
	ROSENBERG POLICE DEPARTMENT	
	General Order 2.02 Biased Based Profiling	
	Effective Date: 09-01-2012	Replaces: General Order 501
	Approved:  Chief of Police	
Reference: TBP 2.01		

I. POLICY

We are committed to a respect for constitutional rights in the performance of our duties. Our success is based on the respect we give to our communities, and the respect members of the community observe toward law enforcement. To this end, we shall exercise our sworn duties, responsibilities, and obligations in a manner that does not discriminate on the basis of race, sex, gender, sexual orientation, national origin, ethnicity, age, or religion. All people carry biases: in law enforcement, however, the failure to control our biases can lead to illegal arrests, searches, and detentions, thus thwarting the mission of our department. Most importantly, actions guided by bias destroy the trust and respect essential for our mission to succeed. We live and work in communities very diverse in population: respect for diversity and equitable enforcement of the law are essential to our mission.

All enforcement actions, particularly stops of individuals (for traffic and other purposes), investigative detentions, arrests, searches and seizures of persons or property, shall be based on the standards of reasonable suspicion or probable cause as required by the Fourth Amendment to the U. S. Constitution and statutory authority. In all enforcement decisions, officers shall be able to articulate specific facts, circumstances, and conclusions which support probable cause or reasonable suspicion for arrests, searches, seizures, and stops of individuals. Officers shall not stop, detain, arrest, search, or attempt to search anyone based solely upon the person's race, sex, sexual orientation, gender, national origin, ethnicity, age, or religion. Officers shall base all such actions on a reasonable suspicion that the person or an occupant of a vehicle committed an offense.

All departmental orders are informed and guided by this directive. Nothing in this order limits non-enforcement contacts between officers and the public.

II. PURPOSE

The purpose of this order is to provide general guidance on reducing the presence of bias in law enforcement actions, to identify key contexts in which bias may influence these actions, and emphasize the importance of the constitutional guidelines within which we operate.

III. DEFINITIONS

Most of the following terms appear in this order. In any case, these terms appear in the larger public discourse about alleged biased enforcement behavior and in other orders. These definitions are intended to facilitate on-going discussion and analysis of our enforcement practices.

- A. Bias: Prejudice or partiality which may be based on preconceived ideas, a person's upbringing, culture, experience, or education.
- B. Biased policing: Stopping, detaining, searching, or attempting to search, or using force against a person based upon his or her race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.
- C. Ethnicity: A cluster of characteristics which may include race but also cultural characteristics or traits which are shared by a group with a common experience or history.
- D. Gender: Unlike sex, a psychological classification based on cultural characteristics or traits.
- E. Probable cause: Facts or apparent facts and circumstances within an officer's knowledge and of which the officer had reasonable, trustworthy information to lead a reasonable person to believe that an offense has been or is being committed, and that the suspect has committed it.
- F. Race: A category of people of a particular decent, including White, Black, Latino/Hispanic, Asian/Pacific Islander, or American Indian, or Alaska Native. As distinct from ethnicity, race only refers to physical characteristics sufficiently distinctive to group people under a classification.
- G. Racial profiling: 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.
- H. Reasonable suspicion: Articulate, objective facts which lead an experienced officer to suspect that a person has committed, is committing, or may be about to commit a crime. A well-founded suspicion is based on the totality of the circumstances and does not exist unless it can be articulated. Reasonable suspicion supports a stop of a person. Courts require that stops based on reasonable suspicion be "objectively reasonable."
- I. Sex: A biological classification, male or female, based on physical and genetic characteristics.
- J. Motor Vehicle Stop: An occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

- K. Seizure: Any taking of property from an individual without the individual's consent or any restriction of an individual's liberty without the individual's consent.
- L. Contact: Data related to a Police Officer who stops a motor vehicle for an alleged violation of a law or ordinance. Any motor vehicle contact where a citation, ticket, or warning is issued or an arrest is made.

IV. PROCEDURES

A. General responsibilities

1. Officers are prohibited from engaging in bias based profiling or stopping, detaining, searching, arresting, or taking any enforcement action including seizure or forfeiture activities, against any person based solely on the person's race, national origin, citizenship, religion, ethnicity, age, sex, gender, color, creed, sexual orientation, disability, or economic status. These characteristics, however, may form part of reasonable suspicion or probable cause when officers are seeking a suspect with one or more of these attributes. (TBP: 2.01)
2. Reasonable suspicion or probable cause shall form the basis for any enforcement actions or decisions. Individuals shall only be subjected to stops, seizures, or detention upon reasonable suspicion that they have committed, are committing, or are about to commit an offense. Officers shall document the elements of reasonable suspicion and probable cause in appropriate reports.
3. Officers shall observe all constitutional safeguards and shall respect the constitutional rights of all persons.
 - a. As traffic stops furnish a primary source of bias-related complaints, officers shall have a firm understanding of the warrantless searches allowed by law, particularly the use of consent. How the officer disengages from a traffic stop may be crucial to a person's perception of fairness or discrimination.
 - b. Officers shall not use the refusal or lack of cooperation to justify a search of the person or vehicle or a prolonged detention once reasonable suspicion has been dispelled.
 - c. Patrol officers are responsible for ensuring mobile video recording equipment is fully operational throughout their tour of duty. Any equipment failures or repairs needed should be immediately reported to the on duty shift supervisor as soon as possible.

