
	TEXAS A&M-COMMERCE POLICE DEPARTMENT	
	Policy 2.02.01 Bias Based Policing	
	Effective Date: 01/01/2019	Replaces:
	Approved:  <small>Chief of Police</small>	
	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. Respect for diversity and equitable enforcement of the law are essential to our mission.

All enforcement actions shall be based on the standards of reasonable suspicion or probable cause as required by the Fourth Amendment to the U. S. Constitution and by statutory authority. In all enforcement decisions, officers shall be able to articulate specific facts, circumstances, and conclusions that 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, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.

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 policy statement. 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
 - 1. Prejudice or partiality based on preconceived ideas, a person's upbringing, culture, experience, or education.
- B. Biased policing
 - 1. 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
 - 1. A cluster of characteristics that may include race but also cultural characteristics or traits that are shared by a group with a common experience or history.
- D. Gender
 - 1. Unlike sex, a psychological classification based on cultural characteristics or traits.
- E. Probable cause
 - 1. 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 said offense.
- F. Race
 - 1. A category of people of a particular decent, including Caucasian, African, Hispanic, Asian, Middle Eastern, or Native American descent. As distinct from ethnicity, race refers only to physical characteristics sufficiently distinctive to group people under a classification.
- G. Racial profiling
 - 1. 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
 - 1. Reasonable suspicion has been defined by the U.S. Supreme Court as "the sort of common-sense conclusion about human behavior upon which practical people . . . are entitled to rely." Further, it has defined reasonable suspicion as requiring only something more than an "unarticulated hunch." It requires facts or circumstances that give rise to more than a bare, imaginary, or purely conjectural suspicion. A well-founded suspicion is based on the totality of the circumstances and does not exist unless it can be articulated.

- I. Sex
 - 1. A biological classification, male or female, based on physical and genetic characteristics.
- J. Stop
 - 1. An investigative detention. The detention of a subject for a brief period of time, based on reasonable suspicion.

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, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. 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. Investigative detentions, traffic stops, arrests, searches, and property seizures by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution. Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, subject stops, arrests, nonconsensual searches, and property seizures. Except as provided in number three (3) below, officers shall not consider race/ethnicity in establishing either reasonable suspicion or probable cause. Similarly, except as provided below, officers shall not consider race/ethnicity in deciding to initiate nonconsensual encounters that do not amount to legal detentions or to request consent to search.
- 3. Officers may take into account the reported race or ethnicity of a specific suspect or suspects based on trustworthy, locally relevant information that links a person or persons of a specific race/ethnicity to a particular unlawful incident(s). Race/ethnicity can never be used as the sole basis for probable cause or reasonable suspicion. Except as provided above, reasonable suspicion or probable cause shall form the basis for any enforcement actions or decisions. Individuals shall be subjected to stops, seizures, or detentions only 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.
- 4. 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.
 - b. Officers shall not use a refusal, or lack of cooperation, to justify a search of the person or vehicle, or to justify a prolonged detention, once reasonable suspicion has been dispelled.
2. All personnel shall strive to treat everyone with courtesy and respect. 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 any complaints made by an individual against an employee per Policy 2.04 Internal Investigation Process.
3. When feasible, personnel shall offer explanations of the reasons for enforcement actions or other decisions that bear on the individual's well-being unless the explanation would undermine an investigation or jeopardize an officer's safety.
4. 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.
5. 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.
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.
5. Supervisors shall be held accountable for repeated instances of biased enforcement of their subordinates.
6. 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.
7. Supervisors shall facilitate the filing of any complaints about law enforcement service.
8. Supervisors will randomly review at least three videos per officer (either body worn camera (BWC) and/or mobile video camera (MVC)) per quarter. (TBP: 2.01)
 - a. Supervisors are not required to watch each incident of an entire shift; however, reviewing the footage in a manner intended to gain an understanding of that officer's performance and adherence to policy and law is required.
 - b. Supervisors will document the random review of the video in the manner approved by the Chief of Police and document any violations of policy or law through the use of the existing Internal Investigation Process policy.
 - c. Section 8 above applies only to uniformed officers and their immediate supervisors.
 - d. For this policy, a "quarter" is defined as a 3-month period of time.

C. Disciplinary consequences

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

D. Training (TBP: 2.01)

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

II. COMPLAINTS

- A. The department shall publish "Complaints Regarding Peace Officers" forms and make them available at the Texas A&M-Commerce Police Department. The department's complaint process and its bias-based profiling policy will be posted on the department's website.
- B. Complaints alleging incidents of bias-based profiling will be fully investigated as described under Policy 2.04 Internal Investigation Process.

III. RECORD KEEPING

- A. The department will maintain all required records on traffic stops where a citation is issued or where an arrest is made subsequent to a traffic stop pursuant to state law.
- B. The information collected above will be reported to the Vice President for Business and Administration, annually.
- C. The information will also be reported to the Texas Commission on Law Enforcement (TCOLE) in the required format.