

Port Arthur Police Department General Order		2.2
Subject Biased Based Policing/Racial Profiling		
Effective Date June 28, 2017		Revised Date February 7, 2019
TPCA Recognition Program Standards 2.01	CALEA Standards 1.2.9	
Approved By <i>Timothy W. Duriso, 218-198-1256p</i>		Comments Replaces 200-2
Timothy W. Duriso		

I. POLICY

It is the practice of this department to police in a proactive manner and to aggressively investigate suspected violations of law. However, proactive law enforcement must and will continue to be conducted in fullest compliance with the constitutional and statutory safeguards established to preserve the rights of citizens, the prescriptions of case law and the sanctioned policies and practices of this department. All persons having contact with this department will be treated in a nonpartisan, fair, equitable and objective manner, in accordance with law, and without consideration of their race, color, national origin, or other individual characteristics or distinctions as defined in this policy.

II. PURPOSE

The purpose of this order is to affirm the Port Arthur Police Department's commitment to unbiased policing in all its encounters between officers and any persons; to establish procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.

III. DEFINITIONS

- A. **Bias Based Policing or Racial Profiling:** A law-enforcement initiated action based on an individual's race, ethnicity, national origin, religion, economic status, cultural group, gender, age, sexual orientation, or any other identifiable group rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity. The terms "Bias Based" or "Racial Profiling" may be used interchangeably in this policy and shall be interpreted as having the same meaning. (TPCA 2.01)
- B. **Equal Treatment:** Persons, irrespective of race or other distinction, will be treated in the same basic manner under the same or similar circumstances. This does not mean that all persons in the same or similar circumstances can or must be treated identically in all cases. Reasonable concessions and accommodations may be, and sometimes should be made, when dealing with individuals with physical or mental disabilities, injury, illness, infirmity or similar conditions, or when information about them necessitates different treatment.

- C. Pedestrian Stop: The detention of a person by an officer after the officer observes the person violate the law of this state or for furtherance of a criminal investigation.
- D. Race or Ethnicity: Of a particular decent, including Caucasian, African, Hispanic, Asian, or Native American.
- E. Traffic Stop: an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic.

IV. PROHIBITED ACTIONS (TPCA 2.01) (CALEA 1.2.9.a)

- A. Proactive enforcement that is bias based is neither legal, consistent with democratic ideals, values and principles of policing, nor in any way a legitimate and defensible public protection strategy. It is not, cannot, and will not be tolerated by this department.
- B. No officer shall engage in bias based or racial profiling. The race, gender, age, national origin, or sexual orientation of an individual shall not be the sole factor in determining the existence of probable cause, and shall not constitute a reasonable and/or articulable suspicion that an offense has been or is being committed so as to justify the detention or investigatory stop or arrest of an individual.
- C. Officers are strictly prohibited from engaging in bias based or racial profiling as defined in this policy and is applicable to all persons, whether drivers, passengers or pedestrians.

Examples of Bias Based or Racial Profiling include but are not limited to:

1. Citing a driver who is speeding in a stream of traffic where most other drivers are speeding because of the cited driver's race, ethnicity, national origin, gender, age or sexual orientation;
2. Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity, national origin, gender, age or sexual orientation is unlikely to own or possess that specific make or model of vehicle;
3. Detaining an individual based upon the determination that a person of that race, ethnicity, national origin, gender, age or sexual orientation does not belong in a specific part of town or a specific place; and/or
4. Detaining an individual and conducting an inquiry into that person's activities solely because of that individual's race, ethnicity, national origin, gender, age or sexual orientation is bias based profiling.

V. APPROVED ACTIONS (TPCA 2.01)

- A. The prohibition of bias based profiling does not preclude the use of race, ethnicity, national origin, gender, age or sexual orientation as factors in a detention decision. These descriptors may be legitimate factors in a detention decision when used as part of an actual description and used in conjunction with other known factors of a specific suspect for whom an officer is searching.

- B. Enforcement activity should be based on an individual's behavior or on information identifying the individual as having engaged in criminal activity. This policy does not prohibit stopping someone suspected of a crime based upon observed actions and/or information received about the person.

