

February 20, 2010

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## **COMMERCE ISD POLICE DEPARTMENT**

### **Racial Profiling Policy**

Date of Adoption: February 23, 2009 Date of Revision/Review: February 20,2010

#### **I. PURPOSE**

The purpose of this policy is to reaffirm the Commerce ISD 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; and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.

#### **II. POLICY**

It is the policy of this department to police in a proactive manner and to aggressively investigate suspect violations of law. Officers shall actively enforce state and federal laws in a responsible and professional manner without regard to race, ethnicity or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in the policy. This policy shall be applicable to all persons, whether drivers, passengers or pedestrians. Officers 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 people 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 tolerated. This policy shall not preclude officers from offering assistance; such as, when observing a substance leaking from a vehicle, seeing a vehicle with a flat tire, or noticing someone who appears to be ill, lost or confused. Policy does not prohibit stopping someone suspected of a crime based upon observed actions and/or information received about the person; nor does this policy prohibit stopping someone suspected of violating Commerce Independent School District's Student Code of Conduct, to act in an administrative/counseling role in helping students and/or parents or to assist campus Principals and faculty in accordance with Commerce ISD policy and acceptable public school practices.

#### **III. DEFINITIONS**

Racial Profiling - This is when 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 based solely on race or ethnicity. 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 an officer 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. Citing a driver who is speeding in a stream of traffic when 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 or 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. A law enforcement agency can derive two principles from the adoption of this definition of racial profiling:
  1. Police may not use racial or ethnic stereotypes as factors in selecting who to stop and search, (but police may use race in conjunction with other factors of the suspect).
  2. Law enforcement officers may not use racial or ethnic stereotypes. As factors in selecting who to stop and search. Racial profiling is not relevant as it pertains to witnesses, etc.

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

Pedestrian Stop - An interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest

Traffic Stop - A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic

#### **IV. TRAINING**

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

#### **V. COMPLAINTS**

The complaint procedures adopted by the Commerce ISD Police Department will be as follows. Any and all officers receiving a complaint by a citizen will direct the complaining party to the office of the Superintendent for Commerce ISD or the Chief's office. It is totally appropriate and authorized to provide any citizen with assistance with the complaint

procedure for the purpose of filing a complaint without inquiring as to the nature of the complaint. Offers of assistance will be made and provided if the citizen requests such assistance.

## **VI. DISCIPLINE**

Any officer who is found, after an appropriate investigation, to have engaged in racial profiling in violation of this policy shall be subject to discipline which may include counseling, written reprimand, remedial training, suspension or termination of contract as deemed appropriate by the Chief of Police and/or Superintendent or designee.

## **VII. DATA COLLECTION**

In each detention of a pedestrian or traffic violator, or if a citation is issued to a traffic or pedestrian violator or an arrest of same is made, the officer involved will identify the race or ethnicity of the detained/arrested, stating whether a search was conducted, and if a search was conducted, whether the person detained/arrested consented to the search. This information will be collected on a form designated for this purpose or on a form already in use such as a citation.

## **VIII. REPORTING REQUIREMENTS**

By March of each year, the department shall submit a report to the Commerce Independent School District's Board of Trustees that includes information gathered by the citations. The report will include:

1. a breakdown of citations by race or ethnicity;
2. number of citations that resulted in a search;
3. number of searches that were consensual;
4. number of citations that resulted in custodial arrest for this cited violation or any other violation; and
5. Campus in which the student attends if applicable.

## **IX. PUBLIC EDUCATION**

This department will inform the public of its policy against racial profiling and the complaint process. Method will include posting the policy and complaint process on the district's web site and in a clearly visible site in each campus office.

## **X. CLOSING STATEMENT**

This policy is meant to serve as a guide to the employees of the CISD PD. It does NOT create a higher standard for civil or criminal purposes. Violations of this policy would serve only as grounds for discipline within the CISD PD and will not form the basis for any criminal

or civil action.

### **COMPLAINT PROCESS**

In accordance to CISD district policy section CKE (legal) Complaint Against Peace Officer and CISD Police Department policy on Racial Profiling is as follows:

Complaint must be in writing and signed by the person making the complaint. The complaint must be submitted to the office of the Superintendent or Chief of Police. A copy of the complaint shall be given to the officer within a reasonable time after it is filed. Commerce ISD administration offices are located at 606 Culver St. Commerce, TX 75428.