

**ORDINANCE NO. 122001**

**AN ORDINANCE OF THE CITY OF RANGER, TEXAS, PROVIDING FOR POLICIES AND PROCEDURES APPLICABLE TO ARTICLES 2.131 THROUGH 2.136 OF THE CODE OF CRIMINAL PROCEDURE; ADOPTING A RACIAL PROFILING POLICY FOR PEACE OFFICERS; MAKING DECLARATIONS; PROVIDING SEVERABILITY AND OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.**

**Whereas**, the City desires to deter peace officers from profiling individuals based on race, ethnicity or national origin alone rather than on an individual's behavior or information identifying the individual as having engaged in criminal activity or being a suspect;

**Whereas**, although race, ethnicity and national origin may be legitimate elements of a criminal investigation, discretion to initiate law-enforcement actions should not be based solely on race, ethnicity or national origin; and,

**Whereas**, it is necessary for the City of Ranger, Texas (herein "City"), a home rule municipal corporation, to adopt policies and procedures for implementing Articles 2.131 through 2.138, Chapt. 2, Tex. Code of Crim. Proc., mandating the adoption of a racial profiling policy for the City of Ranger Police Department (herein "Police Department");

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RANGER, TEXAS, THAT:**

**Section 1. Findings.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**Section 2. Approval and Adoption.** The City of Ranger Racial Profiling Policy, attached hereto as Exhibit "A" and spread on the minutes of this meeting (the "Policy"), is hereby approved and adopted. The Racial Profiling Policy shall be and remain in full force and effect, until such time as repealed, modified or amended by resolution or ordinance of the City Council. Where the Policy conflicts with the Code of Criminal Procedure or a specific department policy, the more restrictive shall govern.

**Section 3. Orders of Chief of Police.** The Chief of Police is responsible for the day-to-day operation of the Police Department and must operate and manage the Police Department in a manner consistent with the policies and procedures of the City, the laws of the State and Federal Government, the Code of Criminal Procedure, and the public safety needs of the citizens. The Chief may from time to time issue orders or specific policy statements for the Police Department that are consistent with the Policy adopted herein for the Police Department and that are consistent with the personnel policies of the City as needed to guide officers and departmental practices not specifically addressed in the Policy or that vary the policies as needed to create policies that will comply with changes in the law. The Chief of Police shall cause such policies and procedures, and any proposed modifications or amendments, to be drafted, prepared and recommended to the City Council for review and action as necessary to serve the best interests of the City and the Police Department employees and citizens.

**Section 4. City Council Approval.** The racial profiling policies and procedures of the Police Department of the City, and all revisions, modifications and amendments thereto, shall be approved by the City Council, in its discretion, by resolution, and no such policies, procedures, revisions, modifications or amendments shall be in effect except as approved by the City Council acting by resolution. Such policies, procedures, rules and regulations as are approved by resolution of the City Council shall be and remain in effect until thereafter repealed, modified or amended by resolution, and all, or any part of, such policies, procedures, rules, regulations, revisions, modifications and amendments may be repealed, deleted, modified or amended, at anytime by the City Council acting in its discretion.

**Section 5. Audio and Video Equipment.** The Chief of Police shall, immediately, upon enactment of this Policy, commence examination of the feasibility of installing video camera equipment and transmitter-activated equipment in any City motor vehicle, now owned or acquired after passage of this policy, regularly used to make traffic stops, and transmitter-activated equipment in each City motorcycle, now owned or acquired after the passage of this policy, regularly used to make traffic stops, and shall report to the City Council any such vehicles which are not equipped with adequate equipment. The report shall include funding options available to the City, including any funding available through the Department of Public Safety.

In the event that the findings of such examination supports the installation of additional equipment in any motor vehicle required to be equipped but not already equipped, the Chief of Police is authorized and directed to apply for funding to secure the additional equipment and if funds are available, shall take such actions as necessary to ensure installation of such additional equipment as expeditiously as feasible. The Chief of Police is authorized and directed to certify to the Department of Public Safety any need for additional equipment for which funds are not available. On receipt of either sufficient funds or video and audio equipment, the Chief of Police shall direct such actions as necessary to expeditiously install and begin the operation of video and transmitter-activated equipment in each motor vehicle regularly used to make traffic stops, and shall direct such actions as necessary to expeditiously install and begin the operation of transmitter-activated equipment on each motorcycle regularly used to make traffic stops. The Chief of Police is authorized and directed to certify to the Department of Public Safety that such equipment has been installed and is being used to record each traffic and pedestrian stop made by a peace officer employed by the City that is capable of being recorded by video and audio or audio equipment, as appropriate.

