

326. Racial Profiling and Bias Reduction (TBBP: 2.01.1)

326.01 It is the policy of this department to police in a proactive manner and to aggressively investigate suspected violations of law. Officers shall actively enforce Town ordinances, state and federal laws in a responsible and professional manner, without regard to race, ethnicity or national origin.

326.02 All enforcement actions, particularly stops of citizens (for traffic and other purposes), investigative detentions, arrests, searches and seizures of persons or property, shall be based on the standards of reasonable suspicion or probable cause as required by the Fourth Amendment to the U. S. Constitution and statutory authority. In all enforcement decisions, officers shall be able to articulate specific facts, circumstances, and conclusions which support probable cause or reasonable suspicion for arrests, searches, seizures, and stops of citizens.

326.03 Officers are strictly prohibited from engaging in racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers, or pedestrians. Officers shall not stop, detain, arrest, search, or attempt to search anyone based solely upon the person's race, sex, sexual orientation, gender, national origin, ethnicity, age, economic status or religion. Officers shall base all such actions on a reasonable suspicion that the person or an occupant of a vehicle committed an offense.

327. Definitions

327.01 Most of the following terms appear in this order. In any case, these terms appear in the larger public discourse about alleged biased enforcement behavior and in other orders. These definitions are intended to facilitate on-going discussion and analysis of our enforcement practices.

- a. Bias - Prejudice or partiality which may be based on preconceived ideas, a person's upbringing, culture, experience, or education.
- b. Biased policing - Stopping, detaining, searching, or attempting to search, or using force against a person based upon his or her race, sex, sexual orientation, gender, national origin, ethnicity, age, or religion in violation of constitutional safeguards.
- c. Ethnicity - A cluster of characteristics which may include race but also cultural characteristics or traits which are shared by a group with a common experience or history.

- d. Gender – Unlike sex, a psychological classification based on cultural characteristics or traits.
- e. Probable Cause – Facts or apparent facts and circumstances within an officer's knowledge and of which the officer had reasonable, trustworthy information to lead a reasonable person to believe that an offense has been or is being committed, and that the suspect has committed it.
- f. Race – A category of people of a particular descent, including Caucasian, African, Hispanic, Asian, Middle Eastern or Native American descent. As distinct from ethnicity, race only refers to physical characteristics sufficiently distinctive to group people under a classification.
- g. 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.
- h. Reasonable suspicion – Articulable, objective facts which lead an experienced officer to suspect that a person has committed, is committing, or may be about to commit a crime. A well-founded suspicion is based on the totality of the circumstances and does not exist unless it can be articulated. Reasonable suspicion supports a stop of a citizen. Courts require that stops based on reasonable suspicion be "objectively reasonable."
- i. Sex – A biological classification, male or female, based on physical and genetic characteristics.
- j. Stop – The detention of a subject for a brief period of time, based on reasonable suspicion. A stop is investigative detention.

328. General responsibilities

328.01 Officers are prohibited from engaging in racial profiling or stopping, detaining, searching, arresting, or taking any enforcement action including seizure or forfeiture activities, against any person based solely on the person's race, national origin, citizenship, religion, ethnicity, age, gender, color, creed, sexual orientation, disability, economic status, cultural group or any other identifiable group. These characteristics, however, may form part of reasonable suspicion or probable cause when officers are seeking a suspect with one or more of these attributes. 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.

328.02 Reasonable suspicion or probable cause shall form the basis for any enforcement actions or decisions. Citizens shall only be subjected to stops, seizures, or detention upon reasonable suspicion that they have committed, are committing, or are about to commit an offense. Officers shall document the elements of reasonable suspicion and probable cause in appropriate reports.

328.03 Officers shall observe all constitutional safeguards and shall respect the constitutional rights of all citizens.

328.04 As traffic stops furnish a primary source of bias-related complaints, officers shall have a firm understanding of the warrant-less searches allowed by law, particularly the use of consent. How the officer disengages from a traffic stop may be crucial to a citizen's perception of fairness or discrimination.

328.05 Officers shall not use the refusal or lack of cooperation to justify a search of the citizen's person or vehicle or a prolonged detention once reasonable suspicion has been dispelled.

328.06 All personnel shall courteously accept, document, and forward to the Chief of Police any complaints made by citizens against the department. Further, officers shall provide information on the complaint process and shall provide information of "How to Make a Complaint" when appropriate.

328.07 When feasible, personnel shall offer explanations to citizens of the reasons for enforcement actions or other decisions that bear on citizens' well-being unless the explanation would undermine an investigation or jeopardize an officer's safety.

328.08 When feasible, all personnel shall identify themselves by name. When a citizen requests the information, personnel shall give their departmental identification number, name of the immediate supervisor, or any other reasonable information.

