

	SHERMAN POLICE DEPARTMENT		
	Policy and Procedure Manual		
	Policy 3.4	Bias-Based Policing	
	TPCA Best Practices Accreditation Standards		
2.01			
Effective Date: 01-01-02		Revision Date: 01-18-19	Pages - 7

I. POLICY STATEMENT

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. Although it is true that all people carry biases, in law enforcement the failure to control our biases can lead to illegal arrests, searches, and detentions, thus thwarting the mission of our department. Most importantly, actions guided by bias destroy the trust and respect essential for our mission to succeed. We live and work in communities very diverse in population. Respect for diversity and equitable enforcement of the law are essential to our mission.

All enforcement actions -- particularly stops of individuals for traffic and other violations, investigative detentions, arrests, searches, and seizures of persons or property -- 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, any other identifiable group, or based on racial or ethnic stereotypes. Officers shall base all of their actions on a reasonable suspicion that the person or an occupant of a vehicle committed an offense. Officers of the Sherman Police Department are strictly prohibited from initiating any action that constitutes racial or bias based policing.

All departmental orders are informed and guided by this policy. Nothing in this policy 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: Prejudice or partiality based on preconceived ideas, a person's upbringing, culture, experience, or education.

- B. Biased policing: 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: 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: Unlike sex, a psychological classification based on cultural characteristics or traits.
- E. Probable cause: 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 it.
- F. Race: 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: 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: Articulable, objective facts that lead an experienced officer to suspect that a person has committed, is committing, or may be about to commit a crime. A well-founded suspicion is based on the totality of the circumstances and does not exist unless it can be articulated. Reasonable suspicion supports a stop of a person. Courts require that stops based on reasonable suspicion be "objectively reasonable."
- I. Sex: A biological classification, male or female, based on physical and genetic characteristics.
- J. Stop: An investigative detention. The detention of a subject for a brief period of time, based on reasonable suspicion.
- K. Motor Vehicle Stop: An occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

IV. PROCEDURES

A. General Responsibilities

1. Officers are prohibited from engaging in bias based policing 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, motor vehicle 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, motor vehicle stops, subject stops, arrests, nonconsensual searches, and property seizures. Except as provided in number 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 even those 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, race/ethnicity 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 motor vehicle 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. How the officer disengages from a motor vehicle stop may be crucial to a person's perception of fairness or discrimination.
 - b. Officers shall not use the refusal or lack of cooperation to justify a search of the person or vehicle or a prolonged detention once reasonable suspicion has been dispelled.
5. All personnel shall treat everyone with the same courtesy and respect that they would have others observe to department personnel. 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 the Chief of Police any complaints made by an individual against the department. Further, officers shall provide information on the complaint process and shall give copies of our "Citizen Complaint Process" brochure when appropriate.
6. 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.
7. 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.
8. 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.

C. Disciplinary Consequences

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

D. Training (TBP 2.01)

Officers shall be responsible for completing all training required by the Department, and by state law regarding bias-based profiling.

V. PUBLIC INFORMATION

The Department will inform the public of its policy against bias based policing and the process by which a citizen may make a complaint against a department employee. Initially, the public will be informed through the news media, with additional efforts to educate the public about the policy and the complaint process made during presentations to civic groups, and by including information on the Sherman Police Department website and in the Department lobby.

VI. OVERSIGHT AND REVIEW

Motor vehicle stops will be accompanied by consistent, ongoing supervisory oversight to ensure that officers do not go beyond the parameters of reasonableness in conducting such activities.

- A. Supervisors shall ensure compliance with this policy, and other applicable directives.
- B. The patrol shift supervisors shall review a minimum of one motor vehicle stop for each of their subordinates each month.
- C. The patrol shift supervisors shall report the information obtained from their review of officer motor vehicle stops to their Patrol Commander each calendar quarter. The report shall contain the following:

1. The name of the officer under review,
 2. The number of motor vehicle stops that were reviewed,
 3. The date and time of each motor vehicle stop reviewed, and
 4. A written assessment of each motor vehicle stop reviewed, which shall include:
 - a. The race/ethnicity of the citizen contacted;
 - b. Whether a search was conducted;
 - c. If a search was conducted, whether consent was given by the citizen;
 - d. If a search was conducted, whether or not contraband was found;
 - e. The final disposition of the citizen contact by the officer;
 - f. Whether officer's actions were in accordance with Department policy and procedures; and
 - g. a summary of the feedback provided to the officer.
 5. The Patrol Commanders will review these reports to ensure compliance and will submit a quarterly report to the Patrol Bureau Commander.
 6. The quarterly reports will be maintained in PowerDMS, the department's document management system.
- D. Appropriate corrective/disciplinary action will be taken against any member who, after investigation, is shown to have engaged in bias based policing in violation of this policy.

