



# WESTERLY POLICE DEPARTMENT

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## IMPARTIAL POLICING

### I. PURPOSE

The purpose of this policy is to affirm The Westerly Police Departments commitment to impartial unbiased policing and prohibit discriminatory practices by any of its members.

### II. POLICY

It is the policy of this Department that all its members respect and protect the constitutional rights of all individuals when executing their duties. In addition to respect for those human rights prescribed by law, Department members will treat all persons with courtesy and dignity. Officers will act, speak and conduct themselves in a professional manner, and maintain a courteous, professional attitude in all contacts with the public. In the absence of any specific report, the actual or perceived race, ethnic background, color, age, gender, sexual orientation, religion, economic status, cultural group or any other identifiable group of any person will not be the basis for the detention, interdiction or other disparate treatment of any individual by any member of the Department.

This policy is not intended to preclude officers from engaging in enforcement obligations or community care-taking functions.

### III. DEFINITION

**Bias Based Profiling** - The arrest, detention, interdiction, or other disparate treatment of an individual on the basis of their race, ethnic background, age, gender, sexual orientation, religion, economic status, cultural group or other identifiable group of such individual, except when such status is used in combination with other identifying factors in seeking to apprehend a specific suspect whose racial or ethnic status is part of the description of the suspect.

**Reasonable Suspicion:** Also known as articulable suspicion. Suspicion that 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 that 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.

**RMS** : Records Management System (aka IMC)

### IV. LAW

1. § 31-21.2-5 a - Unless there exists reasonable suspicion or probable cause of criminal activity, no motor vehicle stopped for a traffic violation shall be detained beyond the time needed to address the violation. Nothing contained herein shall prohibit the detention of a motor vehicle for a reasonable period of time for the arrival of a canine unit or subsequent criminal investigation if there is reasonable suspicion or probable cause of criminal activity.
2. § 31-21.2-5 b - No operator or owner-passenger of a motor vehicle shall be requested to consent to a search by a law enforcement officer of his or her motor vehicle, that is stopped solely for a traffic violation, unless there exists reasonable suspicion or probable cause of criminal activity. No pedestrian shall be requested to consent to a search by a law enforcement officer of his or her person, unless there exists reasonable suspicion or probable cause of criminal activity. No juvenile shall be requested to consent to a search by a law enforcement officer unless there exists reasonable suspicion or probable cause of criminal activity. In those instances, in which a warrant would be required, a law enforcement officer must advise the juvenile that he or she may refuse to consent to, or limit the scope of, any requested search. The determination of age of the individual shall be based on the perception of the officer making a good faith effort in advance of requesting consent. Nothing contained in this subsection shall be construed to prohibit a law enforcement officer from conducting a pat down search for weapons based upon a reasonable belief that the officer's personal safety may be jeopardized.
3. § 31-21.2-5 c - Each search conducted by a law enforcement officer that does not result in criminal charges shall be documented in a computer-aided dispatch (CAD) entry or other police-generated report. Each search conducted by a law enforcement officer that results in criminal charges shall be documented in a police-generated report. The CAD entry or formal police report shall include the date, time, and location of the stop/search, along with the "reasonable suspicion" or "probable cause" leading to the search. The CAD entry or formal police report shall also include the race, age, and

gender of the individual(s) searched and the results of the search. The document, exclusive of information identifying the law enforcement officer, shall be a public record, subject to the access to public records act, § 38-2-2(4)(D), law enforcement exemptions. For purposes of this section, "computer-aided dispatch" (CAD) means an electronic system used by public safety agencies to facilitate incident response and communications in the field that electronically records information on call taking, dispatching, location verification, mapping, and other functions for public safety.

4. § 31-21.2-5 d - With the exception of operators who are subject to federal motor carrier regulations, no operator of a motor vehicle shall be requested to provide any documentation or identification other than a driver's license, motor vehicle registration, and/or proof of insurance when the motor vehicle has been stopped solely for a traffic violation, unless there exists reasonable suspicion or probable cause of criminal activity or the operator has failed to produce a valid driver's license.
5. § 31-21.2-5 e - If a violation of the traffic laws in this title is used to stop a motor vehicle for non-related investigatory reasons, the law enforcement officer shall document in writing or electronically the investigatory basis for the stop.
6. § 31-21.2-5 h - Law enforcement officers shall advise any motorist who is stopped of the reason for the stop.
7. § 31-21.2-6 j - Supervisors shall review each officer's stop and search documentation, and data results on a monthly basis to ensure compliance with all policies, prohibitions, and documentation requirements.
8. § 31-21.2-6 k - The Chief of Police, or designee, shall review the data on a regular basis in an effort to determine whether any racial disparities in the agency's traffic stop enforcement exists, and to appropriately respond to any such disparities. It is understood that disparities may or may not equate to racial profiling.
9. §31-21.2-7 c - The Department will submit reports to the office of highway safety of the department of transportation, or its designee, as required by the statute.
10. § 31-21.2-8 c - The Chief of Police or designee shall prepare a report regarding information on complaints of police misconduct involving members of the Department on an annual basis and publish it in the agency's annual report and/or on its website. The information compiled shall include the total number of complaints received from the public, a breakdown by category of the type of complaint and a further breakdown by category of the disposition of the complaints.

