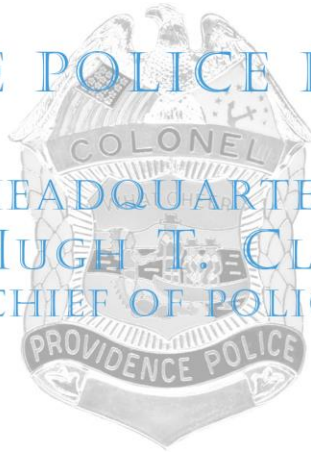


PROVIDENCE POLICE DEPARTMENT

HEADQUARTERS
COLONEL HUGH T. CLEMENTS, JR.
CHIEF OF POLICE



TYPE OF ORDER	NUMBER/SERIES	ISSUE DATE	EFFECTIVE DATE
General Order	330.18	2/5/2019	2/5/2019
SUBJECT TITLE		PREVIOUSLY ISSUED DATES	
Bias-Based Profiling		12/22/2017; 2/17/2017; 5/12/2015; 4/29/2014; 4/5/2013; Supersedes: G.O. #13 Series 2005; G.O. #26 Series 2004; G.O. #4 Series 2002; G.O. #32 Series 2000	
REFERENCE		RE-EVALUATION DATE	
CALEA 1.2.9; 12.2.1		2/5/2020	
SUBJECT AREA		DISTRIBUTION	
Law Enforcement Operations		All Personnel	

PURPOSE

The purpose of this policy is to reaffirm this Department's commitment to impartial, unbiased policing in all encounters between our officers and any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect officers from unwarranted accusations of misconduct when they act within the dictates of the law and Department policy.

POLICY

The Providence Police Department prohibits its officers from engaging in bias-based profiling when executing any law enforcement activities, including but not limited to traffic stops/contacts, field contacts, and asset seizure and/or forfeiture efforts.

DISCUSSION

Members of this Department shall treat all persons fairly, and shall neither participate in nor condone the disparate treatment of groups or individuals as a result of bias-based profiling. Bias based profiling undermines legitimate law enforcement efforts and fosters distrust among the community members which we serve.

Persons shall only be stopped or detained when reasonable suspicion or probable cause exists which indicates that they have committed, are committing, or are about to

commit an infraction of the law. In making routine or spontaneous law enforcement decisions, such as ordinary traffic stops, or while conducting activities in connection

with a specific investigation, officers may never rely upon generalized stereotypes, attitudes, or beliefs about the propensity of any racial, ethnic, or national origin group to engage in unlawful activity.

This General Order defines the term stop, for purposes of compliance with Providence Code of Ordinances Sec. 18 ½.4(c)(1)(ii). A stop of an individual takes place when a reasonable person would believe, based upon a totality of the circumstances, that they were not free to leave and terminate the encounter with police. A police officer may conduct an investigatory stop, provided the officer has a reasonable suspicion based on specific and articulable facts that the person detained is engaged in criminal activity. An officer may further perform a limited pat-down search of a suspect's outer clothing for weapons, which shall also constitute a stop, if the officer has reasonable suspicion based on specific and articulable facts to believe the person may be armed and dangerous.

Conduct that constitutes a stop shall include, but not be limited to:

- Asking for a subject's identification or driver's license.
- Ordering a motorist or passenger to exit a vehicle.
- Applying handcuffs.
- Transporting a suspect any distance away from the scene including for the purpose of witness identification.

However, when exigent circumstances exist that would require a police officer to briefly detain an individual and perform a quick pat down or frisk for weapons, or perform a preliminary field inquiry, without a full search or without obtaining an identification of the individual for the safety of the public or the police, this shall not be considered a stop.

Additionally, a stop does not occur when a police officer performs a protective sweep of a building that results in a pat down of the individual (s) for the safety of the police officer or individual (s). Stops shall also not include when, under exigent circumstances, an officer requires the identity of an individual (s) for the purpose of identifying a specific suspect.

If exigent circumstances do not exist, a police officer must record any stop of an individual as defined by this General Order.

When conducting any investigatory activity, law enforcement shall not rely on race, ethnicity, color, national origin, use of a foreign language, limited English proficiency, gender, gender identity and/or expression, sexual orientation, political affiliation, religion, housing status, physical or mental disability, or serious medical condition as a basis, in whole or in part, for suspecting that a person has committed or is about to commit a crime, unless the officer's decision is based on a specific and reliable suspect description that includes not just these characteristics, but other identifying characteristics or information as well.