4. All personnel shall treat everyone with the same courtesy and respect that they would have others observe to department personnel. To this end, personnel are reminded that the exercise of courtesy and respect engenders a future willingness to cooperate with law enforcement.
 - a. Personnel shall facilitate an individual's access to other governmental services whenever possible, and shall actively provide referrals to other appropriate agencies.
 - b. All personnel shall courteously accept, document, and forward to the Chief of Police any complaints made by an individual against the department.
5. When feasible, personnel shall offer explanations of the reasons for enforcement actions or other decisions that bear on individual's well-being unless the explanation would undermine an investigation or jeopardize an officer's safety.
6. When feasible, all personnel shall identify themselves by name. When a person requests the information, personnel shall give their departmental identification number, name of the immediate supervisor, or any other reasonable information.
7. All personnel are accountable for their actions. Personnel shall justify their actions when required.

B. Supervisory responsibilities

1. Supervisors shall be held accountable for the observance of constitutional safeguards during the performance of their duties. Supervisors shall identify and correct instances of bias in the work of their subordinates.
 - a. Patrol Supervisors shall randomly review the Mobile Video Recording tapes of each of their subordinates with the intent to determine compliance with this and other applicable directives. They will randomly review at least three (3) contacts by each of the officers they supervise each quarter and document the review in a memorandum to the Patrol Lieutenant. Any questionable actions reviewed by the supervisor will be noted in detail. The supervisor will also include any further investigation and action as appropriate.
2. Supervisors shall use the disciplinary mechanisms of the department to ensure compliance with this order and the constitutional requirements of law enforcement.
3. Supervisors shall be mindful that in accounting for the actions and performance of subordinates, supervisors are key to maintaining community trust in law enforcement. Supervisors shall continually reinforce the ethic of

impartial enforcement of the laws, and shall ensure that personnel, by their actions, maintain the community's trust in law enforcement.

4. Supervisors are reminded that biased enforcement of the laws engenders not only mistrust of law enforcement, but increases safety risks to personnel. Lack of control over bias also exposes the department to liability consequences. Supervisors shall be held accountable for repeated instances of biased enforcement of their subordinates.
5. Supervisors shall ensure that all enforcement actions are duly documented per departmental policy. Supervisors shall ensure that all reports show adequate documentation of reasonable suspicion and probable cause, if applicable.
6. Supervisors shall facilitate the filing of any complaints about law enforcement service.

C. Disciplinary consequences

Actions prohibited by this order shall be cause for disciplinary action, up to and including dismissal.

D. Training (TBP: 2.01)

1. Officers shall complete all training required by state law regarding bias based profiling.

V. COMPLAINTS

- A. The department shall publish “How to Make a Complaint” folders and make them available at all city facilities and other public locations throughout the city. The department’s complaint process and its bias based profiling policy will be posted on the department’s website. Whenever possible, the media will be used to inform the public of the department’s policy and complaint process.
- B. Complaints alleging incidents of bias based profiling will be fully investigated as described under Policy 2.04.
- C. Complainants will be notified of the results of the investigations when such investigation is completed.

VI. RECORD KEEPING

- A. The department will maintain all required records on motor vehicle stops pursuant to state law.

- B. Information relating to motor vehicle stops in which a ticket, citation, or warning is issued and to arrests made as a result of those stops, including information relating to the following:
 - 1. The race and ethnicity of the individual detained;
 - 2. Whether a search was conducted, and if so, whether the individual detained consented to the search;
 - 3. Whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;
 - 4. Whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code (means physical pain, illness, or any impairment of physical condition), during the stop;
 - a. The location of the stop; and
 - b. The reason for the stop.
- C. Data shall be collected and reviewed annually to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.
- D. Searches resulting from motor vehicle stops within the Department's jurisdiction shall be evaluated and compared based on whether contraband or other evidence was discovered in the course of those searches; and
- E. Information relating to each complaint filed with the Department alleging that a peace officer employed with the Department has engaged in racial profiling.
- F. The Chief of Police or his designee is responsible for auditing reports to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.
- G. The information collected above will be reported to the city council annually.
- H. The information will also be reported to TCOLE in the required format.