


**STAR HARBOR POLICE DEPT.
GENERAL ORDER MANUAL**

<i>Effective Date</i> January 1, 2022		<i>Amended Date</i>		<i>Directive</i> 2.01.1	
<i>Subject</i> Biased Based Policing and Racial Profiling					
<i>Reference</i>			<i>Approved</i>  Chief of Police		
<i>Distribution</i> All Personnel		<i>TPCA Best Practices Recognition Program Reference</i> 2.01		<i>Review Date</i> January 01, 2023	
				<i>Pages</i> 8	

This Operations Directive 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 a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this Operations Directive, if proven, may only form the basis for a complaint by this Department, and only in a non-judicial administrative setting.

SECTION 1 PURPOSE

The purpose of this policy is to reaffirm the Star Harbor Police Department's commitment to unbiased policing in all of its encounters between officers and any person; to reinforce procedurally just ways 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 dictate of departmental policy and the law.

SECTION 2 POLICY

- A. It is the policy of the department to protect the constitutional rights of all persons. Allegations of racial profiling or discriminatory practices, real or perceived, are detrimental to the relationship between police and the communities they protect and serve because they strike at the basic foundation of public trust. This trust is essential to effective community-based policing. Racial profiling is considered misuse of valuable police resources; such improper methods violate the civil rights of members of the public and may lead to increased exposure to liability for the officer and the department. The department does not endorse, train, teach, support, or condone any type of bias, stereotyping, or racial profiling by its officers. While recognizing that most officers perform their duties in a professional, ethical, and impartial manner, the department is committed to identifying and eliminating any instances of racial profiling.
- B. It is the policy of the department to:
 - 1. provide all people within the community fair and impartial police services consistent with procedural justice, constitutional and statutory mandates;
 - 2. assure the highest standard of integrity and ethics among all our members;
 - 3. respect the diversity and the lawful cultural practices of all people;
 - 4. take positive steps to identify, prevent, and eliminate any instances of racial profiling by our members; and

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5. continue our commitment to community-based policing and problem solving, including vigorous, lawful and nondiscriminatory traffic enforcement that promotes public safety and strengthens public trust, confidence, and awareness
- C. It is the policy of the department to police in a proactive manner and to aggressively investigate suspected violations of law. Officers shall actively enforce local, state and federal laws in a responsible and professional manner without regard to race, gender, ethnicity, or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers, or pedestrians.
- D. Officers, when dealing with the community shall conduct themselves in procedurally just ways, procedurally just behavior is based on four central principles: (1) treating people with dignity and respect, (2) giving individuals "voices" during encounters, (3) being neutral and transparent in decision making and (4) conveying trustworthy motives. These principles lead to relationships in which the community trusts that officers are honest, unbiased, benevolent, and lawful. The community therefore feels obligated to follow the law and the dictates of legal authorities and is more willing to cooperate with and engage those authorities because it believes that it shares a common set of interest and values with the community.

SECTION 3 DEFINITIONS

- 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. **Frisk**: a limited search or patting down of a suspect's outer clothing for the purpose of officer safety. A frisk must be based on reasonable suspicion that the suspect is armed with a deadly weapon, and that if he is not searched and disarmed, harm will come to the officer or another person. A limited search or frisk of an automobile after a valid stop is permissible if the officer has reasonable suspicion the suspect is dangerous and might gain immediate control of a weapon. The search is limited to the areas in which a weapon may be placed or hidden.
- E. **Gender**: unlike sex, a psychological classification based on cultural characteristics or traits.
- F. **Gender Profiling**: is defined as a law enforcement-initiated action based on an individual's gender rather than on the individual's behavior or involvement in criminal activity.
- G. **Procedural Justice**: the way officers and other legal authorities interact with the public and how the characteristics of those interactions shape the public's trust of the police
- H. **Probable Cause**: is defined as more than bare suspicion; it exists when the facts and circumstances within the officer's knowledge and of which they have reasonably trustworthy information are sufficient

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in themselves to warrant a person of reasonable caution to believe that an offense has been or is being committed.

- I. **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.
- J. **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. The term is not relevant as it pertains to witnesses, complainants, persons needing assistance, or other citizen contacts.
 1. Examples of racial profiling include, but are not limited to, the following:
 - a. Citing a driver because of the cited driver's race, ethnicity, or national origin; or
 - b. detaining the driver of a vehicle based on the determination that a person of that race, ethnicity, or national origin is unlikely to own or possesses that specific make or model of vehicle; or
 - c. detaining an individual based upon the determination that a person of that race, ethnicity, or national origin does not belong in a specific part of town or a specific place
- K. **Reasonable Suspicion** is defined as specific, articulable facts leading a reasonable police officer to believe that a person has committed, is committing, or may be about to commit a crime. Reasonable suspicion is less than probable cause, but more than a mere hunch. Reasonable grounds for suspicion depend on the circumstances in each case. There must be an objective basis for that suspicion based on facts, information, and/or intelligence.
- L. **Sex:** a biological classification, male or female, based on physical and genetic characteristics.
- M. **Search:** an examination or exploration of an individual's house, premises, vehicle or person to discover stolen property, contraband or other items that may be evidence of a crime.
- N. **Search incident to arrest:** a full search of an arrested person and of the vicinity around him or her. The search is conducted for officer safety and to prevent the destruction of evidence.
- O. **Consent search:** a search permitted by a person with apparent authority to allow the search. To be valid, consent must be voluntary and intelligent, based on a totality of circumstances. Voluntary means that the consent was not forced or coerced. Intelligent means the person giving consent must know what he or she is doing.
- P. **Inventory:** an administrative process by which items of property in an impounded vehicle are listed and secured. An inventory is not a search and should not be used as a substitute for a search. The specific objectives of an inventory are to protect the property of the defendant, to protect the police against any claim of lost property, and to protect police personnel and others from any dangerous instruments.

