

# Ordinance No. 750-15

## **AN EMERGENCY ORDINANCE**

To supplement the Codified Ordinances of Cleveland Ohio, 1976 by enacting new Section 135.042 thereof, relating to establishment of a policy with respect to biased-based profiling.

**Council Members Zone and Conwell**

**Referred to DIRECTORS of Public Safety, Finance, Law; COMMITTEES on Safety, Finance**

WHEREAS, biased-based profiling is an unnecessary, objectionable procedure by police which involves engaging, investigating or stopping a citizen on the pretext of investigating a crime or suspected criminal activity based solely on the citizen's actual or perceived race, ethnicity, religion, sexual orientation or gender identity or gender expression, national origin or citizenship, English language proficiency or inclusion in a protected class; and

WHEREAS, this City's police officers are prohibited from engaging a citizen using profiling that is based solely on physical appearance, physical characteristics and mannerisms as belonging to a specific minority group or other protected class; and

WHEREAS, the Cleveland Division of Police is committed to the fair and impartial enforcement of the law and shall take all appropriate actions necessary to maintain the public's trust by aggressively investigating all allegations of biased-based profiling; and

WHEREAS, this City recognizes that biased-based profiling is unacceptable to the fundamental principles of a free and democratic society and has a corrosive effect on the relationship that law enforcement has with the people it serves; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

### **BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:**

**Section 1.** That the Codified Ordinances of Cleveland, Ohio, 1976, are hereby supplemented by enacting new Section 135.042 to read as follows:

#### **Section 135.042 Establishment of Policy with Respect to Biased-Based Profiling**

(a) The Director, with the Chief of Police, shall establish a policy within the Division of Police with respect to biased-based profiling which policy shall incorporate the following:

##### (1) Definitions.

A. "Biased-based profiling" means to stop, detain, investigate, search, seize or arrest an individual based solely on the individual's actual or perceived race, color, ethnicity, religion, sexual orientation, gender identity or gender expression, national origin, citizenship, English language proficiency or inclusion in a protected class.

B. "Investigatory stop" or "investigatory detention" means a temporary restraint where the subject of the stop or detention reasonably believes that he or she is not free to leave. An investigatory stop or detention may be a pedestrian, vehicle or bicycle stop.

C. "Member of the police force" means any sworn member of the City of Cleveland's Division of Police, and also Special Policemen commissioned pursuant to section 135.20.

D. "Chief" means the Chief of the Division of Police of the City of Cleveland.

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(2) Prohibition. No member of the police force shall engage in biased-based profiling.

(3) Data Recording. Whenever a member of the police force makes an investigatory stop or investigatory detention, the member of the police force shall record the following data on forms developed by the Chief for that purpose:

- A. the name and badge number of the member of the police force making the stop;
- B. the date and time of the stop;
- C. the location of the stop;
- D. the duration of the stop;
- E. the actual or perceived race, ethnicity, approximate age and gender of the subject of the stop, so long as the information shall not be required to be provided by the subject of the stop;
- F. if a vehicle stop, the presence and number of any passengers;
- G. if a vehicle stop, whether the driver or any passenger was required to exit the vehicle, and the reason for doing so;
- H. the reason for the stop, including a brief description of the facts creating reasonable suspicion;
- I. whether any individual was asked to consent to a search and whether such consent was given;
- J. whether a pat-down, frisk, or other non-consensual search was performed on any individual or vehicle, including a brief description of the facts justifying the action;
- K. a full description of any contraband or evidence seized from any individual or vehicle;
- L. the disposition of the investigatory stop, including whether a citation or summons was issued to, or an arrest made of any individual, including the charge(s); and
- M. any additional information the Chief deems necessary.

(4) Assessment. All data recorded pursuant to this section shall be collected and submitted at least annually to an individual or individuals designated by the Director and the Chief who are responsible for coordinating data collection and analysis and who shall evaluate such data in accordance with developed protocol to determine whether disparities exist in investigatory stops or investigatory detentions that cause a disproportionately adverse effect on a particular group or groups because of biased-based profiling.

(b) Annual Report; Remedial Action.

(1) The designated individual or individuals conducting the assessment pursuant to division (a)(4) shall submit a written report of their findings to the Community Police Commission and to Cleveland City Council, and to any other entities as required. Such report shall be submitted annually and shall be made publicly available to the extent permitted by law.

(2) If the statistical data collected and analyzed shows a pattern of biased-based profiling by the Division of Police, the Director and Chief shall institute remedial actions to eradicate those practices.

Section 2. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

MZ:rns  
6-8-15

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**REPORT  
after second Reading**

**Council Members Zone and Conwell**

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**READ FIRST TIME on JUNE 8, 2015**  
**and referred to DIRECTORS of Public Safety, Finance, Law;**  
**COMMITTEES on Safety, Finance**

**REPORTS**

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**CITY CLERK**

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**READ SECOND TIME**  
by the council

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**CITY CLERK**

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**READ THIRD TIME**  
by the council

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**PRESIDENT**

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**CITY CLERK**

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**APPROVED**

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**MAYOR**

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**PASSAGE RECOMMENDED BY  
COMMITTEE ON  
SAFETY**

FILED WITH COMMITTEE

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**PASSAGE RECOMMENDED BY  
COMMITTEE ON  
FINANCE**

FILED WITH COMMITTEE

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