328.09 Unless required by law, a citizen's refusal to cooperate or provide information does not create any justification for further enforcement action. Refusal to sign a summons or failure to obey a lawful order of an officer are examples of exceptions to voluntary cooperation and may require a custodial arrest under some circumstances.

329. Supervisory responsibilities

329.01 Supervisors shall be held accountable for the observance of constitutional safeguards during the performance of their duties. Supervisors shall identify and correct instances of bias in the work of their subordinates.

329.02 Supervisors shall ensure that all enforcement actions are duly documented per departmental policy. Supervisors shall ensure that all reports show adequate documentation of reasonable suspicion and probable cause, if applicable.

329.03 Supervisors shall facilitate the filing of any citizens' complaints about law enforcement service.

330. Disciplinary consequences

330.01 Actions prohibited by this order shall be cause for disciplinary action, up to and including dismissal.

331. Training

331.01 Officers are responsible to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.

331.02 All officers shall complete TCLEOSE training and education program on racial profiling.

331.03 The Chief of Police, as part of the initial training and continued education for such appointment, will be required to attend the LEMIT program on racial profiling.

332. Complaints

332.01 The department shall 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.

332.02 Any employee who receives an allegation of racial profiling, including the officer who initiated the stop, shall record the person's name, address, and telephone number, and forward the complaint through the appropriate channel or direct the individual(s) to a supervisor. Any

employee contacted shall provide to that person a copy of a complaint form or the department process for filing a complaint. All employees will report any allegation of racial profiling to their superior before the end of their shift.

332.03 All complaints of racial profiling by employees of the department will be thoroughly investigated.

332.04 If there is a departmental video or audio recording of the events upon which a complaint of racial profiling is based, upon commencement of an investigation by this department into the complaint and written request of the officer made the subject of the complaint, this department shall promptly provide a copy of the recording or other image(s) to that officer.

333. Public Education

333.01 The department's complaint process and its racial profiling policy will be posted on the department's website.

334. Record Keeping

334.01 An officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense and in the event the driver of the vehicle, or the pedestrian contacted, is issued a citation and/or arrested, the officer shall record and report the following information:

- a. A physical description of each person detained as a result of the stop, including:
- b. the person's sex;
- c. the person's race or ethnicity, as stated by the person or as determined by the officer to the best of his/her ability;
- d. The street address or approximate location of the violation. The suspected offense or the traffic law or ordinance alleged to have been violated;
- e. Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;
- f. Whether probable cause to search existed and, if so, the fact(s) supporting the existence of that probable cause;

- g. Whether any contraband was discovered in the course of the search and, if so, the type of contraband discovered;
 - h. Whether the officer made an arrest as a result of the stop and/or search and, if so, a statement of the offense charged. Whether the officer issued a warning or a citation as a result of the stop and, if so, a statement of the offense charged.
 - i. Officers will record whether or not they could identify the race or ethnicity of the suspect before the person was detained.
- 334.02 By March of each year, the department shall submit a report to its municipal governing board that includes information gathered by the citations. The report will include:
- a. a breakdown of citations by race or ethnicity;
 - b. number of citations that resulted in a search;
 - c. number of searches that were consensual; and
 - d. number of citations that resulted in custodial arrest for this cited violation or any other violation.

335. Use of Video and Audio Equipment

335.01 Policy

- a. The provision of police services requires numerous contacts between police officers and citizens, some of which are made under adverse conditions. In order to protect the department, its officers and the citizens we serve; it is imperative that an accurate record of citizen/police officer interactions be maintained when possible. It will be the Addison Police Department's policy to record all citizen field contacts when possible, using video and audio equipment.

335.02 Video/Audio Retention

- a. All video and audio recordings will be retained for a minimum of 90 days. Officers are responsible for ensuring each video/audio recording is transferred and retained on the department storage system at the end of each shift. If a video/audio recording requires

retention of longer than 90 days, officers are responsible for taking the required steps to ensure retention.

335.03 Required Use of Mobile Video and Audio Systems

- a. The audio/video system will be on at all times during citizen contacts. Any deviation from this must be specifically authorized by the on-duty patrol supervisor.
- b. The officer may inform the violator or citizen, with whom they come in contact, that the incident is being recorded. In the event a request is made to stop the recording, the officer should politely inform the citizen that to comply with the request would violate department policy and procedure, and that the recording will continue.
- c. It is not a violation of federal law to record conversations of people who are in custody and who are in the vehicle when the officer is not present. Therefore, officers may use a remote microphone in the vehicle to capture conversation or information that may take place out of the officer's presence. Officers are under no obligation to advise anyone in custody that their conversation is being recorded.
- d. Non-evidentiary reviewing of video/audio recordings will be done on a routine basis for policy and procedure compliance and for training purposes.