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- Q. **Pedestrian Stop**: an interaction between a peace officer and an individual traveling on foot who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.
- R. **Traffic Stop**: vehicle stops whereas a peace officer stops a motor vehicle for an alleged violation of law or ordinance regulating traffic.

SECTION 4 PROCEDURES

A. GENERAL RESPONSIBILITIES

1. Officers are prohibited from engaging in racial 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.
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 be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, pedestrian stops, arrests, nonconsensual searches, and property seizures. Except as provided in number three (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. 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, 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 a prolonged detention once reasonable suspicion has been dispelled.

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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's process and shall give copies of "How to Make a Complaint" 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 concluding an encounter, personnel shall thank him or her for cooperating.
8. 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.
9. 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.

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7. Supervisors shall facilitate the filing of any complaints about law- enforcement service.

C. DISCIPLINARY CONSEQUENCES

1. Failure to report any observed or known violations of this policy by any police department employee shall result in corrective action being taken against the employee.
2. Officers found in violation of this policy or who have a sustained racial profiling complaint shall be subject to corrective action which may include, diversity, sensitivity, or other appropriate training, counseling, a written reprimand, suspension from duty with or without pay, indefinite suspension, or other appropriate action as determined by the Chief of Police.

D. COMPLAINTS

1. Any person may file a complaint with the department if they believe they have been stopped or searched on the basis of their race, ethnicity, national origin, sexual orientation, religion, economic status, age cultural group, gender or any other identifiable group. No person shall be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because they have filed such a complaint.
2. A complaint from a citizen regarding racial profiling may be made to any police department employee. A complaint from a citizen can be made by writing a letter, calling the police department and requesting a police supervisor to their location (inside the city limits) or by coming to the police station. If, after discussing the complaint with a supervisor the citizen wishes to file a formal complaint they must complete and sign a formal written complaint. All complaints received shall be forwarded in writing through the chain of command to the Chief of Police.
3. In addition to the formal written complaint, the supervisor receiving the complaint shall complete a memo and obtain the digital video from the officer's vehicle. The supervisor shall label the digital video, indicating the unit number and date and time the video was pulled from the unit. The video will be forwarded with the written formal complaint and the supervisor's memo through the chain of command to the Chief of Police by the end of the supervisor's tour of duty. All videos of incidents alleging racial or gender profiling shall be retained with the investigative file.
4. The Chief of Police will then investigate the complaint.
5. The department shall provide education to the public concerning the complaint process. Written information regarding how a citizen may file a complaint or issue a commendation for an officer shall be made available to the public at a variety of locations, including public meetings, in the lobby of the public safety building and City Hall. This information shall also be available on the department's website (<https://cityofstarharbor.com>)

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E. COMPLAINTS

1. Each officer shall be required to collect information relating to all motor vehicle traffic stops by documenting the required information on a traffic citation or a written warning. All self-initiated traffic stops made whether or not a citation or written warning is issued, the officer shall complete a racial profiling incident report in the Racial Profiling Module. The racial profiling incident report can be completed through the use of the in car computer program Visual MCT, a computer at the Star Harbor Police station with the computer program MOBLAN or RMS or at the jail through Visual MCT, MOB LAND or RMS.
2. The officer will document the following information in the Racial Profiling Module following a motor vehicle stop:
 - a. the date and time of the stop;
 - b. the duration of the stop;
 - c. whether the stop was video recorded;
 - d. the location of the stop;
 - e. the stopped subject's gender;
 - f. the stopped subject's race or ethnicity;
 - g. if the stopped subject's race or ethnicity was known prior to the stop;
 - h. the residency status of the stopped subject;
 - i. the type of stop;
 - j. the reason for the stop;
 - k. if a search was conducted;
 - l. the authority of the search;
 - m. if any type of illegal contraband was located during the search;
 - n. the result of the stop; and
 - o. any charges filed
 - p. **If physical force resulted in bodily injury used during stop;**
3. Once an officer has completed the racial profiling incident report it should be submitted into the Records Management System. Officers should complete and submit all required racial profiling incident report(s) by the end of their duty shift unless the officer receive permission to turn the report(s) in the following day from their direct supervisor. If permission is granted by the officer's

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direct supervisor, the officer should complete and submit the report(s) by the end of their next duty shift.

4. By March of each year, the department shall submit a written report to the City Council that includes the information gathered from the traffic stops in the preceding calendar year. The report will include:
 - a. a breakdown of traffic stops by race and ethnicity;
 - b. the number of traffic stops that resulted in a search and the basis for the searches;
 - c. the number of searches that resulted in contraband being discovered and, if so, the type of contraband; and
 - d. the number of traffic stops that resulted in custodial arrests
5. The Operations Division Assistant Chief of Police shall be responsible for providing a report to the Chief of Police that contains this information.

F. RACIAL PROFILING TRAINING

1. Officers are responsible to adhere to all Texas Commission on Law Enforcement training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.
2. All officers shall complete Texas Commission on Law Enforcement training and education program on racial profiling not later than the second anniversary of the date the officer is licensed under Chapter 1701, Texas Occupation Code, or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. At the discretion of the Chief of Police, additional diversity and sensitivity training may be required for officers with sustained racial profiling or other discrimination complaints filed against them.
3. The Chief of Police, as part of the initial training and continued education for such appointment, will be required to attend the Law Enforcement Management Institute of Texas program on racial profiling.
4. Supervisors shall conduct periodic roll call training regarding racial profiling issues, including implementation and enforcement of this policy.

G. SCOPE OF RESPONSIBILITY

1. All members of the department shall know and comply with all aspects of this directive.