

General Order

Houston Police Department



ISSUE DATE:

April 24, 2018

NO.

600-42

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 600-42, dated October 4, 2010

SUBJECT: RACIAL PROFILING PROHIBITED

POLICY

This General Order establishes the Police Department's policy against the practice of racial profiling as set out in state and federal laws concerning racial profiling and discriminatory practices. Discrimination in any form, including racial profiling, is strictly prohibited and the department shall take immediate and appropriate action to investigate allegations of discrimination.

This General Order applies to all employees.

DEFINITIONS

Bodily Injury. For the purpose of this General Order, physical pain, illness, or any impairment of physical condition.

Criminal Profile. A profile (not to include race) based on collective experience that groups characteristics commonly observed in relation to a particular type of criminal activity (e.g., drug courier, drug transactions).

Motor Vehicle. For the purpose of this General Order, a vehicle with a motor including a motor boat.

Motor Vehicle Stop. An occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance, or for another investigative purpose and the stop results in the detention of the driver or passenger. For example, a detention of one or more persons sitting in an automobile parked in a parking lot would not be a motor vehicle stop unless the vehicle was clearly in operation.

Race or Ethnicity. A person's particular descent, including Asian or Pacific Islander, Black, Hispanic or Latino, Alaska native or American Indian, or White.

Racial Profiling. Any law enforcement-initiated action based solely on an individual's race, ethnicity, or national origin rather than on the individual's behavior or information identifying the individual as having engaged in criminal activity.

Suspect Description. Information commonly reported by a complainant or witness at or near the time of a criminal offense that includes, but is not limited to: gender, race, physical attributes (height, weight, hair, facial hair, etc.), clothing description, involved vehicle, location, and direction of travel.

1 SCOPE

Racial profiling pertains to any law enforcement-initiated action based on an individual's race, ethnicity, or national origin. The policy against racial profiling does not preclude the use of race, ethnicity, or national origin as factors in a detention decision. Race, ethnicity, or national origin may be legitimate factors in a detention decision when used as part of the description of a specific suspect for whom an officer is searching.

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

- a. Initiating a motor vehicle stop on a particular vehicle because of the race, ethnicity, or national origin of the driver of the vehicle.
- b. Stopping or 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. Stopping or detaining an individual based on 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.
- d. Allowing race to enter into a criminal profile in which the characteristic activities being observed are likely to be conducted regardless of race.

For example, characteristics often associated with a drug courier (short trips to and from areas of high drug activity, tickets paid for in cash, nervous/furtive surveillance of surrounding areas, etc.) do not depend on a person's race.

- e. Allowing a suspect's race, given as part of a suspect description, to play an overly broad role in developing reasonable suspicion to support the detention of a person. The person detained should generally fit the totality of the description provided (i.e., a description that contains a particular race and gender shall not necessarily support detaining all persons of that race and gender).

Further, race and gender should serve to exclude persons from detention when appropriate. For example, if the suspect description includes a particular vehicle being occupied by persons of a particular gender and race, officers should not detain a vehicle matching the described vehicle if the officer can determine that the occupants do not match the race and gender description prior to stopping the vehicle.

The term racial profiling is not relevant as it pertains to witnesses, complainants, or other citizen contacts.

2 DATA COLLECTION OF MOTOR VEHICLE STOPS

The Code of Criminal Procedure (CCP), Articles 2.132 and 2.133, mandate the collection of specified data for motor vehicle stops conducted by peace officers. The CCP delegates the responsibility to collect such data for all law enforcement agencies in the state of Texas to the Texas Commission on Law Enforcement (TCOLE).

