

CUERO POLICE DEPARTMENT POLICY MANUAL

SECTION TITLE: RACIAL PROFILING

SECTION 15

I. POLICY

This Racial Profiling Policy is adopted in compliance with the requirements of Articles 2.131 through 2.136, Texas code of Criminal Procedures, which **prohibits** Texas peace officers from engaging in racial profiling. **It is the Policy of this City and this Department that discrimination on the basis of race, ethnicity, or national origin is prohibited.** Law Enforcement actions shall be based upon lawful and reasonable suspicions of criminal activity and not upon unlawful discriminatory grounds.

This policy shall not preclude officers from offering assistance, such as upon observing a substance leaking from a vehicle, a flat tire, or a person who appears to be ill, lost or confused. Nor does this policy prohibit stopping someone suspected of a crime based upon observed actions and /or information received about the person.

II. PURPOSE

The propose of this policy is to reaffirm the City of Cuero's and the Cuero Police Department's commitment to unbiased policing in all its encounters between officer 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; To state that racial profiling in Law Enforcement is unacceptable and prohibited, to set forth guidelines for officers to prevent such occurrences and to protect our officers when they act within the law and policy from unwarranted accusations.

III. DEFINITIONS

Racial profiling: The initiation of a law enforcement action (such as a traffic stop, a detention, a search, issuance of a citation, or an arrest) based upon an individual's race, ethnicity or national origin rather than upon an individual's behavior, information identifying the individual as having possibly engaged in criminal activity; or information that a person may be a witness to possible criminal activity; or other lawful reasons for the enforcement action.

A law enforcement action that is conducted on the basis of the individual's presence in an area inhabited predominately by persons of a different race, ethnicity, or national origin than the individual or the individual is in a type of automobile or is dressed in a manner that is inconsistent with the individual's race, ethnicity, or national origin.

The prohibitions 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 an actual description of a specific suspect for whom an officer is searching. Detaining an individual and conducting an inquiry into that person's activity simply because of that individual's race, ethnicity or national origin is racial profiling. Examples of racial profiling are not limited to the following:

1. Citing a driver who is speeding in a stream of traffic where most other drivers are speeding because of the cited driver's race, ethnicity or national origin.

2. 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 model of vehicle.

3. 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.

Pedestrian Stop: An interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation or a violation of law, or ordinance regulating pedestrian traffic, in which the person is not under arrest.

Race or Ethnicity: Of a particular descent, including African, Asian, Caucasian, Hispanic, or of Native American descent.

Reasonable Suspicion: Suspicion that is more than a mere hunch, but based on a set of articulable facts and circumstances that would warrant a reasonable and prudent person to believe that the person(s) under suspicion have committed a crime or may commit a crime, or the person(s) are witnesses with information about the crime. This can be based on the observation of a police officer combined with his/her training and experience; and/or reliable information from a credible outside source.

Traffic Stop: A peace officer that stops a motor vehicle

for an alleged violation of law or ordinance regulating traffic.

IV. PROCEDURES

A. Operations- Officers will receive initial and on going training in proactive enforcement tactics, including training in officer safety, courtesy, cultural diversity, the laws governing search and seizure, and interpersonal communication skills.

B. Equipment

1. Each police vehicle, which is regularly used to make traffic and pedestrian stops, will be equipped with video cameras and transmitter-activated equipment. Said equipment shall be used, where reasonably possible, to record each traffic stop, pedestrian stop, and remain activated until the person is released and resumes their journey.

2. Recordings of stops shall be selected and reviewed on a random basis by the officer's supervisors or by the Chief of Police or his designee at least monthly for each officer.

3. As required by State Law, vehicle video/audio tapes depicting traffic stops shall be maintained for a minimum of 90 days. Tapes, which are the subject of criminal or misconduct complaints, shall be maintained until resolution of the complaint.

