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Unlawful Profiling

COUNTY LAW UPDATE

by Mike Rainwater on 12/03/2003

Section 3 of Act 1207 of 2003 requires all sheriffs' departments to adopt (by 01/01/2003) a written policy that: (1) prohibits unlawful profiling as defined by Act 1207 (racial, ethnic, national origin, or religious profiling); (2) requires that law enforcement officers have reasonable suspicion prior to a stop, arrest, or detention; (3) defines reasonable suspicion, to ensure that individuals are stopped for valid reasons, and that race, ethnicity, national origin, or religion are not a basis for stops for violations for which other non group members would not be stopped; and (4) requires law enforcement officers to identify themselves by full name and jurisdiction, and state the reason for the stop and when possible present written identification.

Unlawful Profiling Prohibited : Section 2 of Act 1207 of 2003 prohibits: (1) “[unlawful] profiling” and (2) “the detention of an individual based on any non criminal factor or combination of non criminal factors”

Unlawful Profiling Defined: Section 1 of Act 1207 of 2003 describes unlawful profiling as “the practice of a law enforcement officer relying, to any degree, on race, ethnicity, national origin, or religion in selecting which individuals to subject to routine investigatory activities, or in deciding upon the scope and substance of law enforcement activity following the initial routine investigatory activity, except that racial profiling does not include reliance on the criteria in combination with other identifying factors when the law enforcement officer is seeking to apprehend a specific suspect whose race, ethnicity, or national origin is part of the description of the suspect, and the description is thought to be reliable and locally relevant.”

Review Process for Identification of Unlawful Profiling: Section 3 of Act 1207 of 2003 also requires all sheriffs' departments to adopt a written policy (by 01/01/2003) that: (1) provides for a systematic review process by supervising personnel within a department or law enforcement agency for investigating allegations of racial profiling to determine whether any officers of the law enforcement agency have a pattern of stopping or searching persons; (2) requires an investigation, if the review reveals a pattern, to determine whether a trend is present indicating that an officer may be using race, ethnicity, national origin, or religion as a basis for investigating other violations of criminal law; (3) provides, where a supervisor or other reviewer has detected a pattern of racial profiling, timely assistance, remediation, or discipline for individual law enforcement officers who have been found to be profiling by race, ethnicity, national origin, or religion; (4) ensures that supervisors will not retaliate against officers who report racial profiling by others; and (5) provides standards for the use of in-car audio and visual equipment, including the duration for which the recordings are preserved.

Annual Training Required: Section 4 of Act 1207 of 2003 requires all sheriffs' departments to provide annual training (starting 01/01/2004) to all officers that “emphasizes the prohibition against [unlawful] profiling ... and stresses ... development of effective and appropriate methods of carrying out law enforcement duties.