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|--|---|-----------|-------------|---|
|  | Greenville Police Department Policies & Procedures | | |  |
| | Distribution: All Personnel | | | |
| | Effective: 06/04/2012 | TBP: 2.01 | Page 1 of 7 | |
| | Revised: 05/15/2019 | | | |
| | Reviewed: 05/15/2019 | | | |
| Policy Number: 2.2 | Biased Based Policing | | | |
| <i>Scott Smith</i> | | | | |

I. POLICY

The Greenville Police Department employees 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, national origin, ethnicity, age, or religion. All people carry biases: in law enforcement, however, 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 purposes), 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 statutory authority. In all enforcement decisions, officers shall be able to articulate specific facts, circumstances, and conclusions which 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, sex, sexual orientation, gender, national origin, ethnicity, age, or religion. Officers shall base all such actions on a reasonable suspicion that the person or an occupant of a vehicle committed an offense.

All Departmental orders are informed and guided by this directive. Nothing in this order 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 order. 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 which may be 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/her race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. (TBP 2.01)

| | | | | |
|--|---|------------------|--------------------|---|
|  | Greenville Police Department Policies & Procedures | | |  |
| | Distribution: All Personnel | | | |
| | Effective: 06/04/2012 | TBP: 2.01 | Page 2 of 7 | |
| | Revised: 05/15/2019 | | | |
| | Reviewed: 05/15/2019 | | | |
| Policy Number: 2.2 | Biased Based Policing | | | |
| <i>Scott Smith</i> | | | | |

- C. Ethnicity - A cluster of characteristics which may include race but also cultural characteristics or traits which 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 an offense has been or is being committed, and the suspect has committed it.
- F. Race - A category of people of a particular decent, including Caucasian, African American, Hispanic, Asian, Middle Eastern, or Native American descent. As distinct from ethnicity, race only refers 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.
 - 1. Examples of racial profiling include but are not limited to the following:
 - a. 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, or national origin.
 - b. Detaining the driver of a vehicle based on the determination a person of that race, ethnicity or national origin is unlikely to own or possess that specific make or model of vehicle.
 - c. Detaining an individual based upon the determination a person of that race, ethnicity, or national origin does not belong in a specific part of town or a specific place.
 - 2. A law enforcement agency can derive two principles from the adoption of the definition of racial profiling:
 - a. Police may not use racial or ethnic stereotypes as factors in selecting whom to stop and search, while police may use race in conjunction with other known factors of the suspect.
 - b. Law enforcement officers may not use racial or ethnic stereotypes as factors in selecting whom to stop and search. Racial profiling is not relevant as it pertains to witnesses, etc.
- H. Reasonable Suspicion - Articulate, objective facts which lead an experienced officer to suspect 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 stops based on reasonable suspicion be "objectively reasonable."
- I. Sex - A biological classification, male or female, based on physical and genetic characteristics.
- J. Stop - The detention of a subject for a brief period of time, based on reasonable suspicion. A stop is an investigative detention.

| | | | | |
|--|---|-----------|-------------|---|
|  | Greenville Police Department Policies & Procedures | | |  |
| | Distribution: All Personnel | | | |
| | Effective: 06/04/2012 | TBP: 2.01 | Page 3 of 7 | |
| | Revised: 05/15/2019 | | | |
| | Reviewed: 05/15/2019 | | | |
| Policy Number: 2.2 | Biased Based Policing | | | |
| <i>Scott Smith</i> | | | | |

IV. PROCEDURES

A. General responsibilities

1. Officers are prohibited from engaging in 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, national origin, citizenship, religion, ethnicity, age, gender, color, creed, sexual orientation, disability, or economic status. 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. Reasonable suspicion or probable cause shall form the basis for any enforcement actions or decisions. Individuals shall only be subjected to stops, seizures, or detention 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.
3. 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.
4. All personnel shall treat everyone with the same courtesy and respect they would have others observe to Department personnel. To this end, personnel are reminded 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, personnel shall provide information on the complaint process and shall give a copy of the "Compliment and Complaint Procedure" brochure when appropriate.
5. When feasible, personnel shall offer explanations of the reasons for enforcement actions or other decisions bearing on the individual's well-being unless the explanation would undermine an investigation or jeopardize an officer's safety. When concluding an encounter, personnel shall thank him/her for cooperating.

