

TEXARKANA, TEXAS POLICE DEPARTMENT
GENERAL ORDERS MANUAL

<i>Effective Date</i> February 1, 2008		<i>Amended Date</i> September 1, 2017		<i>Directive</i> 2.01.1	
<i>Subject</i> Biased Based Policing and Racial Profiling					
<i>Reference</i> Code of Criminal Procedure 2.131 – 2.135					
<i>Distribution</i> All Personnel City Manager City Attorney		<i>TPCA Best Practices Recognition Program Reference</i> 2.01.1 Biased Based Profiling		<i>Review Date</i> January 1, 2017	
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This Operations Directive 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 a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this Operations Directive, if proven, may only form the basis for a complaint by this Department, and only in a non-judicial administrative setting.

SECTION 1 PURPOSE

The purpose of this policy is to reaffirm the Department’s commitment to unbiased policing in all of its encounters between officers and 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 dictate of departmental policy and the law.

SECTION 2 POLICY

- A. It is the policy of the Department to protect the constitutional rights of all persons. Allegations of racial profiling or discriminatory practices, real or perceived, are detrimental to the relationship between police and the communities they protect and serve because they strike at the basic foundation of public trust. This trust is essential to effective community-based policing. Racial profiling is considered misuse of valuable police resources; such improper methods violate the civil rights of members of the public and may lead to increased exposure to liability for the officer and the department. This Department does not endorse, train, teach, support, or condone any type of bias, stereotyping, or racial profiling by its officers. While recognizing that most officers perform their duties in a professional, ethical, and impartial manner, this Department is committed to identifying and eliminating any instances of racial profiling.
- B. It is the policy of the Department to:
 - 1. Provide all people within this community fair and impartial police services consistent with constitutional and statutory mandates;
 - 2. Assure the highest standard of integrity and ethics among all our members;
 - 3. Respect the diversity and the lawful cultural practices of all people;
 - 4. Take positive steps to identify, prevent, and eliminate any instances of racial profiling by our members; and
 - 5. Continue our commitment to community based policing and problem solving, including vigorous, lawful and nondiscriminatory traffic enforcement that promotes public safety and strengthens public trust, confidence, and awareness.

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- C. It is the policy of the Department to police in a proactive manner and to aggressively investigate suspected violations of law. Officers shall actively enforce local, state and federal laws in a responsible and professional manner without regard to an individual's race, gender, age, ethnicity, ethnic background, sexual orientation, religion, economic status, cultural group, national origin or any other identifiable group. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers, or pedestrians.
- D. Officers shall conduct themselves in a dignified and respectful manner at all times when dealing with the public. The Department will honor the right of all persons to be treated equally and to be free from unreasonable searches and seizures.

SECTION 3 DEFINITIONS

Racial Profiling is defined as a law enforcement-initiated action based on an individual's race, gender, age, ethnicity, ethnic background, sexual orientation, religion, economic status, cultural group, national origin or any other identifiable group rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity. The term is not relevant as it pertains to witnesses, complainants, persons needing assistance, or other citizen contacts.

Examples of racial profiling include, but are not limited to, the following:

- a. Citing a driver because of the cited driver's race, ethnicity, or national origin, or
- b. Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity, or national origin is unlikely to own or possess that specific make or model of vehicle.
- c. Detaining an individual based upon the determination that a person of that race, ethnicity, or national origin does not belong in a specific part of town or a specific place.

Gender Profiling is defined as a law enforcement-initiated action based on an individual's gender rather than on the individual's behavior or involvement in criminal activity.

Race or Ethnicity is defined as a particular descent and includes the following categories:

- a. Alaska native or American Indian;
- b. Asian or Pacific Islander
- c. Black
- d. White
- e. Hispanic or Latino.

Pedestrian Stop is defined as an interaction between a peace officer and an individual traveling on foot who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

Traffic Stop is defined as a vehicle stop where a peace officer stops a motor vehicle for an alleged violation of law or ordinance regulating traffic.

