



CITY COUNCIL FOLLOW UP REPORT

MEETING DATE: March 7, 2006

ITEM NUMBER:

SUBJECT: DETENTION OF MOTORISTS BY THE POLICE DEPARTMENT

DATE: February 28, 2006

FROM: Police Department – Captain Ron Smith

REQUESTED BY: Councilmember Linda Dixon

FOR FURTHER INFORMATION CONTACT: Captain Ron Smith – (714) 754-5394

BACKGROUND:

At the City Council meeting on February 21, 2006, Councilmember Linda Dixon requested information from the Police Department regarding having motorists, or other detainees, sit on the street curb during the detention. The question was specific to the Police Department's practice pertaining to Latino detainees being singled out as the only ethnic group being required to sit on the curb. This issue was raised during Public Comments.

FOLLOW UP REPORT:

The decision by an officer as to whether or not to instruct persons under lawful detention to sit on the street curb is only based on concerns of safety and control. Race or ethnicity factors are not to be considered.

Officers have the legal authority to order persons out of a stopped vehicle at the discretion of the officer. Having detainees sit on the curb, rather than allowing the detainees to stand, can serve a legitimate purpose by providing for an added measure of safety and control for the officer while conducting his lawful investigation. While sitting down, detainees have less opportunity to move around, thus lowering the possibility that the detainees may escape by running away, run back into the vehicle to obtain a weapon, or to attack the officer directly.

On the other hand, leaving detainees inside their vehicle increases the opportunity for them to attempt escape by driving away and precipitating a life threatening high-speed pursuit, to quickly access weapons to assault the officer, and to destroy evidence.

As with most tactics, there is no one correct approach to the exclusion of all other tactics. On a case-by-case basis the officer must determine how best to establish and maintain safety and control of each individual situation. Factors considered in making this determination about requiring detainees to sit on a curb include the severity of the

crime being investigated, the ratio of officers to detainees, the comparative size and strength of the officers to the detainees, the level of uncooperativeness or hostility displayed by the detainees, the level of drug or alcohol intoxication, the known criminal history and violent past of the detainees, etc. This list is not exhaustive but provides just some of the factors that are taught in the Basic Academy and reinforced during in-service training for all officers.

The decision to have detainees sit on a curb is not based on race or ethnicity. In addition to the many hours of officer safety instruction, all officers in the state of California also receive considerable training in issues related to working in a culturally diverse environment. For example, the California Commission on Peace Officer Standards and Training mandates that all officers receive 24 hours of cultural diversity training, 12 hours of community relations training, and 8 hours training specific to racial profiling. Officers of the Costa Mesa Police Department receive additional on-going, in-service training in this subject matter. Specific to the curriculum of racial profiling, it is emphasized that racial profiling is a violation per California Penal Code 13519.4, which states in Section 4(d)(2):

“Motorists who have been stopped by the police for no reason other than the color of their skin or their apparent nationality or ethnicity are the victims of discriminatory practices.”

The Department has not received any substantiated complaint from a member of the public nor from any Department employee that any particular racial or ethnic group have been singled out to sit on the curb. In conclusion, the practice of the Costa Mesa Police Department as to whether or not to require detainees to sit on a curb during the detention is based solely on safety and control factors, in compliance with statutory requirements, and pursuant to instruction received during in-service and Basic Academy training.