C. Traffic Stops

1. Officers who make traffic stops, detentions, and Pedestrian stops which result in the issuance of warnings, citations, or an arrest shall report, in the manner prescribed by the Department, the

Following information as to each citation or arrest the following information:

a. The race, national origin or ethnic group of the Person arrested or to whom the citation is issued. If this information is not readily apparent and the person declines to provide the Information, the officer will note his opinion as to the information.

b. Whether a search of the vehicle or person Occurred and, if so, whether the search was pursuant to consent.

c. List of charges filed with identifying case or citation numbers.

d. This information will be turned into the designated record section prior to the end of each officer's shift.

2 No, motorist, once cited or warned, shall be detained beyond the point where there exists no reasonable suspicion of further criminal activity, and no person or vehicle shall be searched in the absence of a warrant, a legally recognized exception to the warrant requirement, or the person's voluntary consent.

V. Process for complaints and investigation of Racial Profiling

1. Any person may file a complaint with the department who may feel that they have been stopped or searched based on racial, ethnic, or gender based profiling, and no person shall be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because they have filed such a complaint.

2. Any officer contacted by a person who wishes to file such a complaint, shall provide the citizen with a copy of a citizen complaint form and identify the methods available for delivering the complaint. Citizen complaints shall also be accepted in any other format than the complaint form, including telephone calls, fax, delivered in person or if available transmitted by electronic mail. Public education concerning the racial profiling complaint process shall be provided in any manner reasonably determined to inform citizens of the process.

3. Supervisors receiving such a report shall forward the complaint to the Chief of Police. All such complaints shall be reviewed, the complaint acknowledged to the complainant in writing and the complainant shall be informed of the results of the department's review within a reasonable period of time.

4. In the event that a complaint of racial profiling involves an occurrence that was recorded on audio or video, the investigating officer 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 officer that is subject of the complaint.

5. The report and the reviewer's conclusions shall be filed with the Chief of Police and any suggestions for disciplinary action, changes in policy, training, or tactics.

6. Supervisors shall review profiling complaints periodically review a sampling of in-car video tapes of stops, reports filed on stops by officers, and respond at

random to back up officers on vehicle stops, and shall take appropriate action whenever it appears that this policy is being violated, being particularly alert to any pattern or practice of possible discriminatory treatment by individual officers or squads.

7. A single act constituting racial profiling may not be considered a pattern of racial profiling.

VI Corrective Action

Any peace officer who is found, after investigation to have intentionally engaged in racial profiling in violation of this policy shall be subject to corrective action. This action may include reprimand, diversity training, 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.

VII Training Requirements

1. Each peace officer employed by the department shall complete the comprehensive education and training program on racial profiling established by the Commission on Law Enforcement Standards and Education (TCLEOSE). This training shall be completed no later than the second anniversary of the date the officer was licensed, the date the officer applies for an intermediate proficiency certificate, or September 1, 2003, whichever date is earlier.

2. The Chief of Police shall, in completing the training required by section 96.641, Texas Education Code, complete the program established by the Bill Blackwood Law Enforcement Management Institute of Texas.

VIII Department Reporting Requirements

1. The department's crime prevention officer (or the officer or person designated by the Chief of police) shall prepare annual reports from the information collected (effective January 1, 2002) pursuant to this policy in accordance with State Law.

2. On an annual basis, the department shall make public statistical summary of all profiling complaints for the year, including findings as to whether they were sustained, not sustained, or exonerated.

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

4. The data collected as a result of the reporting requirements shall not constitute prima facie evidence of racial profiling. (Article 2.132 (7)(c) CCP)

IX Reporting requirements in absence of audio and video equipment

1. Any officer who makes a stop of traffic violators or pedestrians where criminal activity is suspected shall complete a field contact card which shall be submitted to the designated place or person no later than the end of the tour of duty on which the stop took place.

2. Field contact cards shall contain the following information, which shall be observed and recorded by the detaining officer to the best of their ability.

- Physical description, including race, ethnicity and gender;
- All laws or ordinances suspect or alleged to have been violated;
- Whether a search was conducted and if so was consent given;
- A description of any contraband discovered in the search;
- Whether an arrest was made or a warning issued and if so all charges;
- Street address or approximate location of the stop.