Upon conducting a motor vehicle stop, officers shall collect all of the following information on the driver of the motor vehicle and any other person who is searched, arrested, or issued a citation as a result of the stop:

- a. A physical description of the person, including:
 1. The person's gender; and
 2. 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 the officer's ability.
- b. Whether the officer knew the race or ethnicity of the individual detained before detaining that individual.
- c. The initial reason for the stop.
- d. Whether the officer conducted a search as a result of the stop.
- e. The reason for the search, including whether:
 1. The person detained consented to the search.
 2. Any contraband or other evidence was in plain view.
 3. Any probable cause or reasonable suspicion existed to perform the search.
 4. The search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle.
- f. Whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence.
- g. 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 the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant, and a statement of the offense charged.
- h. The street address or approximate location of the stop.
- i. Whether the officer issued a citation as a result of the stop.
- j. Whether the officer used physical force that resulted in *bodily injury* during the stop.

Officers shall enter the above data collected into one of the department's data collection systems by the end of each shift to "document" each concerned individual. The department currently has the following two methods for entry of such data:

- k. The Records Management System Demographic Tracking Module.
- l. The handheld ticket writers.

Who Must be Documented

Officers shall document the driver of every motor vehicle stopped by entering the required collected data into one of the above listed data collection systems. Additionally, any passenger who becomes a part of the stop through arrest, search, or ticketing shall be documented. For example, an officer stops a vehicle with numerous occupants for running a red light. The violation observed is for the driver and, unless the officer expands the stop to include the passengers, only the driver would be documented.

Stop Dispositions: Arrests and Tickets

An arrest means the subject was taken into custody to be placed in jail or transferred to another agency. Citations shall be documented as *Ticketed* and not as *Arrested*. In those specific cases in which a person involved in a stop has been arrested and issued a citation, the disposition *Arrested and Ticketed* shall be used.

Occupant Type

An occupant is either a driver or a passenger. These are the only permissible entries. In the Demographic Tracking Module, this field is called *Occupant Location*.

3 DATA REPORTING

Data collected from motor vehicle stops pursuant to this General Order shall be compiled, analyzed, and placed in a report format by the department's Office of Planning. The report shall be completed in such a time frame that it shall be reviewed by the Chief of Police and forwarded to the Mayor, City Council, and TCOLE prior to March 1st following the *calendar* year in which the data is collected.

The annual reports compiled pursuant to this section of the General Order shall not include identifying information about a peace officer making a motor vehicle stop or about an individual who is stopped or arrested by a peace officer.

4 VIDEO DATA PROCEDURES

Motor vehicle stops recorded on department issued video or audio recordings shall be periodically selected and reviewed by the department on a random basis as outlined in General Order 400-23, **Mobile Video Equipment** and General Order 400-28, **Body Worn Cameras**.

Such recordings may also be used for training purposes in promoting professionalism in motor vehicle stops and officer safety.

5 COMPLAINT PROCESS

The department shall accept complaints from any person who believes he or she has been stopped, searched, or inappropriately ticketed or arrested based on racial profiling.

No person shall be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because he or she filed such a complaint.

Employees and supervisors shall report any racial profiling practice they observe. When individuals want to file a complaint that alleges racial profiling, all department employees shall follow the procedures set forth in General Order 200-03, **Investigation of Employee Misconduct** and General Order 300-32, **Processing Complaints and Employee Issues**.

The Internal Affairs Division shall investigate allegations of racial profiling. If a video or audio recording of all or any part of the detention giving rise to the allegation was made, a copy of the recording shall be promptly made available to the employee who is the subject of the complaint upon written request by the employee.

Data collected pursuant to this General Order shall not constitute *prima facie* evidence of racial profiling. Any employee found to have engaged in racial profiling shall be subject to corrective action or discipline up to and including indefinite suspension.

6 RELATED GENERAL ORDERS AND REFERENCE MATERIAL

200-03, **Investigation of Employee Misconduct**
300-14, **Extra Employment**
300-32, **Processing Complaints and Employee Issues**
400-23, **Mobile Video Equipment**
400-28, **Body Worn Cameras**

Texas Code of Criminal Procedure, Articles 2.132, 2.133, and 2.134



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Chief of Police