

ORLANDO POLICE DEPARTMENT POLICY AND PROCEDURE
1102.7, BIAS-FREE POLICING

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CONTENTS:

1. PHILOSOPHY
2. DEFINITIONS
3. AUTHORITY AND RESPONSIBILITY
4. PROHIBITED PRACTICES
5. COMPLAINT PROCEDURES
6. TRAINING
7. COMMUNITY OUTREACH
8. DATA COLLECTION

POLICY:

The policy of the Orlando Police Department is to treat every person with courtesy and respect. The purpose of this order is to reaffirm the Orlando Police Department's commitment to unbiased policing in all its encounters between police officers and the public. Also, this policy provides guidelines for officers to prevent biased policing, and protects our officers when they act within the scope of the law and department policy from unwarranted accusations. It also reinforces procedures that serve to maintain public confidence and trust through the provision of services in a fair and equitable fashion.

PROCEDURES:

1. PHILOSOPHY

A fundamental right guaranteed by the Constitution of the United States 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 as guaranteed by the Fourth Amendment. People 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 acts of criminals, and to drive and walk our public ways safe from the actions of reckless and careless drivers.

This law enforcement agency is charged with protecting these rights, and including for all, regardless of race, color, ethnicity, background, gender, national origin, sexual orientation, gender identity/expression, economic status, age, culture, physical handicap, immigration status, housing status, occupation, language fluency, religion or other belief system, or any physical or personal characteristic.

Police action that is biased is illegal and violates the equal protection clause and the Fourth Amendment of the Constitution. It also alienates the public, fosters distrust of police, and undermines legitimate law enforcement efforts.

The nature of our business requires law enforcement officers to be observant, to identify unusual occurrences and law violations, and to act upon them. Proactive enforcement keeps our citizens free from crime and our streets and highways safe to drive upon.

Criminal profiling is a legitimate tool in the fight against crime. Criminal profiling is an investigative method in which an officer, through observation of activities and environment, identifies suspicious behavior by individuals and develops a legal basis, consistent with the Fourth Amendment, to stop them for questioning.

However, illegal profiling refers to a decision by an officer to stop, detain, interdict, or search an individual based on the race, color, ethnicity, background, gender, national origin, sexual orientation, gender identity/expression, economic status, age, culture, physical handicap, immigration status, housing status, occupation, language fluency, religion or other belief system, or any physical or personal characteristic. This Department prohibits illegal profiling as a law enforcement tactic and will not tolerate or condone its use by any of our members.

It is the Orlando Police Department's philosophy to assist law enforcement in accomplishing this total mission in a way that respects the dignity of all persons and yet sends a strong message to actual and potential lawbreakers that, if they break the law, their behavior will not be tolerated and they will likely encounter the police.

2. DEFINITIONS

Bias-Based Profiling: The stop, detention, interdiction, search, or differential treatment of an individual based on the race, color, ethnicity, background, gender, national origin, sexual orientation, gender identity/expression, economic status, age, culture, physical handicap, religion or other belief system, immigration status, housing status, occupation, language fluency, or any physical or personal characteristic of such individuals.

Detention: The act of stopping or restraining an individual's freedom to leave or walk away, approaching and questioning an individual beyond a consensual encounter, or stopping an individual suspected of being involved in criminal activity.

Reasonable Suspicion: Also known as articulable suspicion. Suspicion 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 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.

Stop: The restraining of an individual's liberty by physical force or their submission to a show of authority.

3. AUTHORITY AND RESPONSIBILITY

All investigative detentions, traffic stops, arrests, searches, and property seizures by officers will be based on a standard of reasonable suspicion or probable cause as required by the Fourth Amendment of the United States Constitution and statutory authority. Officers must be able to articulate specific facts, circumstances, and conclusions that support probable cause or reasonable suspicion for arrests, traffic stops, or investigative detentions, non-consensual searches, and property seizures.

Officers may take into account the reported race, color, ethnicity, or national origin of a specific suspect based on trustworthy information that links a person of a specific race to a particular criminal incident.

Race, color, ethnicity, background, gender national origin, sexual orientation, gender identity/expression, economic status, age, culture, physical handicap, religion or other belief system, immigration status, housing status, occupation, language fluency, or any physical or personal characteristic, can never be used as the sole basis for establishing reasonable suspicion or probable cause, but can, in the restricted circumstances described above, be one component of the "totality" of the circumstances.