This policy is not intended to preclude officers from engaging in enforcement obligations or community care-taking functions, such as taking action when observing a substance leaking from a vehicle or a person changing a flat tire; checking on someone who appears to be ill, lost, or confused; or considering a person's apparent age when investigating curfew regulations, graduated driver's license provisions, or liquor law violations.

This policy shall not prohibit, as part of a criminal investigation, the use of a person's race, nationality, ethnicity, gender, sexual orientation, disability, religion, age, culture group, or association with any other identifiable group, or any combination of such factors, as a part of a specific description of a suspect, witness, or victim, when such information is relevant, reliable, and credible.

For the purpose of this policy, the following definitions shall apply:

Bias-Based Profiling – The detention, interdiction, or other disparate treatment of an individual based solely upon a trait common to a group for enforcement action. These traits include, but are not limited to, the individual's race, nationality, ethnicity, gender, sexual orientation, disability, religion, age, culture group, or association with any other identifiable group, or any combination of such factors.

Articulable Reasonable Suspicion – Is based on a specific articulable set of facts and circumstances that lead a law enforcement officer to believe criminal activity is involved and the facts and circumstances can lead to a stop and temporary detention of a person for questioning. Information must be more substantial than a mere hunch but can be less than probable cause. A frisk (i.e. terry rule) may be appropriate under this definition.

Probable Cause – Sufficient knowledge of articulable facts and circumstances that would lead a reasonable law enforcement officer to believe that a person has either committed, is committing or is about to commit an offense. Probable cause is a necessary element to place a person under arrest and/or to apply for a search warrant to conduct a search of a person's home or property.

Field Interview/Contact - The brief detention of an individual, based upon reasonable suspicion, for the purpose of determining the individual's identity and resolving an officer's suspicions.

Computer-Aided Dispatch (CAD) - An electronic system, used by public safety agencies to facilitate incident response and communications in the field, that electronically records information on call taking, dispatching, location verification, mapping, and other functions for public safety.

Investigatory Activity - Any traffic stop, pedestrian stop, interview, interrogation, detention, frisk, pat-down, Terry frisk, Terry pat-down, or any search of a person or property.

PROCEDURE

I. TRAINING

- A. Officers shall receive initial recruit and periodic in-service training in subjects that promote and encourage impartial policing. Applicable training subjects may include, but are not limited to, courtesy, cultural diversity, and interpersonal communication skills.

- B. Recruit and in-service training programs shall also include the presentation of legal issues relating to the prohibitions against bias-based profiling, including but not limited to statutory and constitutional laws and issues relative to search and seizure, equal protection and civil rights laws.

II. PRACTICAL FIELD IMPLEMENTATION

- A. Officers shall, as necessary and professionally appropriate, utilize techniques and strategies aimed toward promoting impartial policing, including but not limited to:
 - 1. Being courteous, polite, and professional.
 - 2. Providing officers' names and agency information and explaining reasons for stops as soon as practicable, unless doing so compromises the safety of officers or others.
 - 3. Ensuring that the lengths of investigative detentions, field contacts, etc., are no longer than necessary to take appropriate actions.
 - 4. Answering questions citizens may have, including any options for dispositions of related enforcement actions.
 - 5. Explaining the credible, reliable, or relevant information that lead to stops or contacts when no enforcement options are taken'
 - 6. Requesting the presence of a supervisory officer to allow citizens to voice their field contact or enforcement related concerns.
 - 7. Explaining the agency's citizen complaint process when applicable.

- B. Officers are prohibited from abusing their discretion by selectively targeting specific groups and/or individuals based solely on their race or other bias-based factors.

- C. Officers shall comply with all applicable sections of RIGL §31-21.1-1, also known as "*Traffic Stop Statistics*", and RIGL §31-21.2, also known as the "*Comprehensive Community-Police Relationship Act of 2015*" (CCPRA 2015); to wit:

1. **NOTE: Any evidence obtained as a result of a search prohibited by this subsection shall be inadmissible in any judicial proceeding.**

Nothing contained in this subsection shall be construed to preclude any search otherwise based upon any legally sufficient cause.

Nothing contained in this subsection shall be construed to prohibit a law enforcement officer from conducting a pat-down search for weapons based upon a reasonable belief that the officer's personal safety may be jeopardized.