VI. COMPLAINT PROCEDURES

- A. Any individual may file a complaint with the Port Arthur Police Department if they feel that an officer of this agency has engaged in biased based profiling with respect to any individual. No person shall be discouraged, intimidated, or coerced from filing a complaint, nor retaliated against because he or she filed such a complaint. An individual may file a complaint by contacting any supervisor of the Port Arthur Police Department or any personnel assigned to the Professional Standards Division. A complaint may also be filed on the official Port Arthur Police Department website or by regular mail addressed to the Professional Standards Division of the Port Arthur Police Department or the Chief of Police with a mailing address of 645 4th St Port Arthur, Texas 77640.
- B. Officers who witness, who are aware, or who are made aware of instances of bias-based policing will report the incident to their supervisor or Division Commander. All such complaints will be forwarded to the Professional Standards Division.
- C. Complaint and investigative procedures will follow guidelines established in the General Order regarding Personnel Complaint Investigations. Complaints should be submitted within 90 days of the date of the alleged incident in order to preserve evidence of any audio or visual recording; however, complaints will be accepted at any time and investigated consistent with the above referenced policy.
- D. At the commencement of an investigation of a bias based profiling complaint, in which an audio or video recording of the occurrence on which the complaint is based was made, a copy of the recording will be provided to the officer who is the subject of the complaint, upon written request by the officer.
- E. Complaints related to bias based policing will be stored in the Professional Standards Division Database.
- F. Information will be provided to the Chief of Police for administrative review, problem identification and development of corrective action.
- G. After an investigation has been conducted, any officer who is found to have engaged in bias based profiling will receive corrective action, up to and including termination. A single act of bias based profiling in violation of this policy shall not constitute a pattern of racial or bias based profiling.

VII. AUDIO/VIDEO DOCUMENTATION REQUIRED

- A. Each traffic and pedestrian stop made by an officer that is capable of being recorded by video or

audio equipment, as appropriate, will be recorded as required by applicable Written Directives and procedures.

- B. Audio and video documentation of each traffic or pedestrian stop will be retained for no less than ninety (90) days after the date of the stop. If a complaint is filed alleging bias based profiling with respect to a traffic stop or pedestrian stop, the video or audio recording will be retained until final disposition of the complaint.

VIII. INFORMATION COLLECTION AND ANNUAL REPORT (TPCA 2.01) (CALEA 1.2.9.c)

- A. For each traffic stop in which a verbal warning is issued/made, an officer involved in the stop shall collect and enter the following information into the “Stop Data” section of the citation writer handheld device:
 - 1. the information identifying the race or ethnicity of the vehicle operator;
 - 2. whether a search was conducted, and if a search was conducted whether the person detained consented to the search;
 - 3. whether the officer knew the race of the driver prior to the stop;
 - 4. whether physical force was used during the traffic stop resulting in bodily injury to any person;
 - 5. the location of the stop;
 - 6. the reason for the stop;
 - 7. any other information required by the Texas Code of Criminal Procedure.
- B. Information that is collected as stated above shall be compiled in an annual report for the City Council and submitted to the Texas Commission on Law Enforcement in accordance with the Code of Criminal Procedure. This report will also contain a documented annual administrative review of agency practices including citizens concerns.
- C. The information compiled may not contain identifying information about the peace officer or person stopped and arrested.

IX. OFFICER TRAINING AND PUBLIC EDUCATION (TPCA 2.01)

- A. Every officer of the Department will complete mandatory training and education program on racial profiling as required by the Texas Commission on Law Enforcement (TCOLE), within the time frames required by law. The Chief of Police shall complete the training required by Section 96.641 of the Texas Education Code.
- B. Officers will be trained on this topic while in the Field Training Program. In addition, Port Arthur Police Department officers will be trained annually on this policy. (CALEA 1.2.9 b) (TPCA 2.01)
- C. This department will also inform the public of its policy against biased based profiling and the complaint process. Methods that may be utilized to inform the public are the news media, radio, service or civic presentations, Social Media and the Department website, as well as City Council Meetings.