3.1 OFFICER RESPONSIBILITIES

Traffic stops and proactive patrols are vital law enforcement tools. In addition to deterring motor vehicle violations, they provide law enforcement visibility and deter more serious crimes. An officer may stop a motor vehicle upon a reasonable suspicion that the driver or an occupant committed a motor vehicle violation or other offense. Such stops shall conform to Department policy and procedures.

At the completion of every self-initiated traffic stop or self-initiated pedestrian encounter, including consensual encounters, as well as calls for service involving the same, the officer shall call in the appropriate disposition code and the apparent race and sex of the person contacted, i.e., driver or primary person(s) contacted. The following Orlando Police Department disposition codes shall be utilized when calling in race and sex dispositions to Communications.

AF	Asian Female	HM	Hispanic Male
AM	Asian Male	OF	Other Female
BF	Black Female	OM	Other Male
BM	Black Male	WF	White Female
HF	Hispanic Female	WM	White Male

The race and sex dispositions shall follow the primary incident disposition, and shall include the race and sex of the primary person(s), followed by the number of person(s) of each type. Example: 10-98, V (verbal warning), WM2 (two white males), AF3 (three Asian females).

Motors Unit officers conducting special traffic operations shall call in cumulative race and sex dispositions at the termination of their details. The Motors Unit contact log, detailing individual traffic stop information, shall be kept and archived for four years.

If an officer is unsure of the race, color, ethnicity, or gender of a person stopped, the officer shall not risk offending the individual by asking the person to identify that characteristic except in an instance in which that characteristic is necessary to the investigation.

No motorist or pedestrian, once cited or warned, shall be detained beyond the point where there exists no reasonable suspicion of further criminal activity or other legal or factual basis for detention. No person or vehicle shall be searched in the absence of a search or arrest warrant, a legally recognized exception to the warrant requirement, or a person's voluntary consent.

Officers are encouraged and expected to stop and help motorists in apparent need of assistance – e.g., occupied, disabled vehicles, moving vehicles with items on the roof, vehicles leaking substances, etc.

Whenever there is a stop or search of a vehicle or individual (except at authorized roadblocks) and the individual alleges the stop or search was made because of “illegal profiling,” the officer shall immediately notify his/her supervisor. The officer shall then complete the Officer Response section of the Profiling Complaint Form (Attachment A). The report shall contain the facts, circumstances, and conclusions that support the traffic stop, detention, and/or search.

3.2 SUPERVISOR RESPONSIBILITIES

Supervisors shall ensure that all officers in their command are familiar with the content of this policy and follow the policies and procedures outlined in this directive.

An on-duty sergeant or higher-ranking officer shall promptly respond when advised that a person is making a complaint alleging illegal profiling.

The sergeant or higher-ranking officer shall discuss the incident with the complainant, complete the Profiling Complaint Form (Attachment A), and comply with Section 5, Complaint Procedures. Supervisors shall be particularly alert to any pattern or practice of possible discriminatory treatment by individual officers or squads and take appropriate action. Supervisors shall review profiling complaints and respond at random to observe officers on vehicle and person stops.

4. PROHIBITED PRACTICES

Bias-based profiling in traffic contacts, field contacts, searches and seizures, and in asset seizure and forfeiture efforts is **strictly prohibited** by members of this Department.

Neither race, color, ethnicity, background, gender, national origin, sexual orientation, gender identity/expression, economic status, age, culture, physical handicap, immigration status, housing status, occupation, language fluency, religion or other belief system, nor physical or personal characteristic shall be a factor in determining the existence of probable cause to place an individual in custody, or to arrest an individual, nor will be the only factor in determining a reasonable and articulable suspicion that an offense has been or is being committed to justify the detention of an individual or the investigatory stop of a motor vehicle.

The detention of any individual not based on factors related to violation of federal law, Florida Statutes, City Ordinances, or court order is prohibited.

Officers shall not deliberately record misleading information of a person stopped for investigative or enforcement purposes.

