

**GENERAL ORDER**

April 2016

Immediately

**II-38**

Distribution: All Employees

Subject: **UNLAWFUL OR IMPROPER BIAS**

Index as:	Biased Policing Fair and Impartial Policing	Reasonable Suspicion Transgender	<b>Unlawful or Improper Bias</b>
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- Accreditation Standards: 1.2.9, 41.3.8, CFA 2.06
- Cross Reference:
- G.O. I-01, Code of Ethics
  - G.O. I-02, Mission, Values and Goals
  - G.O. II-03, Release of Information to the News Media and the Public
  - G.O. II-10, Processing Complaints Against Personnel
  - G.O. II-22, Community Awareness, Community Service Officers, and Crime Prevention
  - G.O. III-01, Field Contacts
  - G.O. III-36, Interactions with Transgender individuals
  - G.O. III-40, Mobile Video Recording Systems (MVRs)
  - I.O. V5-05, Comm Procedures\_ MDT, Radio, Cellular Telephone
  - I.O. V.5:12, Seizure and Forfeiture Procedures
  - I.O. V.6:04, Warrantless Entries and Searches
  - § 943.1758, Florida Statutes., Curriculum revision for diverse populations; skills training
- Replaces:
- G.O. II-38 Bias-Based Profiling (June 10,2021)

This Order prohibits biased policing, provides guidelines to prevent allegations of bias, and protects employees from unwarranted accusations when they act within the requirements of the law and Department policy. It consists of the following sections:

- I. Policy
- II. Definitions
- III. Discussion
- IV. General Guidelines
- V. Motor Vehicle Stops
- VI. Reporting Procedures
- VII. Department Training and Community Education
- VIII. Review and Corrective Action

**I. POLICY**

A. Personnel will not act on unlawful or improper bias while conducting field contacts, traffic stops, searches, asset seizures, forfeitures, any other law enforcement activity, or providing police services.

B. It is the policy of this Department:

- 1. To patrol in a proactive manner, to investigate suspicious persons and circumstances, and to enforce all applicable laws and ordinances in a fair and equitable manner; and

2. That citizens will only be stopped or detained when reasonable suspicion or probable cause exists so as to believe they have committed, are committing, or are about to commit, a violation of the law. (See G.O. III-01, Field Contacts).
  3. That details regarding persons detained for an “investigatory stop” will be reported in the Field Contacts section in the Records Management System (RMS), unless a police report is filed.
  4. That any time a search of a person, personal belongings or a vehicle is conducted, the basis for the search, the results of the search, and the person conducting the search must be documented in the police report or the Field Interview Report (FIR).
- C. Personnel are encouraged to engage the members of the community in mutually beneficial conversation with the intent to foster community relations and resolve matters of concern. Such informal or consensual contacts are not based on reasonable suspicion as defined in this Order. An FIR is not required for informal or consensual contacts.

## II. DEFINITIONS

- A. Unlawful or Improper Bias (Biased Policing) – The selection or inappropriate consideration of specified characteristics, attributes, statuses or traits common to a protected group while enforcing the law or providing police services without actionable intelligence to support consideration of that characteristic, attribute, status, or trait. This includes, but is not limited to race, ethnic background, national origin, religion, gender, gender identity, marital status, socioeconomic status, age, disability, sexual orientation, political status, or any other legally protected or identifiable categories.
- B. Reasonable Suspicion – Suspicion that is more than a mere hunch but is based on a set of articulable facts and circumstances that would warrant a person of reasonable caution to believe that an infraction of the law has been committed, is about to be committed, or is in the process of being committed by the person or persons under suspicion. This can be based on the observations of a Police Officer combined with the Officer’s training and experience and/or reliable information received from credible outside sources.

## III. DISCUSSION

- A. Biased policing violates the constitutional rights of citizens. It undermines legitimate law enforcement efforts and may lead to claims of civil rights’ violations. Biased policing alienates citizens, fosters distrust of law enforcement by the community, and invites media scrutiny, legislative action, and judicial intervention.
- B. Police officers should focus on a person’s conduct or other specific suspect information and must have reasonable suspicion, supported by specific, articulated facts, that the person contacted regarding their identification, activity or location has committed, is committing, or is about to commit a violation of the law, or is currently presenting a threat to the safety of themselves or others.
- C. Traffic enforcement and pedestrian contacts are routinely performed by police officers, but for the person stopped, it may be an emotionally upsetting experience. Officers should be aware of this and strive to make each contact educational and leave the citizen with an understanding that the officer has performed a necessary task in a fair, professional and friendly manner.

## IV. GENERAL GUIDELINES

- A. Motorists and pedestrians will only be subject to stops, seizures or detentions based on reasonable suspicion or probable cause.
- B. In the absence of a specific, credible report containing a physical description, characteristics, attributes, statuses, or traits defined in this directive will not be a factor in determining probable cause for an arrest or reasonable suspicion for a stop.
- C. No motorist or citizen, once cited or warned, will be detained beyond the point where there exists no reasonable suspicion of further criminal activity.

