

RACIAL PROFILING POLICY OF THE CITY OF RIVER OAKS, TEXAS

I. Policy and Purpose

The purpose of this policy is to reaffirm the City of River Oaks 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 out officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.

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 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 patrol tactic and will not be condoned.

This Racial Profiling Policy is adopted in compliance with the requirements of Articles 2.131 through 2.136, Texas Code of Criminal Procedure, which prohibits Texas peace officers from engaging in racial profiling.

II. Definitions

- a. **Racial Profiling:** means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on 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:** means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.
- c. **Acts Constituting Racial Profiling:** are 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. **Pedestrian Stop:** means an interaction between a peace officer and an individual who is being detained for the purposes of a criminal investigation in which the individual is not under arrest.
- e. **Traffic Stop:** means the stopping of a motor vehicle by a peace officer for an alleged violation of law or ordinance regulating traffic.

III. Prohibition

Peace officers of the City of River Oaks 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 a peace 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 a peace officer is searching.

IV. Complaint Process

Any person who believes that a peace officer employed by the City has engaged in racial profiling with respect to that person may file a complaint with the City, and no person shall be discouraged, intimidated, or coerced from filing such a complaint, or be discriminated against because they have filed such a complaint.

The City shall accept and investigate citizen complaints alleging racial profiling by its peace officers. Such complaints shall be in writing, or the city employee, officer, or official receiving the complaint should reduce the same to writing, and should include the time, place, and details of the incident of alleged racial profiling, the identity or description of the peace officer or officers involved, and the identity and manner of contacting the complainant.

Any peace officer, city employee, or city official who receives a citizen complaint alleging racial profiling shall forward the complaint to the Chief of Police or his designee within 12 hours of receipt of the complaint. Receipt of each complaint shall be acknowledged to the complainant in writing, all such complaints shall be reviewed and investigated by the Chief of Police or his designee within a reasonable period of time. The results of the review and investigation shall be filed with the Chief of Police and the City Council, and the complainant shall receive notice of the disposition of the complaint within a reasonable period of time.

In investigating a complaint alleging racial profiling, the Chief of Police or his designee shall seek to determine if the officer who is subject of the complaint has 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. A single act constituting racial profiling may not be considered a pattern of racial profiling, and may not be grounds for corrective action.

In the event that a complaint of racial profiling filed by an individual involves an occurrence that was recorded on audio or video, the Chief of Police or his designee shall, upon commencement of the investigation of the complaint and upon written request of the officer, promptly provide a copy of the recording to the peace officer that is a subject of the complaint.

V. Corrective Action

Any peace officer who is found, after investigation, to have engaged in racial profiling in violation of this policy shall be subject to corrective action, which may include reprimand; diversity, sensitivity or other appropriate training or counseling; paid or unpaid suspension; termination of employment, or other appropriate action as determined by the Chief of Police.

VI. Public Education

The police department of the City of River Oaks shall provide education to the public concerning the racial profiling complaint process. A summary of the public education efforts made during the preceding year shall be included with the annual report filed with the governing body of the City of River Oaks under Part VII below.

VII. Collection of Information and Annual Report When Citation Issued or Arrest Made

For each traffic stop in which a citation is issued and for each arrest resulting from such traffic stops, a peace officer involved in the stop shall collect the following information on the citation, or the arrest report, or a supplement report:

1. information identifying the race or ethnicity of the person detained;
2. whether a search was conducted;
3. if a search was conducted, whether the person detained consented to the search.

The information 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 River Oaks 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.

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.

VIII. Audio and Video Equipment

- (a) The Chief of Police of the City of River Oaks shall, immediately upon enactment of this policy, commence examination of the feasibility of installing video camera equipment and transmitter-activated equipment in each City motor vehicle regularly used to make traffic stops, and transmitter-activated equipment in each City motorcycle regularly used to make traffic stops, and shall report to the governing body of the City of River Oaks on the findings of such examination no later than six months following enactment of this policy. The report shall include funding options available to the City, including any funding available through the Department of Public Safety.
- (b) In the event that the findings of such examination support the installation of such equipment, the governing body shall consider and take action on installing the equipment, applying for funding to secure and install such equipment, or such other action as the governing body considers appropriate. In the event the examination does not support installing such equipment, the Chief of Police of the City shall periodically update the governing body on such feasibility.
- (c) In the event that the governing body determines that funds are needed in order to install the equipment, it shall pass a resolution certifying that fact to the Department of Public Safety. On receipt of either sufficient funds or video and audio equipment, the governing body shall install video and transmitter-activated equipment in each motor vehicle regularly used to make traffic stops, and shall install transmitter-activated equipment on each motorcycle regularly used to make traffic stops, and the governing body shall pass a resolution certifying to the Department of Public Safety that such equipment has been installed and is being used to record each traffic and pedestrian stop made by a peace officer employed by the City that is capable of being recorded by video and audio or audio equipment, as appropriate.

