

COPY

Polk County Constable's Dept. Pct. 2

Directive

Addressing Racially Biased Policing

And the Perceptions Thereof

Written Directive

Approved by: William R. "Bill" Cunningham

Initiation Date 01-01-07

Review Date: January 1, 2007

Date Reissued: January 1, 2007

**PURPOSE** This directive in intending to reaffirm this Department's commitment to unbiased policing, to clarify the circumstances in which officers can consider race / ethnicity when making law enforcement decisions, and to reinforce procedures that serve to assure the public we are proving and enforcing laws in equitable way.

**I. GENERAL CONSIDERATIONS AND GUIDELINES:**

This Department is committed to protecting the constitutional and civil rights of all citizens. Allegations of "racial profiling" (as defined herein) 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. Racially biased policing is an ineffective method of law enforcement and often results in increased safety risks to officers and citizens and the misuse of valuable police resources. Additionally, improper racially biased policing violates the civil rights of members of the public and may lead to increased exposure to liability. This Department does not endorse, train, teach, support, or condone any racially biased policing 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 racially biased policing. (Racial Profiling)

**II. MISSION STATEMENT**

a. 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 cultural differences of all people;
4. Take positive steps to identify, prevent, and eliminate any instances of racially biased policing by our members;
5. Continue our commitment to community policing and problem solving, including vigorous, lawful, and non-discriminatory traffic enforcement that promotes public safety and strengthens public trust, confidence, and awareness;
6. To patrol in a pro-active manner, aggressively investigating suspicious persons and circumstances, while insisting that citizens will only be stopped or detained when there exists reasonable suspicion to believe that they have committed, are committing, or about to commit, an infraction of the law.

**III. DEFINITIONS**

- a. Racial Profiling
  - 1. "Racial Profiling" means a law enforcement- initiated action based on an individuals race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity. (Texas Code Criminal Procedure, Article 3.05)
  - 2. "Race or Ethnicity" means a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent. (Texas Code of Criminal Procedure. Article 2.132 (a))

**IV. POLICY**

a. Policing impartially

- 1. Investigative detentions, traffic stops, arrests, searches, and property seizures by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the United States Constitution. Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, arrest, non – consensual searches, and property seizures.

Except as provided below, officers shall not consider race, ethnicity, or national origin in establishing either reasonable suspicion or probable cause. Similarly, except as provided below, officers shall not consider race, ethnicity, or national origin in deciding to initiate even those non-consensual encounters that do not amount to legal detentions or to request consent to search.

Officers may take into account the reported race, ethnicity, or national origin of a specific suspect or suspects based on trustworthy, locally relevant information that links a person or persons of a specific race, ethnicity, or national origin to particular unlawful incident(s). Race, ethnicity, or national origin can never be used as the sole basis for probable cause or reasonable suspicion.

- 2. Except when provided above, race ethnicity, or national origin, should not be motivating factors in making law enforcement decisions.

b. Preventing perceptions of biased policing

- 1. In an effort to prevent inappropriate perceptions of biased law enforcement, each officer should undertake to do the following when conducting pedestrian or vehicle stops
  - a) Be courteous and professional
  - b) Introduce him/herself to the citizen and state the reason for the stop as soon as practical, unless providing this information will

compromise officer or public safety. In vehicle stops, the officer shall provide this information before asking the driver for his/her license and registration.

- c) Ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense, and that the citizen understands the purpose of the reasonable delays.
- d) Answer any questions the citizen may have, including explaining options for traffic citation disposition, if relevant.
- e) Provide his/her name and badge number when requested.
- f) Apologize and/or explain if he/she determines that the reasonable suspicion was unfounded. (i.e., after an investigatory stop).

#### **V. PREVENTION OF RACIALLY BIASED POLICING (RACIAL PROFILING) AND THE PERCEPTIONS THEREOF**

- a. To prevent racially biased policing (racial profiling) perceptions thereof, this Department shall:
  - 1) Utilize the departmental, regional, or state training programs to help ensure that appropriate employees receive training addressing racially biased policing and the standards established by this written directive;
  - 2) Ensure that this written directive is disseminated to all officers, communications employees, and other appropriate personnel within the department;
  - 3) Train supervisory personnel to monitor police conduct to ensure that the standards of this written directive are being carried out by employees under their supervision;
  - 4) Review, and, where appropriate, revise procedures or directives that involve the stop, detention, apprehension, or search of individuals to ensure that such procedures or directives are in compliance with provisions of the law and this written directive;
  - 5) Review performance recognition and evaluation systems, training curriculum, policies and customs of the department to determine if any practice encourages conduct that may support or lead to racially biased policing;
  - 6) Provide public education on what to expect when either stopped or detained by a police officer, as well as police expectations during motor vehicle stops or police detainment, to ensure both officer and citizen safety; and
  - 7) Educate the public regarding the departments procedures relating to the filing of complaints by individuals who may feel they have been the subject of racially biased policing.

#### **VI. MOBILE VIDEO / AUDIO RECORDING**

- a. Every officer utilizing a departmental motor vehicle equipped with either video and audio equipment, shall;

- 1) Record each traffic and pedestrian stop made by the officer that is capable of being recorded by video or audio equipment, as appropriate, by activating the recording equipment prior to the stop, recording the behavior of the vehicle and/ or the person, and recording until such time as the person is released or, if arrested, placed in a custodial facility.
- a. If a complaint is filed with the department alleging that an officer has engaged in Racially biased policing with respect to traffic or pedestrian stop, the video and audio or audio record of the stop shall be retained until final disposition of the complaint.