**Section 6. Interpretation and Construction.** The policies and procedures, rules and regulations of Police Department shall be interpreted and construed consistent with the Code of Criminal Procedure. The general policies and procedures of the Police Department shall not be interpreted or construed as creating third party rights. The policies and procedures, rules and regulations of the Police Department shall be interpreted as a general guideline to be used by the Police Department to promote professionalism and organizational development. Nothing in the Policy, or its amendments, shall be interpreted or construed as an obligation, mandate, requirement or agreement of the City or the Police Department to function or operate in the manner or methods described therein.

**Section 7. Governmental Immunity.** Nothing in this policy shall be deemed to waive, modify or amend any legal defense available at law or in equity to either the City, the Police

Department or its employees nor to create any legal rights or claims on behalf of any third party. Neither the City, the Police Department, nor its employees waives, modifies or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas.

**Section 8. Repeal of Conflicting Ordinances.** All ordinances, parts of ordinances and sections of the City Code of Ordinances in conflict with this ordinance are hereby amended and repealed to the extent of such conflict. Any and all general policies, rules and regulations of the Police Department heretofore adopted and in effect are hereby repealed. Any and all personnel policies, rules and regulations of the City heretofore adopted and in effect at the time of adoption shall not be affected hereby.

**Section 9. Severability.** If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

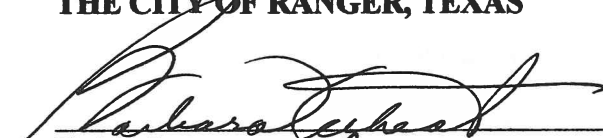
**Section 10. Effective Date.** This ordinance shall take effect immediately from and after its passage and signature by the Mayor.

**Section 11. Open Meetings.** That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

**PASSED AND APPROVED** on this \_\_\_\_\_ day of \_\_\_\_\_, 200\_.

**THE CITY OF RANGER, TEXAS**

Attest:

  
~~Todd Mays~~, Mayor *Pro Tem*

\_\_\_\_\_  
Arthur Camacho Jr., City Secretary

a. **Policy and Purpose**

This Racial Profiling Policy is adopted to require compliance with the mandates of Articles 2.131 through 2.136, Texas Code of Criminal Procedure, prohibiting Texas peace officers from engaging in racial profiling.

b. **Definitions**

***Racial Profiling:*** means 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.

***Race or Ethnicity:*** means of a particular descent, including Caucasian, African, Hispanic, Asian or Native American descent.

***Acts Constituting Racial Profiling:*** any traffic, pedestrian stop, including a subsequent arrest or search, or similar law enforcement-initiated action based solely on the race, ethnicity or national origin of an individual. Race, ethnicity or national origin may be legitimate in law enforcement-initiated action when used as part of an actual description of a specific suspect or when used in conjunction with other known factors of a suspect.

***Pedestrian Stop:*** means an interaction between a peace officer and an individual who is being detained for the purposes of a criminal investigation in which the individual is not under arrest.

***Traffic Stop:*** means the stopping of a motor vehicle by a peace officer for an alleged violation of law or ordinance regulation traffic.

c. **Prohibition**

Peace officers of the City of Ranger are strictly prohibited from engaging in acts constituting racial profiling. The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors provided probable cause, other than just race, ethnicity or national origin, exist for the law enforcement-initiated action.

d. **Complaint Process and Public Education**

Any person who believes that a peace officer employed by the City has engaged in racial profiling with respect to that person may file a sworn complaint with the Chief of Police. Should the complaint be against the Chief of Police, the complaint shall be filed with the City Secretary. Such complaints shall be in writing, sworn and signed by the complainant. However, should an individual be incapable of writing, the city employee receiving the complaint shall ensure that the individual is assisted in reducing the same to writing and signing the complaint.

Each complaint shall be reviewed according to the grievance procedures for the police department. Complaints against the Chief of Police shall be handled according to the grievance procedures of the City.

In the event that a complaint of racial profiling filed by an individual involves an occurrence that was recorded on audio or video, the Chief of Police shall, upon commencement of the investigation of the complaint and upon written request of the officer, promptly provide a copy of the recording to the peace officer that is a subject of the complaint.

