

SUBJECT: Racial Profiling

Section 4.05

This order consists of the following numbered sections:

- I. Statement**
- II. Definitions**
- III. Training**
- IV. Complaint Investigation**
- V. Public Education**
- VI. Citation Data Collection & Reporting**
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I. Statement

The purpose of the policy is to reaffirm the Denton County Sheriff's Office commitment to unbiased law enforcement in all its encounters between a deputy 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 deputies from unwarranted accusations of misconduct when they act within the responsibilities of Sheriff's Office policy and the law.

It is the policy of this Office to provide law enforcement service in a pro-active manner and, to aggressively investigate suspected violations of law. Deputies shall actively enforce state and federal laws in a responsible and professional manner, without regard to race, ethnicity or national origin. Deputies are strictly prohibited from engaging in racial profiling as defined in this policy.

Specifically, Deputies may not use racial or ethnic stereotypes as factors in selecting whom to stop and search. Furthermore, while deputies may use race in conjunction with other known factors of the suspect, Deputies may not use racial or ethnic stereotypes as deciding factors in selecting whom to stop and search.

This policy shall be applicable to all persons, whether drivers, passengers or pedestrians. Deputies shall conduct themselves in a dignified and respectful manner at all times when dealing with the public. Two of the fundamental rights guaranteed by both the United States and Texas constitutions are equal protection under the law and freedom from unreasonable searches and seizures

by government agents. The right of all persons to be treated equally and to be free from unreasonable searches and seizures must be respected. Racial profiling is an unacceptable patrol tactic and will not be condoned.

This policy shall not preclude deputies from offering assistance, such as upon observing a substance leaking from a vehicle, a flat tire, or someone 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. Lastly, this policy does not apply to witnesses, complainants or other citizen contacts.

II. Definitions

Racial Profiling - 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 or other citizen contacts.

The prohibition 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 a deputy is searching. Detaining an individual and conducting an inquiry into that person's activities simply because of that individual's race, ethnicity or national origin is racial profiling. Examples of racial profiling include but are not limited to the following:

1. Making a motor vehicle stop on a driver who is speeding in traffic where most other drivers are speeding and choosing that particular driver to stop because of the driver's race, ethnicity or national origin.
2. Making a motor vehicle stop on a driver on the determination that the driver of that race, ethnicity or national origin is unlikely to own or possess that specific make or model of vehicle.
3. Making a motor vehicle stop based upon the determination that the driver of that race, ethnicity or national origin does not belong in a specific part of town or a specific place.

Race or Ethnicity - Of a particular decent, including Caucasian, African, Hispanic, Asian, Native American, or Middle Eastern.

Motor Vehicle Stop - A peace officer who stops a motor vehicle's driver for an alleged violation of a law or ordinance regulating traffic.

III. Training

Deputies are responsible to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training requirements as mandated by law.

All deputies shall complete a TCLEOSE training and education program on racial profiling not later than the second anniversary of the date the deputy is licensed under Chapter 1701 of the Texas Occupations Code or the date the deputy applies for an intermediate proficiency certificate, whichever date is earlier. A person, who on September 1, 2001, held a TCLEOSE intermediate 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.

IV. Complaint Investigation

1. The Denton County Sheriff's Office will accept complaints from any person who believes he or she has been stopped or searched based on racial, ethnic or national origin profiling. No person shall be discouraged, intimidated or coerced from filing a complaint, nor discriminated against because he or she filed such a complaint.
2. Any employee who receives an allegation of racial profiling, including the deputy who initiated the stop, shall record the person's name, address and telephone number, and forward the complaint to Internal Affairs. Any employee contacted regarding a complaint shall direct the person to Internal Affairs who upon request shall provide to that person a copy of the complaint. All employees will report any allegation of racial profiling to their superior before the end of their shift.
3. Investigation of a complaint shall be conducted in a thorough and timely manner. All complaints will be acknowledged in writing to the initiator who will receive disposition regarding said complaint within a reasonable period of time. The investigation shall be reduced to writing and any reviewer's comments or conclusions shall be directed to the Sheriff. When applicable, findings and/or suggestions for disciplinary action, retraining, or changes in policy shall be direct to the Sheriff.

4. If a racial profiling complaint is sustained against a deputy, it will result in appropriate corrective and/or disciplinary action, up to and including termination.

5. If there is a Sheriff's Office video or audio recording of the events upon which a complaint of racial profiling is based, upon commencement of an investigation by this Office into the complaint and written request of the deputy made the subject of the complaint, this Office shall promptly provide a copy of the recording to that deputy.

V. Public Education

This Office will inform the public of its policy against racial profiling and the complaint process. Methods that may be utilized to inform the public are the news media, radio, service or civic presentations, the Internet, as well as governing board meetings. Additionally, information will be made available as appropriate in languages other than English.

VI. Citation Data Collection and Reporting

A deputy is required to collect information relating to traffic stops in which a citation is issued or an arrest is made. On the citation deputies must include:

1. the violators race or ethnicity
2. whether the race or ethnicity was known to the officer prior to the stop
3. whether a search was conducted
4. was the search consensual
5. whether an arrest of the driver occurred

By March of each year, the Sheriff's Office shall submit a report to the Denton County Commissioners' Court and to the Texas Commission on Law Enforcement Officer Standards and Education that includes the information gathered from the citations. The report will include:

1. the number of motor vehicle stops in which the deputy knew or did not know the race or ethnicity of the driver prior to the stop
2. a breakdown of citations by race or ethnicity
3. the number of searches that were conducted; and whether the search was consensual
4. the number of motor vehicle stops that resulted in an arrest of the driver

VII. Effective Date:

04/2010

Benny Parkey
Denton County Sheriff