



# Ocean City Police Department

## General Order

<b>Subject:</b> Bias Based Profiling		<b>No.</b> G.O. 200 H-2	
<b>Rescinds:</b>	<b>Amends:</b> G.O. 200 H-2 Dated 08/10/11	<b>Related Directive:</b> S.O.P. - ADM 007 & S.O.P –OPS 021	
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<b>References:</b> Maryland Vehicle Law 25-113 MPCTC – “Proactive Traffic Stops” and “General Police Patrol Tactics” Maryland Criminal Code – Criminal Law 4-206			

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## I. Purpose

The purpose of this Policy is to set parameters regarding the use of profiling as a law enforcement tool. A profile is a set of characteristics which can arbitrarily ascribe to human behavior or to a social situation, and by which police officers judge, evaluate, and categorize people, places, and things. These characteristics are derived from a police officer's life experiences and training, and are applied either consciously or sub-consciously.

Police intuitively form insights regarding people they professionally interact with, particularly the criminal element. From these associations, police develop a mental profile of certain characteristics that are habitually associated with specific acts of criminal behavior. Essentially, methods of operation (M.O.) and criminal profiles are closely related concepts. Based on a criminal's M.O., an experienced and insightful police officer can usually formulate a reasonably accurate profile of the perpetrator. Profiling, in and of itself, is a useful tool to assist law enforcement officers in carrying out their duties.

"Bias based profiling" occurs when an officer selects individuals based solely on a common immutable trait of a particular group as a basis of enforcement. Bias based profiling includes, but is not limited to, taking law enforcement action based solely on a person's race, ethnic background, gender, sexual orientation, religion, economic status, age, culture or some other identifiable feature. Bias based profiling undermines legitimate law enforcement efforts and can lead to claims of civil rights violations. Additionally, bias based profiling alienates citizens and fosters distrust of law enforcement by the community.

## II. Definitions

- A. **Bias Based Profiling:** Police-initiated action based solely on race, gender, age, ethnicity, sexual orientation, religion, or cultural group rather than reasonable articulable suspicion, probable cause or knowledge of unlawful activity.
- B. **Investigative Stop:** The brief detention of an individual, whether on foot or in a vehicle, based on at least reasonable suspicion for the purpose of attempting to determine the individual's identity and to resolve the officer's suspicions. Information may originate with another officer, a citizen, the Communications Center (includes BOLOs), or by independent investigation.
- C. **Reasonable Suspicion:** Articulable facts that, within the totality of the circumstances, lead an officer to reasonably suspect that criminal activity has been, is being or is about to be committed.
- D. **Traffic Stop:** A vehicle stop initiated as a result of an observed/ reported violation of the Maryland Vehicle Law. The report of a traffic violation may originate with another officer, citizen witness, or Emergency Communications Center.

- E. **Maryland Vehicle Law § 25-113 – Race Based Traffic Stops:** A provision of the Maryland Vehicle Law that requires a law enforcement officer to collect and report specific information associated with his/her traffic stop.
- F. **Written Documentation:** Completed forms which identify the details of a police contact, specifically: Maryland Uniform Complaint and Citation (State Citation), Maryland Safety Equipment Repair Order (S.E.R.O.), O.C.P.D Written Warning (Warning), Call For Service (C.F.S.) Report, Traffic Stop Data Form (T.S.D.F.), Incident Report (I/R), and Field Interview Report (F.I.R.).

### III. Policy

The Department is committed to the protection of human and civil rights for all people and to carrying out law enforcement responsibilities in a nondiscriminatory manner in accordance with the United States Constitution and the Maryland Declaration of Rights. The Department will assure that every person is treated fairly and provided equal protection under the law. Officers shall not take any law enforcement actions based solely on race, gender, age, ethnicity, sexual orientation, religion, or cultural group.

