

# TYLER POLICE DEPARTMENT

## GENERAL ORDER: 12.600

	<b>BIAS-BASED / RACIAL PROFILING</b>	
	<b>EFFECTIVE DATE: 11-19-2001</b>	
	<b>REVISED DATE: 04-30-2019</b>	
<b>CALEA STANDARDS: 1.2.9</b>		

### 12.601 PURPOSE

The purpose of this policy is to state, unequivocally, that law enforcement activities that are the result of bias-based / racial profiling are not condoned, are unacceptable, and will not be tolerated by the Tyler Police Department. Bias-based / racial profiling is unethical and illegal, and serves to foster distrust of law enforcement by the community we serve. This policy will serve as a guideline for police personnel to prevent such occurrences and to protect our personnel, when they act within the provisions of the law and this policy, from unwarranted accusations.

### 12.602 POLICY

It is the policy of the Tyler Police Department to patrol in a proactive manner, to investigate suspicious persons and circumstances, and to enforce the motor vehicle laws, while insisting that citizens will only be stopped or detained when there exists reasonable suspicion to believe that they have committed, are committing, or are about to commit a violation of the law. It is the policy of the Tyler Police Department to protect the fundamental rights of all citizens to equal protection under the law and to be free from unreasonable searches and seizures, as provided in the U.S. Constitution and constitution of the State of Texas. Biased-based / racial profiling in traffic contacts, field contacts, Terry frisks, searches and asset seizure and forfeiture efforts is strictly prohibited. The prohibition against biased-based / racial profiling does not preclude the use of race, ethnicity, or national origin as factors in a detention decision by a peace officer. Race, ethnicity, or national origin may be legitimate factors in such a decision when used as part of a description of a suspect or witness for whom a peace officer is searching.

### 12.603 DEFINITIONS

- A. Bias-based / Racial Profiling: The selection of individuals based on a trait common to a group for law enforcement-initiated action. This includes, but is not limited to, race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.
1. Bias-based / racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior or violators of traffic laws.

2. The term is not relevant as it pertains to witnesses, complainants, persons needing assistance, or other citizen contacts.
  3. The term racial profiling is the same as bias-based / racial profiling as used in this policy.
- B. Enforcement Activities: Activities both on and off duty, undertaken by Tyler Police personnel that arise from their authority related to employment, oath of office, state statute, federal law, or city ordinance.
1. Activities such as traffic contacts, field contacts, arrests, investigations, asset seizure and forfeiture, and general law enforcement contact with citizens.
- C. 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 believing that a violation of the law has been committed, by the person or persons under suspicion.
1. This information can be based on observations, training and experience, and/or reliable information received from credible outside sources.
- D. Race or Ethnicity: Means of a particular descent, including Caucasian, African, Hispanic, Asian, Native American, or Middle Eastern descent.
- E. Investigative Detention: Means an interaction between a peace officer and an individual who is being detained for the purposes of a criminal investigation in which the individual is not under arrest.
- F. Motor Vehicle Stop: Means an occasion in which a peace officer stops a motor vehicle for an alleged violation of law or ordinance.
- G. Criminal Profiling: Method of identifying the perpetrator of a crime based on an analysis of the nature of the offense and the manner in which it was committed. Various aspects of the criminal's personality makeup are determined from his or her choice of actions before, during, and after the crime. This information is combined with other pertinent details and physical evidence, and then compared with the characteristics of known personality types and mental abnormalities to develop a practical working description of the offender.

#### 12.604 PROCEDURES

- A. Traffic and field contacts shall be conducted as described in [General Orders 07.302](#) and [05.105](#).
- B. For each motor vehicle traffic stop that results in the issuance of a citation or warning ticket (electronic or written) or the arrest of any occupant (operator or passenger) the involved police officer shall collect the necessary information as required by [Articles 2.131 – 2.138 of the Texas Code of Criminal Procedure](#), to include:
1. The individual's gender.
  2. The individual's race or ethnicity, as stated by the person or if the person does not state the individual's race or ethnicity, as determined by the officer to the best of their ability.
  3. The initial reason for the stop.