Officers shall not inquire as to the immigration status of a crime victim, a witness to a crime, or a driver who is detained and cited solely for a non-criminal traffic infraction. However, officers are allowed (but not required) to use any and all local or federal law enforcement databases, resources, or contacts "to confirm the identity of a person who is detained by a law enforcement agency." Fla. Stat. 908.104(2)(a). In addition, officers may utilize a person's immigration status for any other purpose expressly authorized by Florida Statute 908.104.

NOTE: the previous paragraph has been updated to ensure compliance with Florida Statute 908.104, enacted by the State of Florida during the 2018-2019 legislative session.

5. COMPLAINT PROCEDURES

Any person may file a complaint with the Department if he/she feels they have been stopped or searched as a result of illegal profiling. No person shall be discouraged, intimidated, or coerced from filing such a complaint or discriminated against because he/she has filed such a complaint.

Any employee contacted by a person who wishes to file such a complaint shall contact an on-duty sergeant or higher-ranking officer to respond. After discussion with the person, the sergeant or higher-ranking officer shall complete the Profiling Complaint Form (Attachment A) and forward it through the chain of command to Internal Affairs via email by the end of tour of duty.

Should an employee receive a complaint concerning illegal profiling, and the affected officer's supervisor is not currently on duty, the employee shall contact a sergeant or higher-ranking officer. The responding sergeant or higher-ranking officer shall be responsible for completing the first page of the Profiling Complaint Form. The original form will be emailed to the affected employee's supervisor and a copy will be emailed to Internal Affairs.

The affected employee's supervisor shall complete the Investigation and Resolution portions of the complaint and forward it through the chain of command to Internal Affairs via email. Each link in the chain of command will approve or disapprove the Profiling Complaint Form by noting such in their respective emails.

All profiling complaints shall be reviewed by Internal Affairs. If there are grounds to believe that bias-based policing may have or has occurred, corrective measures will be taken. Corrective measures may include supervisory counseling, remedial training, and/or discipline. The complainant shall be informed in writing of the Department's review at the conclusion of the investigation. The Profiling Complaint Form shall be filed with Internal Affairs.

6. TRAINING

In accordance with CJSTC guidelines, all employees shall receive ongoing training in bias-based profiling issues, including legal aspects, and a review of the current agency policy. Recruits shall receive this training prior to being released to ride with a Field Training Officer (FTO).

7. COMMUNITY OUTREACH

The Orlando Police Department is charged with protecting the public regardless of race, color, ethnicity, background, sexual orientation, gender identity/expression, economic status, age, culture, physical handicap, immigration status, housing status, occupation, language fluency, religion or other belief system, physical or personal characteristic. Community education and awareness efforts relating to the enforcement of this principal, rights of citizens regarding this concept, and methods that complaints can be made for any violations will be made available by various means, to include the agency website, printed publications, public forums (i.e., media interviews, citizen academy courses, etc.) and news releases.

The Professional Standards Division commander is the community liaison for profiling. The Professional Standards Division commander shall review all complaints of profiling to determine if additional follow-up, remedial action or policy changes are required. On an annual basis, the Professional Standards Division shall make public a statistical summary of all profiling complaints for the year, including the findings. The Internal Affairs Section shall meet upon request with groups affected by this policy.

8. DATA COLLECTION

The Orlando Police Department is committed to maintaining public confidence and trust through the provision of services in a fair and equitable fashion. The collection of data from traffic stops and pedestrian encounters is a demonstration of the Department's commitment to professionalism and public accountability.

Race and sex data from self-initiated traffic stops, pedestrian encounters, and calls for service shall be collected based upon the disposition codes provided by officers per section 3.1 of this policy. This data shall be accessible to the public and will only be used for accountability and training purposes.

When a public records request for race and sex data for a specific officer or group of officers is made, the Department will also provide demographic information for the officers' area of responsibility and the officers' job assignment(s).

Incident Report Number: _____

Orlando Police Department
Profiling Complaint Form (continued)

Officer Response (Reason for stop in detail):

Signature

Date

Investigation:

Resolution:

- Complainant satisfied with supervisor's intervention.
- Supervisory notes/counseling.
- Inconclusive. *
- No merit. *

*Explain: _____

- Formal investigation.

For Internal Affairs Use Only
Complainant Notified
<input type="checkbox"/> Yes <input type="checkbox"/> No
Date _____