

Ormond Beach Police Department 170 West Granada Blvd. Ormond Beach, FL 32174		Issue Date 4/20/05	Effective Date 4/21/05	Number B-1-05
<input type="checkbox"/> Operational Procedure <input checked="" type="checkbox"/> Administrative Procedure <input type="checkbox"/> Special Directive		Subject: Bias Based Profiling		
Amends	Rescinds R-1-01	Distribution All Personnel	Indexed as: 1. Profiling 2. Traffic Stop 3.	
Referenced Standard CFA Version 4 2.08M	Review Date 4/30/07	Approved: Original Document/Signature On File Larry Mathieson, Chief of Police		

CONTENTS: This order consists of the following numbered sections:

- I. OPERATIONS
- II. COMPLAINTS OF BIAS BASED PROFILING
- III. ANNUAL REVIEW
- IV. COMMUNITY EDUCATION AND AWARENESS

PURPOSE: The purpose of this policy is to establish that bias based profiling by Department members is unacceptable, to provide guidelines for members to prevent such occurrences, and to protect our members when they act within the dictates of the law and policy from unwarranted accusations.

DISCUSSION: A fundamental right guaranteed by the Constitution of the United States to all who live in this nation is equal protection under the law. Along with this right to equal protection is the fundamental right to be free from unreasonable searches and seizures by government agents. Citizens are free to walk and drive our streets, highways, and other public places without police interference so long as they obey the law. They also are entitled to be free from crime, and from the depredations of criminals, and to drive and walk our public ways safe from the actions of reckless and careless drivers.

The Ormond Beach Police Department is charged with protecting these rights, for all, regardless of race, color, ethnicity, sex, sexual orientation, physical handicap, religion or other belief system.

Because of the nature of our business, members are required to be observant, to identify unusual occurrences and law violations, and to act upon them. It is this proactive enforcement that keeps our citizens free from crime, our streets and highways safe to drive upon, and that detects and apprehends criminals.

This policy is intended to assist the Department in accomplishing this mission in a way that respects the dignity of all persons and yet sends a strong deterrent message to actual and potential lawbreakers that if they break the law, they are likely to encounter the police.

POLICY: It is the policy of this department to patrol in a proactive manner, to aggressively investigate suspicious persons and circumstances, and to actively enforce motor vehicle laws, while insisting that citizens will only be stopped or detained when there exists reasonable suspicion to believe they have committed, are committing, or are about to commit, an infraction of the law.

Officers will not make traffic contacts, field contacts, or asset seizure/forfeiture efforts based solely on bias based or racial profiling. [CFA 2.08 A]

PROCEDURE:

I. OPERATIONS

A. The Department's efforts will be directed toward assigning sworn members to those areas where there is the highest likelihood that crashes will be reduced and/or crimes prevented through proactive patrol.

B. Appropriate members will continue to receive initial and ongoing training in proactive enforcement tactics, including training in officer safety, courtesy, cultural diversity, the laws governing search and seizure, and interpersonal communications skills in accordance with CJSTC guidelines. Officers will also receive annual training in bias based profiling issues, including legal aspects. Training programs will emphasize the need to respect the rights of all citizens to be free from unreasonable government intrusion or police action.

C. Traffic enforcement will be accompanied by consistent, ongoing supervisory oversight to ensure that officers do not go beyond the standards of reasonableness in conducting such activities. Motorists and pedestrians shall only be subjected to stops, seizures or detentions upon reasonable suspicion that they have committed, are committing, or are about to commit an infraction or other articulable violation of law.

D. Traffic stops will be conducted in compliance with Department procedures for "Traffic Law Enforcement" and "Patrol Administration and Operation."

E. The department recognizes that with experience, individual officers may develop individualized approaches that they find work best for them in minimizing conflict during officer/violator contacts. While not specifically required, the following is a recommended approach and contact:

1. Give a greeting, such as "Good morning, ma'am", "Good evening, sir", etc.
 2. Identify yourself. Ex: "I am Officer Smith of the Ormond Beach Police Department.
 3. State the reason why the person is being stopped or detained. Ex: "I stopped you because I saw your vehicle come through the stop sign at that last intersection without coming to a complete stop." (Describing the actions of the vehicle rather than personalizing the action to the driver tends to reduce tension.)
 4. It may defuse tension to ask a motorist if there was some reason for the violation. This gives them the opportunity to "have their say," often leads to an admission that the violator realized they were in violation, and precludes a defendant from offering a different excuse at trial. If you choose not to ask but the motorist wishes to give a reason or excuse, listen politely and give them ample opportunity to tell their story.
 5. Politely ask for identification and any required documents. Ex: "May I please see your license, registration, and proof of insurance?"
 6. After completing any necessary paperwork, inform the driver or pedestrian as to what action is being taken and what, if any, the person must do as a result, such as how to pay any fine involved, obtain a traffic court hearing, etc.
 7. Give an appropriate closing. For example, if the motorist 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 these circumstances. "Please drive carefully, your safety is important to us" is more appropriate.
 8. Make sure the driver is able to merge safely back into the traffic stream.
- F.** Appropriate enforcement action should always be completed, generally in the form of a warning, citation or arrest. The citation or other paperwork will include the gender, race or ethnicity of the person stopped, as determined by the observations of the officer.
- G.** No motorist, once cited or warned, shall be detained beyond the point where there exists no reasonable suspicion of further criminal activity, and no person or vehicle shall be searched in the absence of a warrant, a legally recognized exception to the warrant requirement, or the person's voluntary consent.
- H.** In each case where a search is conducted, this information shall be recorded, including the legal basis for the search, and the results thereof. A Computer Aided Dispatch (CAD) entry may satisfy the recording requirement if the search did not result in a seizure and/or complaint/arrest.

Consent searches will generally be conducted with written consent, using the proper department form(s).

1. If the individual indicates that they will consent to a search but are refusing to sign the form, fill out the form anyway and indicate "consented to search but refused to sign", inserting initials and the signature of any witness in the signature block.

I. If the police vehicle is equipped with a video camera, the equipment will be utilized in compliance with the department policy on "Mobile Video Equipment."

J. In the absence of a specific, credible report containing a physical description, a person's race, ethnicity, gender or sexual orientation or any combination of these shall not be a factor in determining probable cause for an arrest or reasonable suspicion for a stop.

K. The deliberate recording of any misleading information related to the actual or perceived race, ethnicity, gender, or sexual orientation of a person stopped for investigative or enforcement purposes is prohibited and a cause for disciplinary action, up to and including dismissal.

II. COMPLAINTS OF BIAS BASED PROFILING

A. Any person may file a complaint with the department if they feel they have been detained, stopped or searched based on bias, to include racial, ethnic, or gender-based profiling, and no person shall be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because they have filed such a complaint.

B. Bias based profiling complaints will be processed in the same manner as other complaints against an officer, consistent with the Department policy on "Internal Affairs."

C. Corrective Action: Officers found guilty of racial profiling are subject to disciplinary action, up to and including termination. In addition to disciplinary action, members found guilty of racial profiling may be required to undergo remedial training in appropriate topics.

III. ANNUAL REVIEW

A. On an annual basis, the Department shall make public a statistical summary of all profiling complaints for the year, including the findings as to whether they were sustained, not sustained, or exonerated.

B. Supervisors shall review profiling complaints, documentation filed on stops by sworn members, and respond at random to back up sworn members on vehicle stops. Supervisors shall take appropriate action whenever it appears that this policy is being violated, being particularly alert to any pattern or practice of possible discriminatory treatment by individual sworn members or squads.

C. The Professional Standards Office will conduct annual reviews of citation, FI and forfeiture statistics for indications of profiling trends. Their review will also summarize citizen concerns/complaints and agency practices dealing with racial profiling.

IV: COMMUNITY EDUCATION AND AWARENESS

A. Formal programs such as the Citizen's Police Academy, Ride-Along Program, and Volunteer Patrol Program, shall incorporate a component to foster understanding of the Department's bias based profiling policy and actions undertaken to prevent such inappropriate activity.

GLOSSARY:

Biased Based Profiling - Selection of an individual based solely on a common trait of a group. This includes, but is not limited to race, ethnic background, gender, sexual orientation, religion, economic status, age or cultural group.

Racial Profiling - The detention, interdiction, or other treatment of any person solely on the basis of their racial or ethnic status or characteristics.

Reasonable Suspicion - Also known as articulable 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 in believing 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 his or her training and experience, and/or reliable information received from credible outside sources.

JJB/4-20-05/Filed:B-1-05 Bias Based Profiling/