**e. Corrective Action**

Any peace officer who is found, through an investigation or admission, to have engaged in prohibited racial profiling shall be subject to corrective action. The peace officer's supervisor, having authority to discipline, may issue a reprimand; require diversity, sensitivity or other appropriate training or counseling; order paid or unpaid suspension; terminate the of employment of the peace officer, or take any other action determined to be appropriate.

A single act constituting racial profiling may not be considered a pattern of racial profiling, and may not be grounds for corrective action beyond a verbal warning.

All complaints concerning peace officers of the City received by the City shall be handled according to the policies of the City in force at such time as the complaint is filed for citizens complaints. Any adverse actions taken as a result of the complaint may be appealed in the same manner as provided in the personnel policy.

**f. Collection and Report Requirements for Traffic Stops for which a Citation is Issued or Arrest Made**

For each traffic stop which results in a citation being issued, a peace officer is required to collect information relating to traffic stop. On the citation, the peace officer must indicate:

1. the violators race or ethnicity, to the best of the officer's ability to determine the race or ethnicity;
2. whether a search was conducted;
3. whether the search consensual or not; and,
4. whether an arrest was made for the cited violation.

Not later than March 1<sup>st</sup> of each year, the Chief of Police shall submit a report, based on the information gathered from the traffic citations written in the proceeding calendar year (January 1 – December 31), to the City Council containing the following information as documented in the traffic citations written from the preceding calendar year:

1. the number of traffic citations written, regardless of the number of offenses indicated thereon or the disposition of the cases;
2. a breakdown of the race or ethnicity of each individual cited in a traffic stop;
3. number of traffic citations that resulted in a search;
4. number of searches conducted and, of the searches conducted, the number of searches having been by consent and without consent; and,
5. number of arrests resulting from the traffic stop.

The annual report shall not include identifying information about any individual stopped or arrested, and shall not include identifying information about any peace officer involved in a stop or arrest.

**g. Audio and Video Equipment**

If the equipment used to record audio and/or video of traffic or pedestrian stops is malfunctioning or otherwise not operable, the peace officer in charge of the vehicle shall immediately report the failure to the immediate supervisor. The Chief of Police, or the Chief's designee, shall be notified of a malfunction or inoperable equipment that is not repaired within 24 hours of malfunction. Should the equipment not be repairable within 24 hours, the Chief of Police, or the Chief's designee, shall determine the necessity of use of the vehicle containing the inoperable or malfunctioning equipment.

Given the resources available, the vehicle should not be utilized with inoperable or malfunctioning equipment, unless the vehicle is necessary for public safety purposes and to continue the operations of the department. When feasible, the motor vehicle containing inoperable or malfunctioning equipment shall be parked until such time as the equipment can be repaired or replaced. Should the motor vehicle containing malfunctioning or inoperable equipment be necessary for public safety, the operator's duties shall, as much as possible, be limited to necessary pedestrian and traffic stops only until the equipment is repaired or replaced. Any traffic or pedestrian stops made while the equipment is malfunctioning or inoperable, shall be called in with a request for back-up from any motor vehicle of the department available with audio and video equipment.

Audio and video equipment that must be replaced or repaired for which funds for repair or replacement are not available, the Chief of Police shall report to the City Council, at the first available Council meeting, the need for additional funding with a report on funding options. If application to the Department of Public Safety is necessary, the Chief of Police shall make such application as expeditiously as practicable.

**h. Review of Video and Audio Documentation – Standards**

This department shall retain the video and audiotapes, or the audiotape of each traffic and pedestrian stop for at least ninety (90) days after the date of the stop. If a complaint is filed with this department alleging that one of our officers has engaged in racial profiling with respect to a traffic or pedestrian stop, this department shall retain the video and audiotapes, or the audiotape of the stop until final disposition of the complaint.

In conjunction with preparation of the annual report required under Part VI above, the Chief of Police, or the Chief's designee, shall periodically conduct reviews of a randomly-selected sampling of video and audio recordings made recently by peace officers employed by the City in order to determine if acts or patterns of racial profiling exist for any peace officer. Supervisors will ensure peace officers are recording the traffic and pedestrian stops. A recording of each officer will be reviewed at least once every ninety (90) days.

