

ORDINANCE NO. 262

WHEREAS the purpose of this policy is to unequivocally state that racial and ethnic profiling in law enforcement are totally unacceptable, to provide guidelines for officers to prevent such occurrences, and to protect our officers when they act within the dictates of the law and policy from unwarranted accusations.

DISCUSSION

WHEREAS a fundamental right guaranteed by the Constitution of the United States to all who live in this nation is the right to equal protection under the law. Along with this right to equal protection is the fundamental right to be free from unreasonable searches and seizures by government agents. Citizens are free to walk and drive our streets, highways, and other public places without police interference so long as they obey the law. They also are entitled to be free from crime, and from the depredations of criminals, and to drive and walk our public ways safe from the actions of reckless and careless drivers.

WHEREAS this law enforcement agency is charged with protecting these rights, for all, regardless of race, color, ethnicity, sex, sexual orientation, physical handicap, religion or other belief system.

WHEREAS because of the nature of their business, law enforcement officers are required to be observant, to identify unusual occurrences and law violations, and to act upon them. It is this proactive enforcement that keeps our citizens free from crime, our streets and highways safe to drive upon, and that detects and apprehends criminals.

WHEREAS this policy is intended to assist law enforcement in accomplishing this total mission in a way that respects the dignity of all persons and yet sends a strong deterrent message to actual and potential lawbreakers that if they break the law, they are likely to encounter the police.

POLICY

WHEREAS it is the policy of the Dubach Police Department to patrol in a proactive manner, to aggressively investigate suspicious persons and circumstances, and to actively enforce the motor vehicle laws, while insisting that citizens will only be stopped or detained when there exists reasonable suspicion to believe they have committed, are committing, or are about to commit, an infraction of the law.

DEFINITIONS

Racial profiling: The detention, or other disparate treatment of any person on the basis of their racial or ethnic status or characteristics.

Reasonable suspicion: Also known as articulable suspicion. Suspicion that is more than a mere hunch, but is based on a set of articulable facts and circumstances that would warrant a person of reasonable caution in believing that an infraction of the law has been committed, is about to be committed, or is in the process of being committed, by the person or persons under suspicion. This can be based on the observations of a police officer combined with his or her training and experience, and/or reliable information received from credible outside sources.

PROCEDURE

The Department's efforts will be directed toward assigning officers to those areas where there is the highest likelihood that crashes will be reduced and/or crimes prevented through proactive patrol.

Officers will receive initial and ongoing training in proactive enforcement tactics, including training in officer safety, courtesy, cultural diversity, the law governing search and seizure, and interpersonal communications skills.

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

Traffic enforcement will be accompanied by consistent, ongoing supervisory oversight to ensure that officers do not go beyond the parameters of reasonableness in conducting such activities.

Motorists and pedestrians shall only be subjected to stops, seizures or detentions upon reasonable suspicion that they have committed, are committing, or are about to commit an infraction. Each time a motorist is stopped, the officer shall radio to the dispatcher the location of the stop, the description of the person or vehicle being detained.

Appropriate enforcement action should always be completed, generally in the form of a warning, citation or arrest. The proper form must be filled out by the officer, and shall include the gender, race or ethnicity of the person stopped, if this information can reasonably be ascertained by physical appearance or from the driver's license or other documents provided by the individual.

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. In each case where a search is conducted, this information shall be recorded, including the legal basis for the search, and the results thereof. It is strongly recommended that consent searches only be conducted with written consent, using the proper department form. If the individual indicates that they will consent to a search but are refusing to sign the form, fill out the form anyway and indicate "consented to search but refused to sign", inserting initials and the signature of any witness in the signature block.

If the police cruiser is equipped with a video camera, the video and sound shall be activated prior to the stop, to record the behavior of the vehicle or person, and shall remain activated until the person is released and resume their journey.

In the absence of a specific, credible report containing a physical description, a person's race, ethnicity, gender or sexual orientation or any combination of these shall not be a factor in determining probable cause for an arrest or reasonable suspicion for a stop.

The deliberate recording of any misleading information related to the actual or perceived race, ethnicity, gender, or sexual orientation of a person stopped for investigative or enforcement purposes is prohibited and a cause for disciplinary action, up to and including dismissal.

If the department provided public information pamphlets to officers regarding the purpose of proactive enforcement, officers may distribute the pamphlet to each person subjected to such activities, whenever appropriate.

COMPLAINTS OF RACIAL/ETHNIC PROFILING

Any person may file a complaint with the department if they feel 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.

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 which may be mailed or delivered in person to headquarters, and shall record the person's name, address, and telephone number, and report the contact to the officer's supervisor prior to the end of the shift.

Supervisor receiving such a report shall forward it to the Internal affairs section and 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. The report and the reviewer's conclusion shall be filed with the Chief Executive officer of the department, and shall contain findings and any suggestions for disciplinary action or changes in police, training, or tactics.

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

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, special details, or squads.

Information concerning traffic stops shall be made available to the Chief Executive Officer concerning data available on the race of persons stopped, and after consultation with the Patrol Commander, produce periodic reports on traffic stops by race and gender.

FURTHER BE IT RESOLVED that the purpose of this Ordinance is to state that racial and ethnic profiling in law enforcement are totally unacceptable. This ordinance is to provide guidelines for officers and to protect the Dubach Police Department when they act within the dictates of the law and policy from unwarranted accusations.

BE IT ORDAINED by the Council members of the Village of Dubach that the Ordinance for Racial Profiling is adopted as presented this 15TH day of October, 2001.

BE IT FURTHER ORDAINED that this Ordinance shall be published in the official minutes of the Mayor and Village Council in the manner provided by law.

THIS ORDINANCE BEING SUBMITTED IN WRITING, HAVING BEEN READ AND ADOPTED at the Regular Session of said Mayor and Council, was then submitted to an official vote, the vote thereon being as follows:

YEAS: STEVE COPELAND
HATTIE GRAHAM
DARRELL MCADAM
L.L. CARRICO

MARGARET ROGERS

NAYS: NONE

ABSENT: RONALD ROBERSON

THIS ORDINANCE WAS DECLARED ADOPTED ON THE 15TH DAY OF OCTOBER, 2001.

ATTEST:

Candace J. Lasko
Candace Lasko, Clerk

Margaret Rogers
Margaret Rogers, Mayor