4. Whether the officer conducted a search as a result of the stop, and, if so, the reason and type of search conducted (e.g. Consent Search, Inventory Search, Probable Cause Search, Search Incident to Arrest, Terry Frisks).
    - a. If the person gave consent to be searched.
    - b. If probable cause or reasonable suspicion existed to perform the search;
    - c. Any contraband or evidence discovered in the course of the search;
    - d. A description of the all contraband or evidence discovered during the search.
  5. Whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on:
    - a. A violation of the Penal Code
    - b. A violation of the traffic law or ordinance
    - c. An outstanding warrant
  6. A statement of the offense charged.
  7. The street address or approximate location of the stop.
  8. Whether the officer issued a citation or warning ticket (electronic or written) as a result of the stop.
  9. Whether the officer used physical force that resulted in bodily injury, as that term is defined by [Section 1.07](#), Penal Code, during the stop.
  10. Whether the officer knew the race or ethnicity of the individual detained before detaining that individual.
- C. Appropriate enforcement action should always be complete and thoroughly documented, generally in the form of a citation or warning ticket (electronic or written), or arrest report.
1. Traffic Stop – Driver Detained: A citation or warning ticket (electronic or written) will be issued for all traffic stops when there is a traffic violation.
  2. Traffic Stop – Driver Arrested: The RMS Arrest Module or TPD arrest page ([Form 3](#)) documenting the arrest must be completed.
    - a. If a motor vehicle stop is initiated by this agency and the driver is arrested by a different agency, a citation or warning ticket (electronic or written) must be completed indicating that an arrest was made.
  3. Traffic Stop Passenger Detained: A citation or warning ticket (electronic or written) will be issued for all traffic stops when there is a traffic violation committed by the passenger.
  4. Traffic Stop – Passenger Arrested: The RMS Arrest Module or TPD arrest page ([Form 3](#)) or citation (electronic or written) documenting the arrest must be completed.

- D. When enforcement action is taken, the appropriate documentation will be completed as required by the specific type of enforcement action and the guiding written directives pertaining to such action. All enforcement action documentation will include the gender, race, or ethnicity of the person stopped or contacted; information can be reasonably ascertained from the person's physical appearance, driver's license, or other documentation provided by the individual.
- E. No motorist, or individual, once cited or warned, will be detained beyond the point where there exists no reasonable suspicion of further criminal activity.
- F. No person or vehicle will be searched in the absence of a search warrant, a legally recognized exception to the search warrant requirement, or the person's voluntary consent. Specific guidance pertaining to searches of vehicles, persons, or structures is provided in the Texas Code of Criminal Procedure and applicable Department General Orders.
- G. In the absence of a specific, credible report containing a physical or vehicle description, a person's race, ethnicity, gender, or sexual orientation or combination of these will not be a factor in determining probable cause for an arrest or reasonable suspicion for a stop.
- H. The deliberate recording of any misleading information or the failure to record pertinent information related to the actual or perceived race, ethnicity, or gender of a person stopped for investigative or enforcement purposes is prohibited, and is a cause for disciplinary action up to and including termination of employment.

#### 12.605 INVESTIGATIONS

- A. [Criminal profiling](#), as defined above, can be a useful tool to assist law enforcement officers in carrying out their duties, including the investigation of suspected criminal activity, the subsequent arrest of suspects, and asset forfeiture and seizure efforts.
  - 1. [Bias-based / racial profiling](#), as defined above, is strictly prohibited by this department.
- B. The Tyler Police Department does not condone and will not allow the use of bias-based / racial profiling in its enforcement programs. This includes investigative efforts, whether incidental or on-going, that may or may not result in subsequent arrests and/or forfeiture / seizure of assets.
- C. Police personnel will focus on a person's conduct or other suspect specific information supported by articulable facts; indicating whether a person has committed a crime, is about to commit a crime, or presents a threat to the safety of themselves or others.
- D. All police department investigations will be carried out in accordance with established written directives.

#### 12.606 DOCUMENTATION REQUIREMENTS

All appropriately marked department patrol and traffic vehicles, including motorcycles, used for law enforcement purposes will be equipped with a recording system capable of recording both video and audio. All uniformed personnel (i.e. patrol, traffic, CRO, and bicycle officers) will also be equipped with a recording system capable of recording both video and audio. The video and audio equipment shall be utilized as outlined in [General Order 05.300](#) – Video / Audio Recording.