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Probable Cause is defined as more than bare suspicion; it exists when the facts and circumstances within the officer's knowledge and of which they have reasonably trustworthy information are sufficient in themselves to warrant a person of reasonable caution to believe that an offense has been or is being committed.

Reasonable Suspicion is defined as specific, articulable facts leading a reasonable police officer to believe a crime might be occurring. Reasonable suspicion is less than probable cause, but more than a mere hunch. Reasonable grounds for suspicion depend on the circumstances in each case. There must be an objective basis for that suspicion based on facts, information, and/or intelligence.

Search is an examination or exploration of an individual's house, premises, vehicle or person to discover stolen property, contraband or other items that may be evidence of a crime.

Search incident to arrest is a full search of an arrested person and of the vicinity around him or her. The search is conducted for officer safety and to prevent the destruction of evidence.

Consent search is a search permitted by a person with apparent authority to allow the search. To be valid, consent must be voluntary and intelligent, based on a totality of circumstances. Voluntary means that the consent was not forced or coerced. Intelligent means the person giving consent must know what he or she is doing.

Frisk is defined as a limited search or patting down of a suspect's outer clothing for the purpose of officer safety. A frisk must be based on reasonable suspicion that the suspect is armed with a deadly weapon, and that if he is not searched and disarmed, harm will come to the officer or another person. A limited search or frisk of an automobile after a valid stop is permissible if the officer has reasonable suspicion the suspect is dangerous and might gain immediate control of a weapon. The search is limited to the areas in which a weapon may be placed or hidden.

Inventory is an administrative process by which items of property in an impounded vehicle are listed and secured. An inventory is not a search and should not be used as a substitute for a search. The specific objectives of an inventory are to protect the property of the defendant, to protect the police against any claim of lost property, and to protect police personnel and others from any dangerous instruments.

SECTION 4 PROCEDURES

A. COMPLAINTS

1. Any person may file a complaint with the Department if they believe they have been stopped or searched on the basis of their race, ethnicity, national origin, or gender. No person shall be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because they have filed such a complaint.
2. A complaint from a citizen regarding racial profiling may be made to any Department supervisor or, if available, to the Office of Professional Responsibility. All complaints received shall be forwarded in writing through the chain of command to the Office of the Chief of Police.
3. In addition to the written complaint, the supervisor receiving the complaint shall obtain the video recording from the officer's vehicle and cause a copy to be made onto a recordable CD or DVD disc. The supervisor shall label the video disc, indicating the unit number and date and time the disc was made. The copy of the video recording will be forwarded through the chain of command to the Office of the Chief of Police. A copy of video of all incidents in which racial or gender profiling is alleged shall be retained with the investigative file. A copy of the video shall be

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supplied to the officer within five days of the date of the complaint. The Office of Professional Responsibility shall supply the video to the officer prior to taking any statements from the officer.

4. The Department shall provide education to the public concerning the complaint process. Written information regarding how a citizen may file a complaint or issue a commendation for an officer shall be made available to the public at a variety of locations, including public meetings, Central Records and Communications, City Hall, and the Police Department's office at the Bi-State Justice Building. This information shall also be available on the Department's Internet site.

B. RACIAL PROFILING TRAINING

1. Officers are responsible to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.
2. All officers shall complete a TCOLE training and education program on racial profiling not later than the second anniversary of the date the officer is licensed under Chapter 1701 of the Texas Occupations Code, or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. At the discretion of the Chief of Police, additional diversity and sensitivity training may be required for officers with sustained racial profiling or other discrimination complaints filed against them.
3. The Chief of Police, as part of the initial training and continued education for such appointment, will be required to attend the LEMIT program on racial profiling.
4. Supervisors shall conduct periodic roll call training regarding racial profiling issues, including implementation and enforcement of this policy.