CCRPA 2015 STATES THAT UNLESS THERE EXISTS ARTICULABLE REASONABLE SUSPICION OR PROBABLE CAUSE OF CRIMINAL ACTIVITY:

- a. No motor vehicle stopped for a traffic violation shall be detained beyond the time needed to address the violation.
 - i. Nothing contained herein shall prohibit the detention of a motor vehicle for a reasonable period of time for the arrival of a canine unit or subsequent criminal investigation if there is articulable reasonable suspicion or probable cause of criminal activity.
 - b. No operator or owner-passenger of the motor vehicle shall be requested to consent to a search by a law enforcement officer of his or her motor vehicle when the motor vehicle is stopped solely for a traffic violation.
 - c. No pedestrian shall be requested to consent to a search by a law enforcement officer of his or her person.
 - d. No juvenile shall be requested to consent to a search by a law enforcement officer.
 - i. In those instances when a warrant would be required, a law enforcement officer must advise the juvenile that he or she may (1) refuse to consent to, or (2) limit the scope of, any requested search.
 - ii. The determination of the age of the individual shall be based on the perception of the officer making a good faith effort in advance of requesting consent.
2. No operator of a motor vehicle shall be requested to provide any documentation or identification other than a driver's license, motor

vehicle registration, and/or proof of insurance when the motor vehicle has been stopped solely for a traffic violation, with the following exceptions:

- i. The operator has failed to produce a valid driver's license.
 - ii. The operator is subject to federal motor carrier regulations.
3. Law enforcement officers shall advise any motorist who is stopped of the reason for the stop.
4. If a violation of a traffic law is used to stop a motor vehicle for non-related investigatory reasons (i.e. pretext stops), the law enforcement officer shall document in writing or electronically the investigatory basis (i.e. the pretext) for the stop.
 - a. The documentation of such stops shall be audited and assessed by the Department at least every six (6) months in order to determine whether or not the suspicion which led to the stop was justified.
5. **Every STOP of a motor vehicle, every SEARCH of a stopped motor vehicle, and every SEARCH of a pedestrian** that is conducted by a law enforcement officer AND:
 - a. That does not result in criminal charges shall be documented within:
 - i. A computer-aided dispatch (CAD) entry; AND
 - ii. The appropriate stop-type (i.e. traffic stop or pedestrian stop) of the Stop Survey Data Collection software.
 - b. That does result in criminal charges shall be documented within:
 - i. A computer-aided dispatch (CAD) entry; AND
 - ii. The appropriate stop-type (i.e. traffic stop or pedestrian stop) of the Stop Survey Data Collection software; AND
 - iii. The Aegis™ Records Management System field report.
6. The Stop Survey Data Collection has separate selections for (1) motor vehicle stops and searches and (2) pedestrian searches.

The electronic fields within each selection and the electronic fields/entries in any required field report shall document the following information (as applicable):

- a. The CCR number, date, time, and general location of the stop/search.
 - b. The reason for the motor vehicle stop, motor vehicle/operator/passenger search, or pedestrian search.
 - c. Whether the search was conducted pursuant to consent, probable cause, or reasonable suspicion to suspect a crime, and the scope of the search.
 - d. The race or ethnicity, age, and gender of any motor vehicle operator stopped and of any individual searched, as well as the results of each search. Officers shall not ask anyone for their race. Race determination is to be made independently by officers, based upon their individual perceptions.
 - e. Whether any contraband, including money, was seized in the course of the search, and if so, the nature of the contraband.
 - f. Whether any warning or citation was issued as a result of the stop;
 - g. Whether an arrest was made as a result of either the stop or the search;
 - h. The approximate duration of the stop; and
 - i. Whether the vehicle is registered in Rhode Island or out of the state.
 - j. The federal identification number of the officer conducting the stop/search.
7. When practicable and consistent with officer safety, officers shall provide the subject of a stop with a business card providing the following information:
- a. A reference number to access the report(s) relating to the stop;
 - b. The officer's federal identification number; and
 - c. The contact information for the Providence External Review Authority.