In reviewing audio and video recordings, the Chief of Police, or the Chief's designee, shall seek to determine if the peace officer involved therein has engaged in acts or a pattern acts constituting racial profiling for which there is no reasonable, credible explanation based on established police and

law enforcement procedures for the law enforcement initiated action. Immediate corrective measures shall be taken for any confirmed or suspected acts of racial profiling, including but not limited to additional training and education.

**i. Training and Education**

(a) The Chief of Police shall ensure that each peace officer employed by the City shall complete the education and training programs on racial profiling established by the Texas Commission of Law Enforcement Officer Standards and Education (TECLEOSE) as required.

(b) The Chief of Police shall, in completing the training required by Section 96.641, Texas Education Code, complete the program on racial profiling established by the Bill Blackwood Law Enforcement Management Institute of Texas.

(c) The Police department will, as feasible, inform the public of its policy against racial profiling and the complaint process including posting a notice of procedures in the lobby of the police department. Methods that may be utilized to inform the public are the news media, radio, service or civic presentations, the Internet, as well as City Council meetings.

## **AUDIO VIDEO RECORDING POLICY**

### **I. PURPOSE**

It is the purpose of this policy to provide officers with guidelines for the use of mobile video and audio recording equipment.

### **II. POLICY**

Mobile video/audio recording (MVR) equipment has been demonstrated to be of value in the prosecution of traffic violations and related offenses, in evaluation of officer performance, as well as in training. In order to maximize the utility of this equipment in these and related areas, officers shall follow the procedures for the MVR equipment use as set forth in this policy.

### **III. PROCEDURES**

**A. Program Objectives.** This agency has adopted the use of in-car video/audio recording systems in order to accomplish several objectives, including:

1. accurate documentation of events, actions, conditions and statements made during arrest and critical incidents, so as to enhance officer reports, collection of evidence and testimony in court, and
2. the enhancement of this agency's ability to review probable cause for arrest, arrest procedures, officer and suspect interaction, and evidence for investigative purposes, as well as for officer evaluation and training.

**B. Operating Procedures.** Officers shall adhere to the following procedures when utilizing MVR equipment.

1. MVR equipment installed in vehicles is the responsibility of the officer assigned to that vehicle and will be maintained according to manufacturer's recommendations.
2. Prior to each shift, officers shall determine whether their MVR equipment is working satisfactorily and shall bring any problems at this, or other times, to the attention of their immediate supervisor as soon as possible.
3. MVR equipment will automatically activate when the vehicle's emergency warning devices are in operation.
4. Where possible, officers should ensure that MVR equipment is operating in order to record traffic stops or other enforcement actions. In so doing they will ensure that:
  - a. the video recorder is positioned and adjusted to record events;



- b. the MVR is not deactivated until the enforcement action is completed; and
  - c. the wireless microphone is activated in order to provide narration with the video recording to explain the reason for their current or planned enforcement action.
5. Where possible, officer shall also use their MVR equipment to record:
  - a. the actions of suspects during interviews, when undergoing sobriety checks or when placed in custody, if the recording would provide useful in later judicial proceeding; and
  - b. the circumstances at the crime or accident scenes or other events such as the confiscation and documentation of evidence or contraband.
6. Officers shall not erase, reuse or in any manner alter MVR tapes.
7. Officers shall ensure that they are equipped with an adequate supply of videotapes to complete their tour of duty.
8. All completed tapes shall be properly labeled and identified prior to being submitted with related documentation at the end of the officer's tour of duty.
9. Officers are encouraged to inform their supervisor of any videotaped sequences that may be of value for training purposes.
10. Officers will note in incident, arrest and related reports when video/audio recordings were made during the incident in question.
11. Officers shall only use videotapes as issued and approved by this agency.

### **C. Tape Control and Management**

1. MVR tapes containing information that may be of value for case prosecution or in any criminal or civil adversarial proceeding shall be safely guarded as other forms of evidence. As such, these videotapes will:
  - a. be subject to the same security restrictions and chain of evidence safeguards as detailed in this agency's evidence control policy;
  - b. not be released to another criminal justice agency for trial or other reasons without having a duplicate copy made and returned to safe storage; and
  - c. will not be released to other than bona fide criminal justice agencies without prior approval of the Chief of Police.

2. Tapes not scheduled for court proceeding or other adversarial or departmental uses shall be maintained for a minimum of ninety (90) days. All tapes shall be maintained in a manner that allows efficient identification and retrieval.

3. No videotapes shall be reissued for operational use unless completely erased by designated personnel from this agency.