## **V. PROCEDURE**

### **1. Prohibition of Bias Based Profiling**

- a. Officers must be able to clearly articulate the specific police or public safety purpose of any traffic or street stop.
- b. Officers are strictly prohibited from using actual or perceived race, ethnic background, age, gender, sexual orientation, religion, economic status, cultural group or other identifiable group of such individual as the sole basis for developing reasonable suspicion or grounds for a traffic or street stop, or in deciding upon the scope and substance of post-stop action.

- c. This policy does not prohibit, as part of an investigation, the use of a person's race, nationality, ethnicity, gender, sexual orientation, disability, religion, age, culture group, or association with any other identifiable group, or any combination of such factors, as a part of a specific description of a suspect, witness, or victim, when such information is relevant, reliable, and credible.

## **2. Documentation of Stops**

- a. Motorists and pedestrians shall only be subjected to stops, seizures or detentions upon reasonable suspicion that they have committed, are committing, or are about to commit an infraction. Each time a motorist is stopped, the officer shall radio to the dispatcher the location of the stop, the description of vehicle being detained, and when warranted, the number of occupants and reason for the stop. All motor vehicle and pedestrian stops shall be logged into the departments RMS with all pertinent information and proper reports shall be filled out by the officer when required by statute or policy.

## **3. Detention and Search**

- a. Unless there exists reasonable suspicion or probable cause of criminal activity, no person(s) or motor vehicle stopped shall be detained beyond the time needed to conduct an investigation or address a violation.
- b. Unless there exists reasonable suspicion or probable cause of criminal activity, no operator or owner-passenger of a motor vehicle shall be requested to consent to a search by an officer of his or her motor vehicle, that is stopped solely for a traffic violation.
- c. In each case where a search is conducted, this information shall be recorded in an appropriate report, including the legal basis for the search, and the results thereof.
- d. It is recommended that consent searches be conducted with written consent, using the proper department form.
- e. If the individual indicates that they will consent to a search but are refusing to sign the form, fill out the form anyway and indicate "consented to search but refused to sign", inserting initials and the signature of any witness in the signature block.
- f. No pedestrian shall be requested to consent to a search by an officer of his or her person, unless there exists reasonable suspicion or probable cause of criminal activity.
- g. No juvenile shall be requested to consent to a search by an officer unless there exists reasonable suspicion or probable cause of criminal activity.
- h. In the event that a person is found to have a detainer from the Department of Immigration through an IAQ (INS Alien Query,) said person shall be taken into custody and held for a reasonable period of time until the Department of Immigration confirms that they will take custody of suspect. This confirmation process shall be conducted by the supervisor.
- i. Nothing contained in this subsection shall be construed to prohibit an officer from conducting a pat down search for weapons based upon a reasonable belief that the officer's personal safety may

be jeopardized.

#### **4. Complaints of Biased Based Profiling**

- a. All citizen complaints that allege officer misconduct will be documented and investigated by the department in accordance with the professional standards internal complaint review policy. (130.01)
- b. Any person who tells an officer that they wish to file a complaint shall be provided with the name of the officer's immediate supervisor, and the telephone number for the Department.
- c. Any officer who is accused on scene of biased based profiling by any person, shall report the incident to their supervisor as soon as practical at the conclusion of the contact.
- d. Supervisors shall review profiling accusations and complaints, formal or informal, that they are aware of against their subordinates.

#### **5. Disciplinary Procedures**

- a. Progressive discipline in accordance with, Disciplinary Procedures, will be implemented for non-compliance with this policy.
- b. Failure to report any observed or known violations of this policy by any member of the Department will result in disciplinary action.

#### **6. Training**

All Department officers will receive training at least once every three years on the harms of bias-based profiling and discrimination, including legal aspects and a review of this policy.

#### **7. Oversight**

- a. Any employee who believes there is, or is made aware of any violation of this policy, will immediately report it to his/her immediate supervisor.
- b. All complaints of bias based profiling or discriminatory practices will be investigated in accordance with the established internal affairs procedures.
- c. Traffic enforcement, detention, and search procedures, will be accompanied by consistent, ongoing supervisory oversight to ensure that officers do not go beyond the parameters of reasonableness and lawfulness in conducting such activities.
- d. Each supervisor will be responsible for monitoring and examining all stop and search documentation and data results on a monthly basis in the departments RMS for all officers under their direct supervision to ensure that officers' actions and activities adhere to this policy and to discover any indications of racial profiling or discriminatory practices.

- e. The Chief of Police, or designee, shall review the data on a regular basis in an effort to determine whether any racial disparities in the agency's traffic stop enforcement exists, and to appropriately respond to any such disparities.
- f. The Chief of Police, or designee, shall submit reports to the office of highway safety of the Rhode Island department of transportation, or its designee.

By Order of:



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Shawn M. Lacey  
Chief of Police