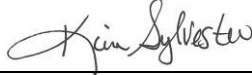
	<b>Richland Hills Police Department</b>		
	<b>Subject:</b> Racial Profiling and Bias-Based Policing		<b>Number:</b> 200.2
	<b>Category:</b> Professional Standards and Conduct		
	<b>Effective Date:</b> May 16, 2023	<b>Supersedes:</b> GO 200.2 (01/2021)	<b>Review Date:</b> January 2024
	<b>Issuing Authority:</b> Kimberly L. Sylvester, Chief of Police		
	<b>Signature of Issuing Authority:</b>		
	<b>References:</b> TBP 2.01		

NOTE: This General Order is for internal use only and does not enhance an Officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this General Order, if proven, can only form the basis of a complaint by this Department and only in a non-judicial, administrative setting.

## I. POLICY

We are committed to upholding 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. Understanding and appreciation for diversity and equitable enforcement of the law are essential to our mission.

All enforcement actions 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, or any other identifiable group.

All Departmental orders are informed and guided by this directive. Nothing in this order limits non-enforcement consensual contacts between Officers and the public.

## **II. PURPOSE**

The purpose of this General Order is to inform Officers that bias-based policing is prohibited by the Department. Additionally, this order will assist Officers in identifying 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-Based 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 and/or traits.
- E. Probable Cause - Specific facts and circumstances within an Officer's knowledge that would lead a reasonable Officer to believe that a specific offense has been or is being committed, and that the suspect has committed it. Probable cause will be determined by the courts reviewing the totality of the circumstances surrounding the arrest or search from an objective point of view.
- F. Race - A category of people of a particular decent, including Caucasian, Black, Hispanic, Asian, 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 - Specific facts and circumstances that would lead a reasonable Officer to believe criminal activity is afoot and the person to be detained is somehow involved. Reasonable suspicion will be determined by the courts reviewing the totality of the circumstances surrounding the detention from an objective point of view.

- I. Sex - A biological classification, male or female, based on physical / genetic characteristics.
- J. Stop - An investigative detention of a person for a brief period of time, based on reasonable suspicion.

#### **IV. PROCEDURES**

##### **A. General responsibilities**

1. Officers are prohibited from engaging in racial profiling and/or bias-based profiling 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, traffic 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 articulate specific facts and circumstances to support reasonable suspicion or probable cause for investigative detentions, traffic stops, subject stops, arrests, nonconsensual searches, and property seizures. Except as provided in paragraph 3, Officers shall not consider race/ethnicity in establishing reasonable suspicion or probable cause. Similarly, except as provided below, Officers shall not consider race/ethnicity in deciding to initiate 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, 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 traffic stops furnish a primary source of bias-related complaints, Officers shall have a firm understanding of the warrantless searches allowed by law, and particularly the use of consent. How the Officer disengages from a traffic 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 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 when requested or when it is reasonable to assume such information is desired.
  - 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 concluding an encounter, personnel shall thank him or her for cooperating.
  - 8. When feasible, all personnel shall identify themselves by first and last name. When a person requests the information, personnel shall give their Departmental identification number, name of their immediate supervisor, or any other reasonable information.
  - 9. All personnel are accountable for and 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 and those of their subordinates. 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 critical 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 law promotes not only mistrust of Law Enforcement, but increases safety risks to personnel as well as exposing the employee(s) and Department to liability.
5. Supervisors shall be held accountable for repeated instances of biased enforcement of their subordinates if the supervisor knew, or should have known, of the subordinate's actions.
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. Any enforcement action that begins as a consensual encounter will also have the circumstances of the initial encounter documented.
7. Supervisors shall facilitate the filing of any complaints about Law Enforcement service.
8. Supervisors shall randomly review at least three video files per officer (two body camera and one in-car camera video) every quarter. For purposes of this General Order, a "quarter" is defined as a 3-consecutive-month period of time, beginning with the months of January through March. Supervisors are not required to watch each incident of an entire shift; however, reviewing the footage in a manner intended to gain an understanding of that officer's performance and adherence to policy and law is required. Supervisors will document the random review of the video in a review log located in a secure network folder titled "Video Review Log" which contains spreadsheets labeled by Officer name (digital form RHPD-387). The spreadsheets contain worksheets separated by year and quarter. Supervisors should not review a Body Worn Camera and in-car video from the same incident for purposes of random review.
  - a. Any violations of policy or law will be addressed through the procedures outlined in General Order 200.3, Internal Investigations. Supervisors shall also review video as it relates to an investigation into a complaint received against an Officer under their command or as assigned by a member of the Command Staff. [TBP 2.01]
9. Section 8 above applies only to first-line uniformed Officers and their immediate supervisors. In the absence of a first-line supervisor this responsibility will move to the Operations Captain.