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|--|---|-----------|-------------|---|
|  | Greenville Police Department Policies & Procedures | | |  |
| | Distribution: All Personnel | | | |
| | Effective: 06/04/2012 | TBP: 2.01 | Page 4 of 7 | |
| | Revised: 05/15/2019 | | | |
| | Reviewed: 05/15/2019 | | | |
| Policy Number: 2.2 | Biased Based Policing | | | |
| <i>Scott Smith</i> | | | | |

6. 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.

7. 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 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 personnel, by their actions, maintain the community's trust in law enforcement.
4. Supervisors are reminded 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. Supervisors shall be held accountable for repeated instances of biased enforcement of their subordinates.
5. Supervisors shall ensure all enforcement actions are duly documented per Departmental policy. Supervisors shall ensure all reports show adequate documentation of reasonable suspicion and probable cause, if applicable.
6. Supervisors shall facilitate the filing of any complaints about law enforcement service.

C. Disciplinary consequences

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

D. Training (TBP: 2.01)

1. Officers are responsible to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.

| | | | | |
|--|---|-----------|-------------|---|
|  | Greenville Police Department Policies & Procedures | | |  |
| | Distribution: All Personnel | | | |
| | Effective: 06/04/2012 | TBP: 2.01 | Page 5 of 7 | |
| | Revised: 05/15/2019 | | | |
| | Reviewed: 05/15/2019 | | | |
| Policy Number: 2.2 | Biased Based Policing | | | |
| <i>Scott Smith</i> | | | | |

2. All officers shall complete the TCOLE training and education program on bias based profiling not later than the second anniversary of the date the officer is licensed under Chapter 1701 of the Texas Occupations Code or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.
3. The Chief of Police, as part of the initial training and continued education for such appointment, will be required to attend the LEMIT program on racial profiling.
4. Supervisors shall conduct periodic roll call training regarding racial profiling and biased based policing issues including implementation and enforcement of this policy.

V. USE OF VIDEO EQUIPMENT

1. Each motor vehicle regularly used by this Department to make traffic and pedestrian stops is equipped with a video camera and transmitter-activated equipment. ~~Each motor cycle regularly used by this Department to make traffic and pedestrian stops is equipped with transmitter-activated equipment.~~
2. Each traffic and pedestrian stop made by an officer of this Department capable of being recorded by video and audio is recorded.
3. This Department shall retain the video and audio recordings or audio recordings of each traffic and pedestrian stop for at least one hundred and eighty (180) days after the date of the stop. If a complaint is filed with this Department alleging one of our officers has engaged in bias based profiling with respect to traffic or pedestrian stop, this Department shall retain the video and audio recordings, or audio recordings of the stop until final disposition of the complaint.
4. Supervisors will ensure officers of this Department are recording their traffic and pedestrian stops. The supervisory review of the in-car camera and/or body camera shall consist of a minimum of three (3) random videos ~~each quarter (3 months) every January and July~~ **each quarter (3 months) every January and July** ~~six (6) months~~ per officer. This review is intended to gain an understanding of the officer's performance and adherence to policy and law. Supervisors reviewing the recordings who discover policy violations, acts constituting bias based profiling, or other acts of misconduct shall immediately notify the Assistant Chief of Police. If necessary, the Assistant Chief of Police will open an Internal Affairs investigation. (TBP 2.01)
5. Each shift supervisor shall be responsible for ensuring the video reviews are conducted and documented. A Video Recording Review V-012 (Appendix 2.2 A) containing the dates each officer was reviewed and the supervisor who conducted each review shall be prepared and submitted to the Assistant Chief of Police's Executive Secretary, who shall maintain a log of the reviews.