7. Responding to a motor vehicle accident is considered a “Motorist Assist/Courtesy”, and as such, does not require a race data collection record unless it leads to a secondary action (e.g. citation, written or verbal warning, arrest, search).
8. The “Prior Record” option in the data collection module refers to whether or not the motor vehicle operator has a criminal record. In many cases, officers will not know if such a criminal record exists unless they possess personal knowledge of the operator.
9. Officers will not select “Special Detail/Directed Patrol” unless the motor vehicle stop is conducted during a Neighborhood Response Team (NRT) effort. Thus, NRT-related stops are the only stops that will use the “Special Detail/Directed Patrol” option as “Basis for Stop”.
10. Unless the stop is NRT-related, officers shall choose one of the following options as the “Basis for Stop”:
 - i. Speeding
 - ii. Seat Belt
 - iii. Other Traffic Violation
 - iv. Equipment/Inspection Violation
 - v. Violation of City/Town Ordinance
 - vi. Call for Service***
 - vii. APB
 - viii. Suspicious Person
 - ix. Motorist Assist/Courtesy***

*** Regarding the “Call for Service” and “Motorist Assist/Courtesy” options, race data collection records are only created during circumstances when a secondary action (e.g. citation, warning, arrest, search) is taken.

III. SUPERVISORY RESPONSIBILITIES

- A. The Chief of Police or his/her designee(s) shall ensure that each officer's stop and search documentation and data results are reviewed on a monthly basis:

1. To ensure compliance with all policies, prohibitions, and documentation requirements.
 2. To determine whether any racial disparities in the Department's traffic stops enforcement exists, and to appropriately respond to any such disparities. It is understood that such disparities may or may not equate to racial profiling.
- B. Supervisors shall monitor officers' activities for any obvious or subtle signs of bias, improper selective enforcement, or bias-based insensitivity, so as to ensure compliance with all policies, prohibitions, and documentation requirements.

IV. COMPLAINTS OF BIAS-BASED PROFILING

- A. Any person may file a complaint with the Department if they feel that they have been stopped or searched based on 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 handled and investigated in accordance with General Order 130.01, entitled "Internal Investigations and Inspections Policy."
- C. The Commanding Officer of the Office of Professional Responsibility shall ensure that a documented annual administrative review of the Department's commitment to bias-based profiling is conducted. This shall include a review of agency directives and practices as well as citizen concerns relating to bias-based profiling.

V. PROVISIONS

- A. The documents/reports as required herein, exclusive of information identifying the law enforcement officer, shall be deemed public records, and as such are subject to the law enforcement exemptions Access to Public Records Act (APRA), §38-2-2(4)(D).
- B. The subject of a traffic or pedestrian stop shall be able to request and receive a physical copy of a report pertaining to the stop, which includes all of the data elements identified in the Stop Survey Data Collection, at the police station within (72) hours of the stop.
- C. Any officer who in good faith records traffic stop information pursuant to the requirements of CCPRA 2015 shall not be held civilly liable for the act of recording the information, unless the officer's conduct was reckless.
- D. Officers found to have violated the prohibition against bias-based profiling may be subject to corrective measures including, but not limited to,

counseling, re-training, and/or disciplinary action up to and including termination.

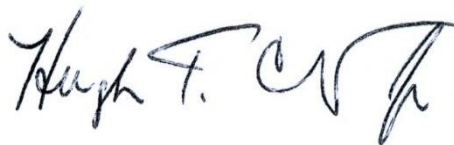
- E. The Department shall submit to the office of highway safety of the department of transportation, or its designee, on an annual basis beginning on July 15, 2016, and for four (4) years following the conclusion of data collection, a report indicating what action, if any, has been taken, to address any racial disparities in traffic stops and/or searches documented in the studies authorized by § 31-21.1-4 and § 31-21.2-6, and to otherwise implement any recommendations of those studies.
- F. The Chief of Police shall prepare and make available on the City's website, as well as to the Providence External Review Authority, the City Council and the public, a quarterly report commencing with the city's fiscal year containing the following information:
1. Compilation of the data collected pursuant to subsection II(6), above, providing at a minimum statistical descriptions of individuals stopped, results of the stop, analyzed by direct and cross-tabulation of race, ethnicity, gender, and age (as perceived by the officer initiating the stop).
 2. Maps or other graphic representations providing approximate geographical locations of aggregate stops.
 3. Complaints received by the Office of Professional Responsibility involving alleged violations of one or more provisions of City Ordinance 18 ½-4.
 4. A summary of all pending civil and criminal litigation against the Providence Police Department or any of its employees, or the City of Providence, alleging violations of any provision of City Ordinance 18 ½-4.

APPROVED:



STEVEN M. PARÉ
COMMISSIONER
DEPARTMENT OF PUBLIC SAFETY

APPROVED:



HUGH T. CLEMENTS, JR.
COLONEL
CHIEF OF POLICE