## VII. IDENTIFICATION OF RACIALLY BIASED POLICING

- a. All supervisors shall be responsible for the pro-active review of the performance of personnel they supervise to assist in identifying and modifying potentially problematic behavior and to promote professionalism in this department.
- b. The designated supervisor shall meet, as required or requested by a particular group member, with members of groups effected by this policy.
- c. Community relationships are "two-way streets" and for the police-minority relationships to work, minority groups must do more than just verbalize concerns or complaints. Accordingly, the community liaison shall encourage minority community members to become involved by:
  1. Engaging in dialogue about solutions rather than blame;
  2. Developing a broad understanding of police practices on the part of minority community members in order to encourage them to form an objective standard by which to judge police actions;
  3. Acknowledging police officers that promote positive police-community relations with awards or other commendations.
- d. The designated community liaison shall facilitate the distribution of public educational materials relating to the departments complaint process.
- e. The designated community liaison may utilize department personnel, as appropriate, to assist in meeting the community outreach goals.

## IX. REPORTING REQUIREMENTS

- a. Officers initiating traffic stops in which a citation is issued or in which an arrest results from that traffic stop, will be responsible for:
  1. Ensuring the accurate completion of any traffic citation issued, specifically providing information in regard to the race or ethnicity of the individual detained. If a search is conducted, the box next to "search" on the citation is to be checked. If the person detained gave consent for the search, the box next to "consent" shall be checked. The officer should note on the reverse side of the ticket, in the notes section, any additional relevant information such as any contraband or evidence found during the search, was the search incident to arrest, etc.
  2. Unlike age and gender, which appear on an individual driver's license, discerning race or ethnicity requires a verbal inquiry of the individual or an officer's subjective determination. Since a verbal inquiry risks exacerbating tensions during a potentially tense encounter, to minimize

inconvenience and maximize officer safety, the officer's perception of race or ethnicity will be used.

3. To indicate the race / ethnicity of a person receiving a citation or being arrested, the following letter codes will be used on the citation:

C - Caucasian  
A - African  
H - Hispanic (Latino)  
AS - Asian  
N - Native American  
O - Other

## **X. COMPLAINT OF RACIALLY BIASED POLICING**

- a. Who may file:

Any person may file a complaint with the department if they feel they have been stopped or searched based on that individual's race, ethnicity, or national origin rather than on that individual's behavior or information identifying them as having engaged in criminal activity. No person shall be discouraged, intimidated, or coerced from filing such a complaint or discriminated against because they have filed such a complaint.

- b. If an officer on the street is approached by a citizen regarding a complaint alleged racially biased policing, the officer being approached should inform the citizen that his / her complaint should be directed to a supervisor at the sheriff's department.
- c. Supervisors receiving a citizen's complaint shall determine, if possible, whether the complainant wishes to have the complaint considered as a formal complaint or informal complaint.
- d. If the complainant wishes to have the complaint considered on an "informal" basis, the supervisor shall take such action as is appropriate based on the complaint and all attendant circumstances. Upon resolving the "informal" complaint, the supervisor will forward the citizen's complaint, accompanied by a report or document describing the action of the supervisor taken in regard to the complaint, to the sheriff.
- e. If a supervisor determines that the citizen wishes their complaint to be classed as a "formal" complaint the supervisor should take a written statement from the citizen. The statement along with the signed "complaint against officer" shall be forwarded to the sheriff for other investigative actions.
- f. Telephone Complaints
  1. Citizens making a complaint by telephone should be informed that their signed complaint is requested; however, no telephone complaint should be refused or rejected because the complainant does not wish to sign a complaint form or because she or he does not wish to be identified.
  2. If the citizen declines to complete the written complaint form. The supervisor receiving the telephone complaint should attempt to determine all relevant information as required on the complaint and report form and record that information on the form.

**XI. ENFORCEMENT OF THIS DIRECTIVE**

- a. To enforce the provisions of this directive, this department shall:
  1. Take appropriate action to address documented incidents of racially biased policing;
  2. Utilize a system of intervention to enable or encourage an officer to undertake voluntary modifications of his or her conduct or performance; and
  3. Take appropriate measures to correct any institutional practice or policy that has led to racially biased policing.

**XII. OFFICERS ASSIGNED TO OTHER AGENCIES**

- a. Officers of this department assigned to or assisting other law enforcement agencies will be guided by this written directive.

**XIII. APPLICATION**

- a. This Written directive is not intended to enlarge an employee's civil or liability in any way. It shall not be considered as a creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims insofar as the employee's legal duties imposed by law.
- b. Any data collected as a result of reporting requirements pursuant to Article 2.131 through 2.138 of the Texas Code of Criminal Procedure, as implemented by the written directive, shall not be considered prima facie evidence of racially biased policing (racial profiling).
- c. The Department is not liable for damages arising from any act relating to the collection or reporting of information as required pursuant to Article 2.131 through 2.138 or under this policy adopted pursuant to Article 2.132 of the Texas Code of Criminal Procedure.
- d. Audio or videotapes prepared pursuant to this directive shall be reviewed, as necessary, to implement the purpose and requirements of this written directive.

race	gender	Data	Total
African	Female	Count of search	3
		Count of Warnings	1
		Count of Citations	2
		Count of Arrests	
African	Male	Count of search	13
		Count of Warnings	6
		Count of Citations	8
		Count of Arrests	1
Caucasian	Female	Count of search	61
		Count of Warnings	44
		Count of Citations	32
		Count of Arrests	
Caucasian	Male	Count of search	111
		Count of Warnings	63
		Count of Citations	72
		Count of Arrests	9
Hispanic	Female	Count of search	2
		Count of Warnings	
		Count of Citations	2
		Count of Arrests	
Hispanic	Male	Count of search	5
		Count of Warnings	2
		Count of Citations	5
		Count of Arrests	
Total Count of search			195
Total Count of Warnings			116
Total Count of Citations			121
Total Count of Arrests			10