| | | | | |
|--|---|-----------|-------------|---|
|  | Greenville Police Department Policies & Procedures | | |  |
| | Distribution: All Personnel | | | |
| | Effective: 06/04/2012 | TBP: 2.01 | Page 6 of 7 | |
| | Revised: 05/15/2019 | | | |
| | Reviewed: 05/15/2019 | | | |
| Policy Number: 2.2 | Biased Based Policing | | | |
| <i>Scott Smith</i> | | | | |

6. Additional review shall occur whenever:
 - a. An officer is involved in a pursuit;
 - b. An officer is involved in a use of force recorded by the system;
 - c. A complaint is lodged against an officer; or
 - d. A supervisor articulates a reason to suspect an officer is involved in activity contrary to the mandates of the Policy and Procedures.

7. If the equipment used to record audio and/or video of traffic or pedestrian stops is malfunctioning or otherwise not operable, the officer making the stop may properly record and report the information as required in Section VII. Record Keeping.

VI. COMPLAINTS

- A. The Department shall publish "Compliment and Complaint Procedure" brochures and make them available at the Police and Courts Building and the Human Resource Office located in City Hall. The Department's complaint process and its bias based profiling policy will be posted on the Department's website. Whenever possible, the media, civic presentations, as well as City Council meetings will be used to inform the public of the Department's policy and complaint process. Additionally, information will be made available as appropriate in languages other than English. This meets the standards for the Code of Criminal Procedure Article 2.132.

- B. Complaints alleging incidents of bias based profiling will be fully investigated in accordance to the Department's Internal Investigation Procedures.

- C. Complainants will be notified of the results of the investigations upon completion.

VII. RECORD KEEPING

- A. The Department will maintain all required records on traffic stops pursuant to state law.

The officer will document the following:

1. The violator's gender and race or ethnicity;
2. The initial reason for the stop;
3. Whether a search was conducted and if so, was the search consensual;
4. Was any contraband or other evidence discovered;
5. The reason for the search including:
 - a. whether any contraband or other evidence was in plain view;

| | | | | |
|--|---|-----------|-------------|---|
|  | Greenville Police Department Policies & Procedures | | |  |
| | Distribution: All Personnel | | | |
| | Effective: 06/04/2012 | TBP: 2.01 | Page 7 of 7 | |
| | Revised: 05/15/2019 | | | |
| | Reviewed: 05/15/2019 | | | |
| Policy Number: 2.2 | Biased Based Policing | | | |
| <i>Scott Smith</i> | | | | |

- b. any probable cause or reasonable suspicion existed to perform the search;
- c. whether the search result of towing of the motor vehicle or the arrest of any person in the motor vehicle.

6. Arrest made as result of the stop or search including a statement of whether arrest based on:

- a. violation of the Penal Code,
- b. violation of a traffic law or ordinance, or
- c. an outstanding warrant and a statement of the offense charged

7. The street address or approximate location of the stop;

8. Whether a written warning or a citation was issued as a result of the stop;

9. Whether physical force was used that resulted in bodily injury; and

10. Whether the race/ethnicity was known prior to the stop?

B. By March 1 of each year, the Chief of Police shall submit a report to the city council including the information collected above for the previous calendar year. The information compiled may not contain identifying information about the peace officer or person stopped and arrested. The report will contain a documented annual administrative review of agency practices including citizen concerns.

<http://www.ci.greenville.tx.us/index.aspx?nid=737>

C. The information will also be reported to TCOLE in the required format by the Support Services Captain.

<http://tcole.texas.gov/> Click on Racial Profiling Submission.

D. The Crime Analyst / Planner Unit shall be responsible for providing a report to the Chief of Police containing this information.