C. Disciplinary consequences

1. Actions prohibited by this order shall be cause for disciplinary action, up to and including termination. Employees believed to be in violation of any section of this General Order may be subject to investigation as outlined in General Order 200.3, Internal Investigations.

D. Training [TBP 2.01]

1. Officers shall complete all training required by state law regarding bias-based profiling.

**V. COMPLIMENTS AND COMPLAINTS**

- A. The Department shall publish “How to File a Complaint” brochures in both English and Spanish and make them available in the public areas at the Police Department and City Hall. The Department’s complaint process and its bias-based profiling policy will be posted on the Department’s website. The information shall include, but is not limited to, the email, physical address, and telephone contact information for making a complaint against an employee. This information shall also be listed on Department-issued citations and written warnings. Officers shall inform citizens receiving a citation or written warning where this information is located on the document.
- B. Citizens who wish to file a complaint on a member of the Department shall be provided a Complaint Form (RHPD-305). The person filing the complaint may provide their own written account of the incident; however, the Officer accepting the complaint shall request the complainant to read and complete the Complaint Form (RHPD-305) and indicate in the narrative section to refer to the previously written statement attached to the packet.
- C. Complaints alleging incidents of bias-based profiling will be fully investigated as described under General Order 200.3, Internal Investigations.
- D. The person filing the complaint will be notified of the results of the investigations once the investigation is completed.
- E. Compliments are also handled in a process similar to complaints. Officers receiving compliments from citizens shall forward the compliments to the Chief of Police, utilizing their chain of command. Verbal compliments shall be recorded on a Personnel Incident Form (RHPD-280). Written compliments from citizens shall be accepted and forwarded to the Chief of Police through the chain of command, along with a Personnel Incident Form (RHPD-280) detailing the circumstances surrounding the compliment.

**VI. RECORD KEEPING**

- A. The Department will maintain all required records on traffic stops where a citation or warning is issued or where an arrest is made subsequent to a traffic stop. Information gathered during such encounters is outlined in Subsection C below.
- B. The information collected from traffic stops as outlined in Subsection C will be collected and reported by the Chief Administrator to the City Council and to the Texas Commission on Law Enforcement (TCOLE) by March 1<sup>st</sup> of each year as required by law. The reporting data must include:

1. A comparative analysis of the information compiled under Article 2.133 of the Texas Code of Criminal Procedure which:
    - a. Evaluates and compares the number of motor vehicle stops, within the applicable jurisdiction, of persons recognized as racial or ethnic minorities and persons who are not recognized as ethnic or racial minorities;
    - b. Examines the disposition of motor vehicle stops made by Officers employed by the agency, categorized according to race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops made within the applicable jurisdiction; and
    - c. Evaluates and compares the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches.
  2. Information related to each complaint filed with the agency alleging that a peace Officer employed by the agency has engaged in racial profiling.
  3. Further, as recommended by law, the Department shall maintain audio and video recording equipment in all vehicles utilized for motor vehicle stops. All personnel whose duties include contact with the public shall also be issued a body worn camera to record such interactions. Department supervisors are responsible for reviewing audio and video documentation gathered on vehicle and body worn recording equipment in accordance with Section IV, Subsection B.8 of this General Order.
  4. Failure to submit incident-based data as required by Article 2.134 of the Texas Code of Criminal Procedure shall result in a liability to the state for a civil penalty of an amount not to exceed \$5,000.00 per violation.
- C. The records gathered for purposes of the racial profiling review (referred to as Tier 2 data) shall include:
1. The individual's gender;
  2. The race or ethnicity of the detained individual as stated by the person or as determined by the Officer to the best of their ability;
    - a. Race/Ethnicity means White, Black, Hispanic or Latino, Asian or Pacific Islander, or Alaska Native or American Indian.
  3. Whether the peace Officer knew the race or ethnicity of the detained individual prior to detaining them;
  4. The initial reason for the stop;

5. Whether a search was conducted and if so, whether the detained individual consented to the search;
6. Whether contraband or other evidence was found as a result of a search;
7. A description of the evidence or contraband found during the search;
  - a. Evidence or contraband may include illegal drugs/paraphernalia, currency, weapons, alcohol, stolen property, or anything else related to a criminal offense or investigation.
8. The reason for the search;
  - a. Consent, Plain View, Probable Cause/Reasonable Suspicion, Inventory, or Incident to Arrest.
9. Information related to an arrest;
  - a. Whether the Officer made an arrest as a result of the stop or search.
  - b. If an arrest was made, the reason for the arrest.
    - (1) Violation of Penal Code, Violation of Traffic Law, Violation of City Ordinance, or Outstanding Warrant.
10. Whether the peace Officer used physical force during the stop that resulted in bodily injury, as defined by Texas Penal Code Section 1.07;
11. The location of the stop; and
  - a. City Street, US Highway, County Road, Private Property, or Other.
12. Whether a written warning or a citation was issued as a result of the stop.