#### 12.607 BIAS-BASED / RACIAL PROFILING COMPLAINTS

- A. Any person may file a complaint with the police department if they believe they have been stopped, detained, searched, or had their property seized, based on a profile of their race or other bias as defined by this policy.
- B. No person will be discouraged, intimidated, or coerced from filing such a complaint; nor will any person be discriminated against for filing such a complaint.
- C. Any police department employee contacted by a person wishing to file a bias-based / racial profiling complaint will immediately contact a supervisor. The supervisor will respond to the employee's location where they shall advise the person of the complaint process and document the complaint. All complaints will be processed according to established departmental procedures.
- D. A report of each bias-based / racial profiling complaint will be forwarded to the Chief of Police for his review upon their conclusion. The report will contain the complaints findings, recommendations for disciplinary action, or changes in policy, training, and/or tactics
- E. If an officer is the subject of a bias-based / racial profiling complaint and files a written request, they will be provided with a copy of all audio and/or video recordings concerning the complaint without haste.
- F. Based on the findings of each complaint and the specific factors involved, corrective measures will be taken to remedy violations of this policy. Corrective measures may include, but are not limited to, training, counseling, policy review, and discipline up to and including termination of employment.

#### 12.608 OFFICER RESPONSIBILITIES

- A. All officers who engage in motor vehicle stops are responsible for collecting all pertinent racial profiling data as outlined by State Law and section [12.604\(B\)\(1 -10\)](#) of this policy.
  - 1. If an officer initiates an investigative detention as a result of a motor vehicle stop and elects not to issue a citation, warning ticket (electronic or written), or place any occupant under arrest they are still required to collect and submit all required racial profiling data noted above.
- B. Officers are responsible for ensuring their body-cameras and in-car video / audio recording equipment is fully operational throughout the duration of their shift. Any equipment failures or needed repairs should be immediately reported to an on-duty shift supervisor and replacement recording equipment obtained as outlined in [General Order 05.300](#) – Video / Audio Recording.

#### 12.609 SUPERVISOR RESPONSIBILITIES

- A. All supervisors shall address a complaint of bias-based / racial profiling as detailed in [General Orders 03.400](#) – Integrity Unit.
- B. Periodically, shift and applicable division lieutenants will review a sampling of the racial profiling data collected by their assigned personnel. This is to insure the required data is correctly gathered and submitted.

- C. It is the responsibility of all first line and managing sworn supervisors to monitor the actions of their assigned employees; identify any potential bias-based / racial profiling activity. **Each month Patrol Division supervisors shall review a combined random sampling of at least three (3) video / audio (i.e. body worn, in-car) recordings for each of their assigned personnel.** At least one (1) of the reviewed recordings must be of a motor vehicle traffic stop. **Investigative Division supervisors shall review at least one (1) video / audio (i.e. body worn) recording obtained in the field, if said recording exists.**
  - 1. The process of reviewing recordings will be utilized to determine if an officer has engaged in racial profiling as defined by section [12.603\(A\)\(1-3\)](#) of this policy. The monthly review will be documented and forwarded to the shift commander.
  - 2. In the event a supervisor is concerned about an officer's conduct, additional recordings shall be reviewed until the supervisor is able to reach an opinion about the officer's conduct.
- D. All supervisors shall be attentive to potential or developing patterns and practices they have observed or been made aware of concerning their assigned personnel; indicating inappropriate treatment of individuals and/or bias-based / racial profiling on the part of an officer.
  - 1. Supervisors who have concerns about an officer's conduct will notify and forward their initial review through the officer's chain of command to the Integrity Unit. Supervisors should include all necessary documentation and information pertaining to the officer's conduct in question (e.g. case number, recording type/location, date and time).
  - 2. Following an additional review of the officer's conduct the Chief of Police will take appropriate corrective measures to remedy violations of this policy. Corrective measures may include, but are not limited to, training, counseling, policy review, and discipline up to and including termination of employment
- E. Any concerns expressed by a member of the community to a supervisor, though not specifically constituting a complaint, will be forwarded to the Integrity Unit for review.