**D. Supervisory Responsibilities.** Supervisory personnel who manage officers equipped with MVR equipment shall ensure that:

1. all officers follow established procedures for the use and maintenance of MVR equipment, handling of video/audio recordings and the completion of MVR documentation;

2. on at least a bimonthly basis, they randomly review videotapes and recording to assist in periodic assessment of officer performance, determine whether MVR equipment is being fully and properly used and to identify material that may be appropriate for training and take such corrective actions as necessary for any officers not following department policies, transgressions warranting possible termination and activities appearing to constitute racial profiling shall be reported to the Chief of Police;

3. repairs and replacement of damaged or non-functional MVR equipment is performed as soon as practicable

4. damaged or non-functional MVR equipment that cannot be repaired within 24 hours of the report shall be reported the Chief of Police with a statement of estimated time of repair or necessity of replacement;

5. vehicles equipped with damaged or non-functional MVR equipment shall, if feasible given the necessity for public safety, be assigned to tasks not requiring traffic or pedestrian stops or provide for possible back up of such vehicles to ensure recording if feasible of all traffic and pedestrian stops

6. motor vehicles not equipped with MVR equipment shall not be utilized without back-up of another vehicle properly equipped with MVR equipment, unless certification has been made to the Department of Public Safety, within one month after the need for MVR equipment is determined, that the department needs funds for MVR equipment for the purpose of installing MVR equipment and that the funds sufficient for such installation, as determined by the Chief of Police, are not available for the department to accomplish that purpose; and

7. all statistical reporting requirements are being completed as required to ensure adequate program evaluation.

**M E M O R A N D U M**

**TO:** Chief Thomas Million

**FROM:** Sheila I. Jalufka **ATTORNEY-CLIENT PRIVILEGED  
AND CONFIDENTIAL!!!**

**DATE:** November 6, 2001

**RE:** Racial Profiling – Sample Policy and Ordinance

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I am attaching a sample ordinance with an attached sample policy to be presented and adopted by the City Council. The Chief of Police should carefully review the policy attached to the ordinance which is a modified version of the TML policy. The ordinance provides for the mandate to apply for funding for cameras with DPS and authorizes the Chief to make such a request. The statute provides that the cities that do not have cameras in the vehicles may apply for funding and make certain certifications to DPS and the city is exempt from the more intensive reporting requirements.

Departments are required to annually report to the City Council. The reporting may be simple recording on traffic citations of the information as outlined in the policy. The Municipal Court Clerk can insert the information along with each citation to be printed out annually for presentation to the City Council. (No information identifying the defendants or officers are to be included in the annual report.)

This policy does not provide for the intensive reporting of information as I expect that any cars not having video will be due to lack of funding and a certification will be made and application to DPS for funding.

Also included is a sample policy for the internal adoption of the police chief for operation of cameras. The policies are designed to work together and provide for no additional reporting should a breakdown occur in the equipment. Because the statute is mute on the requirements for damaged or broken equipment and provides an exemption for cars not having cameras when funds are not available, I have crafted the policy to provide for broken or damaged equipment without increasing the reporting requirements of the officers.

Further, I have included a sample notice for posting in the police lobby to "educate" the public.

The policies are draft only subject to review, modification and consideration. Please feel free to contact me with any questions or issues.

## **City of Ranger Police Department Racial Profiling Policy**

This Department supports the 77th Texas Legislature's mandate prohibiting racial profiling in Texas. Our police officers work under a departmental policy that is consistent with all state and federal laws. The policy includes provisions for citizens to contact us if they have a conflict with a Ranger police officer.

The Ranger Police Department realizes that there will be disagreements, from time to time, with individuals that come in contact with our officers. We realize that confusion, different perceptions or possibly the timeliness of information could result in information that may produce different accounts of the same incident. These disagreements between citizens and officers need to be addressed. We trust that the vast majority of contacts between citizens and officers are conducted in a positive, professional manner. The relationship between the community and our officers is based on confidence and trust. We cannot be effective without both the community and our officers working together to achieve this goal.

Citizens feeling that they have a legitimate concern may make a formal complaint to the Ranger Police Department at any time by contacting any member of this department for information on the complaint process. Additional information about this process may be obtained by calling us at (254) 647-3232.

We are very proud of the relationship the Ranger Police Department shares with the community. Our longstanding goal is to provide our citizens with a safe community where all may live without the fear of crime.

**Thomas Million, Police Chief**

**Ranger Police Department**