### IV. Principles

- A. All law enforcement actions, such as traffic stops, investigative stops, arrests, or searches and seizures will be based on reasonable and articulable suspicion or probable cause supported by specific facts that the person contacted/detained has committed or is about to commit a crime, or is engaged in suspicious activity, or is presenting a threat to the safety of others or themselves as required by State statutes and the U.S. Constitution.
- B. Officers must be able to articulate specific facts, circumstances, and conclusions which support their actions. Police officers should always rely on their training, experience, knowledge, specific facts at hand, and circumstances of the incident when taking enforcement action.
- C. Biased based profiling in traffic contacts, field contacts, asset seizure, and any other law enforcement actions are prohibited. If information is developed that an officer is allegedly engaged in bias based profiling, the officer will be closely monitored. The officer's supervisor and/or commander will be notified of the perceived problem if they are not the originator of the complaint. Officers found to engage in a pattern of bias based profiling will be subject to counseling, remedial training and/or disciplinary measures which could include termination from employment.
- D. Nothing in this, or any other policy, alters an officer's authority to conduct enforcement actions or otherwise fulfill his enforcement obligations.

**V. Documentation – Traffic Stops**

- A. An officer initiating a traffic stop shall inform the driver of the offense or suspected offense that is the basis for the stop. No debate over the circumstances of the stop should occur nor should this be an opportunity to pass judgment on the driver.
- B. An enforcement action (State Citation, S.E.R.O., or Traffic Warning) must be issued when an officer establishes that a traffic violation did occur. If an officer determines that no violation occurred (i.e. seatbelt was not evident but was in use, apparent equipment violation did not actually exist, etc.) the officer may conclude the stop without issuing any documentation to the vehicle operator. The officer shall inform the driver of the error and ask the driver if he/she has any questions. The officer should provide the driver with his/her name and contact information should a question regarding the stop arise later.
- C. If an arrest is made as the result of a traffic stop, the officer should still issue a State Citation, S.E.R.O. or Warning to address the initial violation that warranted the traffic stop.
- D. An Incident Report (IR) must be completed if an arrest or search occurs as a result of the traffic stop. In the event the officer obtains “consent” to conduct a search, an Incident Report (IR) is not required but a notation of the consent search must be documented in the CFS Report notes section.
- E. If the traffic stop meets the definition of Maryland Vehicle Law 25-113, an officer shall assure race-based data is collected and submitted as directed through Standard Operating Procedure SOP-ADM 007

**VI. Documentation – Investigative Stops: Individual/Motor Vehicle**

- A. Appropriate written documentation is mandatory for every investigative stop.
  - 1. A Field Interview Report (F.I.R.) shall be used when appropriate.
  - 2. An Incident Report (IR) is required in the event detainment is prolonged, a search is conducted, and/or an arrest is made.
  - 3. In the event a police officer performs a “limited” search (referred to as a “pat-down”) as a result of his/her belief a subject is carrying/wearing/transporting a handgun, the officer must comply with the provisions of Maryland Criminal Law Section 4-206 entitled Limited Search Seizure and Arrest as well as reporting requirements in this Policy.
  - 4. Specific requirements regarding reporting of investigative stops are outlined in SOP-OPS 021.

- B. Incident Reports (IR) required under this Section must be completed and submitted for review to a supervisor within twenty-four (24) hours of the incident.
- C. At the appropriate time, the officer conducting the investigative stop shall explain the circumstances surrounding the stop and respond to inquires made by the detainee(s) of the officer's actions.
- D. The officer shall provide the detainee with his/her name and contact information should a question regarding the stop/detention arise later.

**VII. Termination of Detentions**

The requirement to document all investigative initiatives shall not prevent an officer from abruptly diverting to respond to a priority call (emergency response). If necessary, the officer should briefly explain his/her actions to the violator and respond to the priority call without issuing any documentation to the violator. The officer shall later complete the appropriate form (Warning/F.I.R.) to document the stop. This will allow the date, time, location, officer, and reason to be recorded.

**VIII. Training**

All employees will receive initial and periodic training in bias based profiling issues that promote and encourage impartial policing and prevent the creation, adoption or use of inappropriate stereotypes. Applicable training may include, but is not limited to, departmental policy and practice, State mandates, officer safety, courtesy, cultural diversity, search and seizure issues and legal aspects, asset seizure and forfeiture, interview techniques, interpersonal communication skills, constitutional and case law, field contacts and motor vehicle stops.

**IX. Audits**

The Office of Professional Standards will routinely review C.F.S. reports, State Citations, S.E.R.O.s, Warnings, T.S.D.F., M.C.T. messaging, in-car digital recordings, and Incident Reports (IR) of traffic stops and investigative stops in an effort to assure compliance with this Policy.