12.610 COMPLIMENT AND COMPLAINT PROCESS NOTIFICATION AND RESPONSIBILITIES

- A. The Integrity Unit Sergeant will ensure that brochures outlining the department's compliment and complaint process are current and accessible to the public. The brochures shall be available at both the Downtown and Faulkner Park Police Station lobbies, the ML King Substation lobby, and all other locations deemed appropriate.
- B. The Technology Unit Sergeant will ensure that all bias-based / racial profiling data collection criteria are accurate and up-to-date on all citations and warning tickets (electronic or written) and the department's computerized reporting systems.
  - 1. Information listed on the back of all citations concerning the department's compliment and complaint process is also to be reviewed for accuracy and compliance with State law.
- C. The Public Information Officer will ensure that brochures describing the department's compliment and complaint process are available via the department's website.

12.611 REPORTING PROCEDURES

- A. Complaints of bias-based / racial profiling will be processed according to established procedures set forth in [General Orders 03.400](#) – Integrity Unit.
- B. All bias-based / racial profiling reports completed by personnel of this department as required by State law shall comply with [Articles 2.131 – 2.138 of the Texas Code of Criminal Procedure](#).
- C. Quarterly, the Integrity Unit Sergeant will assemble a statistical summary of all bias-based / racial profiling data collected during that period. The summary and its findings will be forwarded to the Chief of Police and a third party criminologist for analysis and review. Any identified patterns, trends, training needs, disciplinary actions, and/or citizen concerns will be included in the summaries findings.
  - 1. The Technology Unit Sergeant will compile all the required bias-based / racial profiling data and forward the information to the IA Unit Sergeant in order for the quarterly summary to be completed.
- D. Quarterly, the Technology Unit Sergeant will conduct an audit of all citations and warning tickets (written and electronic) issued as a result of motor vehicle traffic stops. The audit's date range will be based on the recommendation of an independent third party criminologist. The audit will be forwarded to the Integrity Unit Sergeant, who will forward the audit to the Chief of Police and the third party criminologist for review.
- E. Annually, the Investigative Division Commander will complete an administrative review of all the asset forfeitures and seizures performed by this Department for each month of the preceding year. The report will be forwarded to the Integrity Unit and the Chief of Police for review. The report should be grouped by the race, sex, and ethnicity of the individual whose property was seized as set forth in [Article 2.132\(a\)\(3\) of the Texas Code of Criminal Procedure](#).
- F. Annually, the Integrity Unit Sergeant will compile a statistical summary of all bias-based / racial profiling data, including all applicable complaints amassed during the preceding year. Aside from the complaints, the data necessary to complete the summary will be provided by the Technology Unit Sergeant. The findings of each applicable complaint (e.g. sustained, not sustained, unfounded, or exonerated) shall be included in the summary.
  - 1. Once completed the Integrity Unit Sergeant shall submit the statistical summary to the Texas Commission on Law Enforcement (TCOLE) per State reporting requirements. The summary and its finding will also be forwarded to the Chief of Police and an independent third party criminologist for analysis and review.
  - 2. Upon receipt of the third party criminologist's analysis and appraisal report and verification from TCOLE that the statistical summary was successfully submitted, the Integrity Unit Sergeant shall consolidate the reports so that they may be filed with City Clerk's office.
    - a. Copies of the full report will be provided to members of the City Council and others as directed by the Chief of Police.
    - b. The statistical summary and the full report shall be submitted to TCOLE and filed with City Clerk's office by March 1 of each year per [Article 2.134\(b\) of the Texas Code of Criminal Procedure](#).
  - 3. The statistical summary and its findings shall also be included as part of the Annual Integrity Unit Report.

- G. The statistical summary nor the Annual Integrity Unit Report will include information that is specific to the identity of the officers or citizens involved.

12.612 TRAINING

All sworn personnel employed by this department shall receive training regarding bias-based / racial profiling while attending the basic academy and/or during the Police Training Officer (PTO) program. Sworn personnel will also receive annual in-service training concerning bias-based / racial profiling. Additionally, the training will cover legal aspects related to bias-based / racial profiling, as well as those subjects deemed appropriate by the Texas Commission on Law Enforcement.

Approved: 06-15-2018



Jimmy Toler  
Chief of Police