- D. No person or vehicle will be searched without a warrant, unless there exists a legally recognized exception to the warrant requirement, or with the person's voluntary consent. (See I.O. V6-04, Warrantless Entries and Searches).
- E. During a stop, misunderstandings may stem from an officer's failure to explain why the contact was made. During most vehicle or pedestrian stops, the officer can inform the person of the reason for the stop. If, for articulable officer safety or investigatory considerations, the reason for the stop cannot be immediately disclosed, the officer will inform the citizen of the reason for the stop before the contact is terminated.

## V. MOTOR VEHICLE STOPS

- A. If the officer making the stop has a cruiser equipped with a video camera, the video and sound will be activated prior to the stop to record the behavior of the vehicle or person. The equipment will remain activated until the person is released, or the contact is otherwise terminated. See G.O. III-40, Mobile Video Recording Systems (MVRS).
- B. The officer will advise the Emergency Communications Center of the tag number, vehicle description, and location of the stop as required in I.O. V5-05, Comm Procedures\_ MDT, Radio, Cellular Telephone.
- C. To minimize the possibility of misunderstanding and conflict during officer/violator contact, officers should engage in polite and professional conversation, for example:
  - 1. Give a greeting such as, "Good morning, Ma'am" or "Good evening, Sir," etc.
  - 2. Identify yourself by saying, for example: "I am Officer (*name*) of the St. Petersburg Police Department."
  - 3. State the reason why the person is being stopped or detained, for example: "I stopped you because I saw your vehicle pass the stop sign at that last intersection without coming to a complete stop." (Describing the action of the vehicle, rather than "personalizing" the action to the driver, tends to reduce tension.)
- D. It may reduce tension to ask a motorist if there was some reason for the violation. This gives them the opportunity to "have their say" and may lead to an admission by the violator that they were in violation, which may preclude them from offering a different excuse at trial. If no question is asked, but the motorist wishes to give a reason or excuse, the officer should listen politely and give them ample opportunity to tell their story.
- E. The officer should politely ask for identification and, if the subject is driving, any required documents. For example: "May I please see your license, registration and proof of insurance?"
- F. After completing any necessary paperwork, the officer should inform the person as to what action is being taken and what action, if any, the person must take, such as how to pay any fine involved, obtain a Traffic Court hearing, etc.
- G. When Officers have consent to search a vehicle, they will:
  - 1. Consider obtaining written consent using the Consent To Search form.
  - 2. Complete an FIR whenever a vehicle is searched by consent and no seizure or arrest results.
  - 3. Complete an incident report when any contraband is seized or an arrest results from the search by consent.
- H. At the conclusion of the encounter with a citizen or motorist, the officer should bring their conversation to an appropriate closure. For example, if the person was cooperative, "Thank you for your cooperation" may be in order. Do not use the trite expression, "Have a nice day," which would be inappropriate in such circumstances. If the situation involved a motor vehicle, "Please drive carefully; your safety is important to us" may be more appropriate before ensuring that the driver is able to merge safely back into the traffic stream.

## VI. REPORTING PROCEDURES

- A. Generally, appropriate enforcement action should be taken in the form of a warning, citation, or arrest.
- B. If applicable, the appropriate document (citation, **FIR**, arrest affidavit, etc.) must be filled out by the officer. The report/form will include the gender, race or ethnicity of the person stopped, provided this information can reasonably be ascertained by physical appearance or from documents shown to the officer by the individual.

## VII. DEPARTMENT TRAINING AND COMMUNITY EDUCATION

- A. The Training Division will provide initial and annual training on fair and impartial policing, including legal aspects, in the context of instruction on interpersonal skills relating to diverse populations, including related legal aspects, in accordance with **section 943.1758, Florida Statutes**, and related standards promulgated by the Criminal Justice Standards and Training Commission.
- B. The **Community Awareness** Division will provide community education and awareness related to **unlawful or improper bias in public safety**, in accordance with G.O. II-22, Community Awareness and .

## VIII. REVIEW AND CORRECTIVE ACTION

- A. All complaints of biased policing will be reported to the Office of Professional Standards and handled in accordance with G.O. II-10, Processing Complaints Against Personnel.
- B. Upon complaint and after an investigation, Department members **will be subject to disciplinary action in accordance with established procedures if they are found to have:**
  - 1. Engaged in **conduct resulting from unlawful or improper bias**; or
  - 2. Deliberately recorded, in any official police report or document, any misleading information related to the actual or perceived race, ethnicity, gender, or other identifying characteristic of a person stopped for investigative or enforcement purposes.
- C. The Office of Professional Standards will conduct a documented annual administrative review of agency policies and practices, to include traffic stops procedures, searches, asset seizure and forfeiture, interviews and interrogations, and citizen concerns, as they relate to **unlawful or improper bias**. The review will include a statistical summary of all biased policing citizen concerns, including the findings as to whether they were sustained, not sustained, or unfounded, as well as and corrective measures taken.

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Anthony Holloway  
Chief of Police