C. INTERNAL MONITORING

1. Random Reviews:

As mandated in Directive 7.36.1 Digital Mobile Video/Audio Recording Equipment, Field Supervisors shall conduct reviews of the video files recorded by officers under their supervision to:

- a. Assess performance and safety practices;
- b. Ensure compliance with departmental policy;
- c. Ensure proper use of DMVR equipment; and,
- d. Identify appropriate training video.

Supervisors shall conduct a review of video files randomly each month, ensuring that each officer is reviewed at least twice during each month. Supervisors will review one traffic stop and one other video of their choosing of each officer. As part of the review, supervisors will document the number of videos created by each officer. Each shift commander shall be responsible for ensuring the video reviews are conducted and documented. A report containing the dates each officer was reviewed and the supervisor that conducted each review shall be prepared and

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submitted to the Operations Division Secretary, who shall maintain a log of the reviews. Supervisors will have the random review done by the 15th of the following month.

2. Reviews shall occur whenever:
 - a. An officer is involved in a pursuit;
 - b. An officer is involved in a use of force recorded by the system;
 - c. A complaint is lodged against an officer; or
 - d. A supervisor articulates a reason to suspect an officer is involved in activity contrary to the mandates of the General Orders.
3. Video events which may be evidentiary in nature should be reviewed and properly documented.

D. CORRECTIVE ACTION

1. Failure to report any observed or known violations of this policy by any Department employee shall result in corrective action being taken against the employee.
2. Officers found in violation of this policy or who have a sustained racial profiling complaint shall be subject to corrective action which may include: diversity, sensitivity, or other appropriate training, informal counseling, formal counselling, written reprimand, suspension from duty with or without pay, indefinite suspension, or other appropriate action as determined by the Chief of Police.

E. MANDATED DIGITAL MOBILE VIDEO RECORDER OPERATION

Unless the delivery of emergency police services would be prevented, an officer's personal safety would be jeopardized, or police strategy is being discussed, officers will ensure the operation of the digital mobile video recorder is conducted in accordance with directive 7.36.1.

F. CITATION DATA COLLECTION AND REPORTING

1. Each officer shall be required to collect certain information relating to all traffic stops, and shall record such information on either a citation, warning citation, field interview contact, or a Data Collection Form. In cases where no enforcement action was taken or where a custody arrest was made, it shall be necessary to complete a Data Collection Form to record the information required by the racial profiling statute. In the event that a citation is issued to an individual that is ultimately arrested, the citation will record the necessary data and eliminate the need to complete a Data Collection Form.
2. The officer will document the following on the citation, written warning or Data Collection Form:
 - a. The violator's race or ethnicity;
 - b. Whether a search was conducted;
 - c. Whether the search was consensual;
 - d. Whether the race or ethnicity of driver known prior to stop;

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- e. Whether physical force was used that resulted in bodily injury;
 - f. Location of the stop;
 - g. Reason for the stop; and
 - h. Reason for arrest, if any, resulting from the stop.
3. Any paper citation issued will be forwarded to the Operations Division Secretary for review prior to sending to the court. Administration for E-Citations will be the responsibility of the Traffic Section Supervisor with assistance from the Operations Secretary.
 4. By March of each year, the Department shall submit a written report to the City Council that includes the information gathered from the traffic stops in the preceding calendar year. The report will include: (1) A breakdown of traffic stops by race and ethnicity, (2) The number of traffic stops that resulted in a search and the basis for the searches, (3) The number of searches that resulted in contraband being discovered and, if so, the type of contraband; (4) The number of stops where physical force was used that resulted in bodily injury, and (5) The number of traffic stops that resulted in custodial arrests.
 5. The Crime Analyst shall be responsible for providing a report to the Chief of Police that contains this information. The Office of Professional Responsibility shall be responsible for reviewing this report to identify any improvements that can be made in the practices and policies regarding traffic stops.

G. RESPONSIBILITY

1. All members of the Department shall know and comply with all aspects of this directive.
2. All Division Commanders and supervisory personnel are responsible for ensuring compliance with the provisions and intent of this directive.