

401.34 RACIAL PROFILING

A. This policy is intended to reaffirm the Hudson Oaks Police 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 that we are providing service and enforcing laws in an equitable way.

B. Definitions:

1. 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, persons needing assistance, or other citizen contacts.

2. Acts Constituting Racial Profiling: The detention, interdiction, search, or seizure of any person based solely upon the person's age, gender, sexual orientation, race, color, creed, ethnicity, national origin, or similar personal characteristic, rather than on the individual's behavior, information identifying the individual as having possibly engaged in criminal activity, or other lawful reasons for the law enforcement action.

3. Traffic Stop: As it pertains to this policy, means the stopping of a motor vehicle by a police officer who is operating a marked police patrol car, for an alleged violation of law or ordinance regulating traffic.

4. Pedestrian Stop: As it pertains to this policy, means an interaction between a peace officer who is operating a marked police patrol vehicle and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

5. Race or Ethnicity: Relating to a particular descent, including, but not limited to, Caucasian, African, Hispanic, Asian, or Native American.

6. MVR: Shall refer to the mobile video/audio recording equipment. This includes both the equipment installed in the police vehicle, as well as the equipment worn by the officer, i.e., wireless body microphone and accompanying equipment.

C. Requirements

1. Officers of the Hudson Oaks Police Department are strictly prohibited from the use of racial profiling in the course of their duties. Race or ethnicity may never be used as the sole basis or motivating factor in making law enforcement decisions.

2. Any officer found, after thorough investigation and review, to have engaged in racial profiling shall be subject to disciplinary action, which may include indefinite suspension.

3. Investigative detentions, traffic stops, arrests, searches, and property seizures by officers of the Hudson Oaks Police Department will be based on a standard of reasonable suspicion or probable cause in accordance with the fourth Amendment of the U.S. Constitution. Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, arrests, nonconsensual searches, and property seizures.

4. Except as provided below in paragraph C-5, Officers of the Hudson Oaks Police Department shall not consider race/ethnicity in establishing either reasonable suspicion or probable cause. Similarly except as provided in paragraph C-5, Hudson Oaks Officers shall not consider race/ethnicity in deciding to initiate nonconsensual encounters that do not amount to legal detentions or to request a consent to search.

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

D. Complaint Process

1. Any person or persons alleging racial profiling may file a complaint against the specified employee or officer(s), in accordance with the Hudson Oaks Police Department General Order #300-18 (Internal Affairs). The Police Sergeant will advise all complainants of the Internal Affairs process and will be a single point of contact for the complainant. No person shall be discouraged, intimidated, or coerced from filing a complaint, or be discriminated against because they have filed a complaint.

2. Any complaint received by Department personnel shall be forwarded to Police Sergeant within 12 hours of receipt of the complaint.

3. The Police Sergeant shall make available to the public, information describing the process by which a complaint may be filed. The information will be readily available to the public at the Hudson Oaks Police Department or be mailed upon request.

E. Training

1. The Hudson Oaks Police Department will ensure that all Officers and employees receive initial and on-going training in cultural diversity, and laws governing racial profiling and legal aspects associated with those issues as established by Texas Laws. The Department will also ensure that all officers receive and comply with all training standards as established by TCLEOSE regarding racial profiling.

2. Training programs will emphasize the need to respect the rights of all citizens to be free from unreasonable government intrusion or police action.

F. Patrol and Field Operation Procedures

1. Personnel supplied with MVR equipment will utilize it on all contacts with the public, including but not limited to, traffic and pedestrian stops.

a. During the contact officers will ensure that the video and audio transmitter is on in order that the complete contact between the officer(s) and the contact is recorded.

b. An officer may deactivate the audio portion of the MVR equipment during private conversations among officers outside the presence of the public or suspects.

2. When a citation is issued or an arrest is made as the result of a traffic stop, the officer must document the following information:

- a. The race or ethnicity of the individual detained;
- b. Whether a search was conducted, and if so, whether the person detained consented to the search;
- c. If contraband is recovered.

3. The data will be recorded using the following procedure.

a. If a citation is issued, all appropriate boxes on the citation form will be completed. In the notes section of the citation form Search will be indicated by "Search Y" or "Search N" and Consensual Search will be likewise written in the notes section as "Consensual Search Y" or "Consensual Search N." If contraband is recovered it will be noted accordingly, "Contraband Recovered Y" or "Contraband Recovered N"

b. If an arrest is made as a result of a traffic or pedestrian stop, the officer making the arrest will collect the required data as indicated in sections 2-a, 2-b, and 2-c above, and will record the information on the Racial Profiling Data Sheet by marking the appropriate boxes.

c. If a citation and an arrest are made due to a traffic or pedestrian stop both "3-a" and "3-b" above will be completed.

4. Each audio and video recording shall be retained for a minimum of 90 days, unless a complaint has been filed alleging that an officer has been 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.

5. The Police Sergeant shall periodically conduct reviews of a randomly selected sampling of video and audio recordings made recently by Hudson Oaks Police Officers in order to determine if patterns of racial profiling exist. If any acts of racial profiling or patterns of racial profiling are discovered, the Police Sergeant shall immediately initiate an investigation.

G. Administrative Reporting

1. During January of each year the Police Sergeant or his designee will provide the Chief of Police with an Annual Report that provides a comparative analysis of the following data:

- a. Traffic arrest by race/ethnicity
- b. Traffic citations by race/ethnicity
 - c. Traffic arrests and citations that included a search and if the person detained consented to the search
- d. A determination of the prevalence of racial profiling.
 - e. An examination of the disposition of traffic and pedestrian stops, including searches from the stops
 - f. Information relating to each complaint within the department alleging racial profiling.
 - g. The report may not include identifying information about an officer or about the person stopped.

2. The Chief of Police will provide a copy of the Annual Report to the City of Hudson Oaks City Administrator and City Council at the beginning of each calendar year but no later than March 1st of each year.

3. The Hudson Oaks Police Department will annually conduct a review of agency practices and citizen concerns as they relate to racial profiling issues. This review will be conducted at the beginning of each calendar year in conjunction with the department's Annual Report