Legislation Details (With Text)

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Title: A Local Law to amend the administrative code of the city of New York, in relation to prohibiting the use of racial or ethnic profiling by members of the police department.

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Int. No. 975

Introduced by Council Members Reed, Carrion, Linares, Lopez, Rivera, Freed and Perkins (at the request of the Bronx Borough President); also Council Members Harrison and Michels

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting the use of racial or ethnic profiling by members of the police department.

Be it enacted by the Council as follows:

Section 1. Title 14 of the administrative code of the city of New York is hereby amended by adding a new chapter 3 entitled RACIAL OR ETHNIC PROFILING.

§ 14-301 Prohibition of the use of racial or ethnic profiling by members of the force of the department.

1. As used in this chapter, "racial or ethnic profiling" means the stopping and questioning of an individual or the stopping and frisking of an individual by a member of the force of the department that is based upon an individual's actual or apparent racial or ethnic status, or, in the case of stopping of a motor vehicle, based on the actual or apparent racial or ethnic status of the driver or a passenger, without reasonable individualized suspicion or cause to lawfully justify such conduct.

2. Every member of the force of the department shall be prohibited from engaging in racial or ethnic profiling.

§14-302 On or before January first, two thousand and two, the department shall promulgate and adopt a written policy that prohibits racial or ethnic profiling. Such written policy shall include a requirement that the

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department educate cadets in the Police Academy about racial profiling and require all members of the NYPD to attend a seminar about racial profiling every year. In addition, the department shall promulgate and adopt procedures for the review and taking of corrective action, in accord with Section 14-307 herein, with respect to complaints by individuals who allege that they have been the subject of racial and ethnic profiling. A copy of each such complaint received pursuant to this chapter and written notification of the review and disposition of such complaint shall be promptly provided by the department to the civilian complaint review board.

§ 14-303 Commencing on January first, two thousand and two, the department shall, using a form to be developed in consultation with the civilian complaint review board, record and retain the following information with members of the force of the department:

1. The number of persons stopped for traffic violations and the number of persons patted down, frisked and searched;
2. The characteristics of race, color, ethnicity, gender and age of each such person, provided the identification of such characteristics shall be based on the observation and perception of the officer responsible for reporting the stop and the information shall not be required to be provided by the person stopped;
3. If a vehicle was stopped, the number of individuals in the stopped motor vehicle;
4. Whether immigration status was questioned, immigration documents requested, and if any further inquiry was made to the immigration and naturalization service with respect to any person stopped or in the motor vehicle;
5. The basis for the conduct that resulted in the individual being stopped and frisked or searched, the alleged violation, if any, that resulted in the individual being stopped, or nature of the alleged traffic violation that resulted in the stop;
6. Whether a search was conducted and, if so, the result of the search;
7. If a search was conducted, whether the search was of a person or the person's property, and whether the search was conducted pursuant to consent and if not, the basis for conducting the search including any alleged criminal behavior that justified the search;
8. Whether a warning or citation was issued;
9. Whether an arrest was made and for what charge;
10. The approximate duration of the stop; and
11. The time and location of the stop.

§ 14-304 The department shall compile the information set forth in section 14-303 for the calendar year into a report to the civilian complaint review board with copies to the city council, the borough presidents and the community boards. The data in the report shall be provided on a city-wide, borough-wide, patrol borough, precinct-by precinct, command-by-command, tour-by-tour and month-by-month basis. The format of such report shall be developed in consultation with the civilian complaint review board. The report shall be submitted to the civilian complaint review board, with copies to the city council, the borough presidents and the community boards, no later than March first of the following calendar year. This information may also be reported in the annual Mayor's Management Report and the annual Preliminary Mayor's Management Report.

§ 14-305 Not later than January first, two thousand and two, the civilian complaint review board, in consultation with the department, shall develop and promulgate:

1. A form in both printed and electronic format, to be used by members of the force of the department to record the information listed in section 14-303 when making a traffic stop or when stopping and frisking an individual; and
2. A form to be used to report complaints by individuals who believe they have been subjected to racial or ethnic profiling.

§ 14-306 Nothing in this chapter shall be construed as diminishing or abrogating any right, remedy or cause of

action which an individual who has been subject to racial or ethnic profiling may have pursuant to any other provision of law.

§14-307 Discipline by the Commissioner. If the police commissioner determines, after investigation, that any member of the force has engaged in an act or acts of racial profiling, the commissioner shall discipline the officer in any manner that the commissioner deems appropriate, including, but not limited to, any or all of the following:

1. Discharging the officer from the force;
2. Suspending the officer from the force for a period of time, such time to be determined by the commissioner;
3. Requiring the offending officer to attend educational seminars regarding racial profiling and police-community relations;
4. Requiring the offending officer to participate in appropriate community service; and
5. Reducing the annual leave of the offending officer.

§ 2. This local law shall take effect 60 days after its enactment into law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this local law on its effective date are authorized and directed to be made and completed on or before such effective date.

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