

Professional Standards Bureau

Racial Profiling Investigation Protocol

September 24, 2007

Definition of Racial Profiling:

Any police activity that relies on the race, ethnicity, or national origin rather than the behavior of an individual or information that leads police to a particular individual who has been identified as being, or having been, engaged in criminal activity.

“Racial Profiling” at its core concerns the invidious use of race or ethnicity as a criterion in conducting stops, searches, and other law enforcement investigative procedures. It is premised on the assumption that any particular individual of one race or ethnicity is more likely to engage in misconduct than any particular individual of another race or ethnicity.¹

In order to improve upon the quality of Racial Profiling investigations, a review was conducted of current complaints initiated by citizens alleging racial profiling. Following this review, the protocols set forth below were recommended for implementation, where practicable.

In addition to all current protocols utilized by Internal Affairs investigators conducting personnel complaint investigations, the investigator assigned a case containing allegations involving racial profiling shall:

Other than Self-Initiated Activities

- Interview the complainant or review the taped interview of the complainant and assess the viability of the accusation of racial profiling. Determine specifically what behaviors on the part of the officers the complainant believed supports that the complainant was racially profiled.
- Determine if outside initiated information was a factor in the detention (i.e. a radio call, citizen flagdown, etc.).
- If outside initiated information caused the detention, determine if the detention was reasonable (i.e., the complainant, in fact matched the description in the radio call.) Determine what factors the officer relied upon in concluding that the suspect matched the description of the call.
- Determine if the officer completed any documentation related to the stop, and include this documentation as addenda. If there are no other extenuating circumstances and the reason for the detention, search or other law enforcement activity is reasonable, legal and justified, no further investigation is necessary.

¹ International Chiefs of Police Publication, Protecting Civil Rights: A Leadership Guide for State, Local, and Tribal Law Enforcement, September, 2006

Self-Initiated Activities

- If the detention results from self-initiated activities, gather and review all related documents pertinent to the investigation.
- In addition to the complainant, interview all witnesses and canvass the location if practicable.
- Ensure all involved officers are interviewed:
 - Ask the officer(s) the reason for the stop, search or detention;
 - Obtain details specific to "officer safety," "uncooperative," and/or "high crime area verbiage;"
 - Ask the officer(s) if they knew the race or ethnicity of the subject prior to the stop or detention;
 - Ask the officer(s) if race or ethnicity was a factor in the stop or detention. If the answer is "yes," have the officer(s) explain;
 - If there was a search associated with the stop or detention, ask the officer(s) to articulate the reasons for the search;
 - Where applicable, include the lighting conditions, distance when the officer(s) made the observations, and determine if vehicle windows were tinted;
 - Identify inconsistencies in statements and attempt to resolve them;
 - Ask follow-up questions to obtain all pertinent information; and
 - Consider examining the officer's work product, if applicable, as a potential indicator of racial profiling

EXAMPLE: Where a citizen complains that they and four other people committed the same traffic violation and all were observed by the officer. All of the other four were Caucasian and the complainant is a minority. It would be prudent under such facts to audit the officer's citations, arrest reports, RFC's, Field Interview Cards and any other work product for a substantial period of time from the date of the complained of incident. The area wherein the officer works or worked should also be part of the investigating officer's evaluation under these circumstances.

- Use any other investigative tools necessary to complete the investigation.

Other Considerations to Determine Investigative Strategy

- 1) Where Racial Profiling is the only allegation and can be disproved from the complainant's own statement, such as "I know I ran the red light but if you don't cancel this ticket I will complain I was racially profiled," and where no other evidence exists.
- 2) The Complainant cannot articulate any behavior on the part of the officer that can be construed as racial profiling and there is probable cause for the detention, search or other law enforcement activity. The Investigating Officer shall determine whether or not officer interviews are necessary to a determination of whether probable cause existed and whether the detention was reasonable.

REVIEW:

All completed personnel complaint investigations containing an allegation of racial profiling shall be reviewed by either the Commanding Officer, Criminal Investigation Division, or the Commanding Officer, Administrative Investigation Division, Professional Standards Bureau, before distribution to the concerned Commanding Officer for adjudication