethnicity;

2. Whether the officer knew the race or ethnicity of the individual detained before detaining that individual;

3. The initial reason for the stop;

4. Whether the officer conducted a search as a result of the stop, and, if so, whether or not the person detained consented to the search;

5. Whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;

6. The reason for the search, including whether:

   a. Any contraband or other evidence was in plain view;

   b. Any probable cause or reasonable suspicion existed to perform the search; or

   c. The search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle

7. Whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of Penal Code, a violation of traffic law or ordinance or an outstanding warrant and a statement of the offense charged.

8. The street address or approximate location of the stop;

9. Whether the officer issued a citation or a written warning as a result of the stop; and

10. Whether the person contacted is a resident or non-resident of the City of Allen. This shall be reflected on each citation issued, using an (R) for residents or an (NR) for non-resident.

X. REVIEW OF VIDEO AND AUDIO DOCUMENTATION

A. Each audio and video recording shall be retained for a minimum period of ninety (90) days, unless a complaint is filed alleging that an officer has engaged in racial profiling with respect to a motor vehicle contact. The Deputy Chief of the Patrol Services Division shall ensure that all audio and recordings are properly stored and retained in accordance with applicable laws and this General Order.

B. If a complaint is received alleging that an officer has engaged in racial profiling, the audio / video recording shall be forwarded to the Internal Affairs Division. The Internal Affairs Division shall retain the video until final disposition of the complaint has been made.

C. The Patrol Services Deputy Chief or his designee shall review a randomly selected sampling of video and audio recordings, made recently by officers employed by the Department, in order to determine if patterns of racial profiling exist. These reviews shall be conducted weekly and documented on the appropriate form (APD-277).

1. Written documentation shall include:

   a. the names of the officers whose contacts were reviewed;

   b. the date(s) of the videos reviewed;

   c. the date the actual review was conducted; and

   d. the name of the person conducting the review.

2. The Patrol Services Division Deputy Chief shall forward the required documentation to the Internal Affairs Division.

3. The Internal Affairs Division shall maintain a file of all video review documentation performed, in compliance with this General Order.

D. In reviewing audio and video recordings, the Patrol Services Deputy Chief or his designee, shall seek to determine if the officer(s) reviewed have engaged in a pattern of racial profiling, that includes multiple acts constituting racial profiling for which there is no reasonable, credible explanation based on established police and law enforcement procedures.

XI. TRAINING

A. Each peace officer employed by the department shall complete the comprehensive education and training program on racial profiling established by the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) not later than the second anniversary of the date the officer was licensed, or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. A person who on September 1, 2001, held a TCLEOSE intermediate proficiency certificate, or who had held a peace officer license issued by TCLEOSE for at least two years, shall complete a TCLEOSE training and education program on racial profiling not later than September 1, 2003.

B. The Chief of Police shall, in completing the training required by Section 96.641, Texas Education Code, complete the program on racial profiling established by the Bill Blackwood Law Enforcement Management Institute of Texas (LEMIT), not later than September 1, 2003.