IX. Review of Video and Audio Documentation—Standards

In the event that audio and video equipment is installed, each audio and video recording shall be retained for a minimum period of ninety (90) days unless a complaint is filed alleging that a peace officer of the City has engaged in racial profiling with respect to a traffic or pedestrian stop, in which case the recording shall be retained until final disposition of the complaint.

In conjunction with preparation of the annual report required under Part VII above, the Chief of Police or his designee shall periodically conduct reviews of a randomly-selected sampling of video and audio recordings made recently by peace officers employed by the City in order to determine if patterns of racial profiling exist.

In reviewing audio and video recordings, the Chief of Police or his designee shall seek to determine if the officer who is involved therein has 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. A single act constituting racial profiling may not be considered a pattern of racial profiling, and may not be grounds for corrective action.

X. Collection, Compilation, Analysis, and Reporting Requirements in Absence of Either Audio and Video Equipment or Non-Funding Certification by the Governing Body

(a) In addition to the annual report required when citations are issued and arrests made, and so long as the City of River Oaks has not equipped all motor vehicles and motorcycles regularly used to make traffic and pedestrian stops with audio and video equipment, as applicable, and so long as the City has not or is not able to certify to the Department of Public Safety that it needs funds for such audio and video equipment but has not received such funds, then each peace officer of the City shall collect the following information for each traffic and pedestrian stop:

- (1) a physical description of each person 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;
- (2) the traffic law or ordinances alleged to have been violated or the suspected offense;
- (3) whether the officer conducted a search as a result of the stop, and, if so, whether the person detained consented to the search;
- (4) whether any contraband was discovered in the course of the search and the type of contraband discovered;
- (5) whether probable cause to search existed and the facts supporting the existence of that probable cause;
- (6) whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;

- (7) the street address or approximate location of the stop; and
 - (8) whether the officer issued a warning or a citation as a result of the stop, including a description of the warning or a statement of the violation charged.
- (b) The collection of information required by this Part X shall be recorded by the peace officer on the field interview card form prepared by the River Oaks police department.
 - (c) The information listed in Part X (a)(1)-(8) above shall be analyzed and compiled in a report that covers the period January 1 through December 31 of each year, and shall be submitted to the governing body of the City of River Oaks no later than March 1 of the following year. Each such report shall include:
 - (1) a comparative analysis of the information compiled by each officer under Part X(a) (1)-(8) to:
 - A. determine the prevalence of racial profiling by peace officers employed by the City; and
 - B. examine the disposition of traffic and pedestrian stops made by officers employed by the City, including searches resulting from such stops; and
 - (2) information relating to each complaint filed with the City alleging that a peace officer employed by the City had engaged in racial profiling.
 - (d) The report required by this Part X may not include identifying information about a peace officer who makes a traffic or pedestrian stop or about an individual who is stopped or arrested by an officer.
 - (e) The collection of information required by this Part X shall not be required to begin until January 1, 2003, and the first compilation of information, analysis and report required by this Part X for calendar year 2003 shall be submitted to the governing body of the City on or before March 1, 2004. Additionally, the compilation of information, analysis and report required by this Part X shall not be required for any calendar year during which (1) the City has equipped all motor vehicles and motorcycles regularly used to make traffic and pedestrian stops with audio and video equipment, and each traffic and pedestrian stop made by a peace officer employed by the City that is capable of being recorded by video and audio equipment, as appropriate, has been so recorded; or (2) the City has certified to the Department of Public Safety that it needs funds for such audio and video equipment, as described in Part VIII(c) above, but has not received such funds.

XI. Peace Officer and Police Chief Training

- (a) Each peace officer employed by the City 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.