VII. DATA COLLECTION

- A. Pursuant to state law, officers are required to collect information relating to all motor vehicle stops by documenting the following required data:
1. The race or ethnicity of the individual detained;
 2. Whether or not a search was conducted;
 3. Whether or not the search was conducted by consent, and
 4. Whether the officer knew the race or ethnicity of the individual detained before detaining that individual.
- B. To ensure that data related to biased/racial profiling is collected in accordance with state law and department policy, the following procedures shall be followed:
1. For all motor vehicle stops that result in an arrest of the driver, the officer who initiated the stop shall issue the driver a citation or warning citation for the violation using the department issued electronic ticket writers.
 2. For all motor vehicle stops that result in an arrest of a passenger, the officer who initiated the stop shall complete a Field Interview (FI) module using the department issued electronic ticket writers. The officer will ensure the "arrest" box is checked in the FI module which ensures the biased/racial profiling data is collected and reported.
 3. When completing citations, warning citations, or FI modules, officers are required to complete all pertinent information fields with special attention placed upon fields related to biased/racial profiling data.

4. When an arrest is made, the officer will enter the citation, warning, or FI number into the notes section of the RMS Arrest module in conjunction with other required information. The officer will also note that the arrest is based on motor vehicle stop.
5. The on-duty supervisor is responsible for verifying that arrests resulting from motor vehicle stops are properly documented.
6. The department issued electronic ticket writers should not be used to document FI contacts that are not related to motor vehicle stops as this will affect the accuracy of the data.

VIII. MOTOR VEHICLE RECORDING (MVR) EQUIPMENT

- A. All marked patrol vehicles are equipped with video cameras. The video and audio shall be activated before all motor vehicle stops, to record the actions of the vehicle and/or behavior of the person, and shall remain activated until the person is released (refer to policy 3.16 VII for additional activation requirements).
- B. Patrol Officers are responsible for ensuring that the mobile video recording equipment is fully operational throughout their tour of duty. Any equipment failures or repairs needed should be immediately reported to the on-duty shift supervisor.
- C. Audio/Visual recordings documenting motor vehicle stops will be maintained for a minimum period of ninety (90) days before being purged. If a complaint is filed alleging bias based policing, the audio and video record of the stop will be retained until the final disposition of the complaint.

IX. REPORTING

- A. The Department will contract with a vendor who:
 1. Will prepare an annual report for the calendar year consisting of a comparative analysis of the collected motor vehicle contact data;
 2. Will conduct a comparative quarterly data audit throughout the calendar year;
 3. The annual report will be submitted to the Chief of Police. At a minimum the report must include:
 - a. A determination of the prevalence of bias based policing.
 - b. An examination of the disposition of motor vehicle stops, including searches resulting from the stops.
 - c. Information relating to each complaint within the department alleging bias based policing.
 - d. The report may not include identifying information about an officer or about the person stopped, or arrested.
- B. The Chief of Police shall submit the vendor's annual report to the City Manager who makes the report available to the City Council.
- C. The Chief of Police shall submit an annual report of the information collected to the Texas Commission on Law Enforcement (TCOLE).

X. COMPLAINT PROCESS

- A. Any individual who believes that a peace officer employed by this Department has engaged in conduct that may constitute racial or bias based policing with respect to the individual, may file a complaint with any supervisor of the Department.
- B. Any officer who is the subject of an investigation, based on a complaint alleging that the officer engaged in bias based policing, who submits a written request for an audio or video copy of the recording of the occurrence will be promptly provided a copy of that recording(s). The written request shall be in a memorandum, and submitted to the Investigator conducting the investigation.
- C. The complaint will be received, processed, investigated, and adjudicated in accordance with applicable Sherman Police Department policies and procedures



Zachary Flores, Chief of Police