

Waltham Police Department BIAS-FREE POLICING CHAPTER 4

General Order #: GO-01 2009

Effective Date: 05/2009, 05/2014, 03/2016, 05/17

Accreditation Standard #: 41.4.0

PURPOSE:

It is the mission of the Waltham Police Department to affirmatively promote, preserve and deliver a feeling of security, safety and to provide quality services to all members of our community. We are committed to the tenet of quality performance from all members of our Department.

POLICY:

It is the policy of the Waltham Police Department that, except in “suspect specific incidents,” police officers are prohibited from considering factors including but not limited to race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, any other identifiable group or any combination of these factors involving members of the public in deciding to detain a person or stop a motor vehicle and in deciding upon the scope or substance of any law enforcement action. It is also the policy of this Department to: **[41.4.0]**

1. Proactively enforce all motor vehicle and criminal laws.
2. Provide all people within this community fair and impartial police services consistent with constitutional and statutory mandates.
3. Assure the highest standard of integrity and ethics among all members of the Waltham Police Department.
4. Respect the diversity and the cultural differences of all people.
5. Take positive steps to identify, prevent, and eliminate any instances of bias-based profiling by members of the Waltham Police Department.
6. Continue the Department’s commitment to community policing initiatives and problem-solving strategies, including vigorous, lawful and nondiscriminatory traffic enforcement that promotes public safety and strengthens public trust, confidence, and awareness.

GENERAL CONSIDERATIONS AND GUIDELINES:

The Waltham Police Department is committed to protecting the constitutional and civil rights of

all citizens. Allegations of bias free profiling or discriminatory practices, real or perceived, are detrimental to the relationship between police and the community we protect and serve, because they strike at the basic foundation of public trust. This trust is essential to effective community-oriented policing.

This Department does not endorse, train, teach, support or condone any type of bias, stereotyping, or bias free profiling by its members. While recognizing that most officers perform their duties in a professional, ethical and impartial manner, this Department is committed to identifying and eliminating any instances of bias free profiling.

DEFINITIONS:

RACIAL AND GENDER PROFILING: Chapter 228 of the Acts 2000 includes the following definition: the practice of detaining or stopping a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped.

SUSPECT SPECIFIC INCIDENT: An incident in which an officer is lawfully attempting to detain, apprehend, or otherwise be on the lookout for one or more specific suspects who have been identified or described in part by national or ethnic origin, gender or race.

PROCEDURES:

PREVENTION OF PROFILING: [41.4.0]

To prevent bias free profiling, this Department shall:

1. Utilize the Massachusetts Police Training Council, other certified training programs and professionals and our Monthly Training Program to ensure that members of the department receive training on bias free profiling practices. As part of the bias-based profiling training, all legal aspects pertaining to this subject will be covered in any and all training forums. **[41.4.0 b]**
2. Ensure that this directive is disseminated to, and reviewed by all members of this Department who have regular contact with the public.
3. Train supervisory personnel in the monitoring of police conduct and contacts to ensure that the standards of conduct of this department are being adhered to by all of those who are under their supervision.
4. Annually review policy and, where appropriate, revise procedures that involve the stop, detention, apprehension or searching of individuals to ensure that such procedures are in compliance with the provisions of the law and this directive. The policy will be reviewed by the Supervisor of the Training Division.

5. Educate the public, in conjunction with the Executive Office of Public Safety and the Registry of Motor Vehicles, on what to expect when either stopped or detained by a police officer, as well as police expectations during motor vehicle stops or police detainment, to ensure both officer and citizen safety.

IDENTIFICATION OF PROFILING:

To identify instances of bias free profiling, this department will take the following steps:

1. Utilize appropriate citizen complaint procedures to document and investigate allegations of bias free profiling filed directly with the agency or referred through the Office of Public Safety's statewide toll-free complaint number.
2. Utilize procedures for the proactive review of performance, complaints and other information to assist supervisors in identifying and modifying potentially problematic behavior and to promote professionalism within the department.

ENFORCEMENT OF PROFILING POLICY:

To enforce the provisions of this directive, this department will take the following steps:

1. Take appropriate action to address documented incidents of bias free profiling.
2. Take appropriate measures to correct any institutional practice or policy that has led to the use or created the appearance of bias free profiling.

COMPLAINTS OF BIAS FREE PROFILING:

COMPLAINT PROCEDURES:

This Department will investigate all reported incidents alleging that a member of this Department acted inappropriately because of reasons of bias free profiling. These investigations are carried out to determine if there is any validity to the complaint, and also to identify any potential patterns or trends that may create the impression that bias free profiling may be taking place, and whether there is any basis for such impressions or perceptions.

Any person may file a complaint with this Department if they feel they have been stopped or searched free on racial, ethnic, or gender-free profiling, and no person shall be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because they have filed such a complaint.

Where there is a complaint lodged against a member of this Department alleging inappropriate enforcement action or treatment because of reasons of bias free profiling, the following procedures will be observed:

RECEIPT OF COMPLAINT:

Any member of the Waltham Police Department contacted by a person who wishes to file a complaint alleging that a member of the Department engaged in bias free profiling, shall immediately refer the individual to the Shift Commander, or his designee.

SUPERVISORY RESPONSIBILITIES:

The Shift Commander, or designee having at least the rank of Sergeant, will attend to the individual without any unnecessary delay, and follow the procedures outlined below:

1. It is the responsibility of the Shift Commander, or designee, to fully describe the Department's citizen complaint process.
2. The Shift Commander or designee shall record and obtain as much information relative to the incident as the individual is willing provide. Form 52-1 shall be used to document the incident. Any related incident reports generated at the time of this incident shall be attached to and submitted with Form 52-1.
3. Any incident where an individual has initiated a complaint where they feel that they may have been the subject of enforcement action or treatment that was based upon racial, ethnic, or gender-free profiling shall be reported to the Chief of Police, regardless of whether a formal citizen complaint has been lodged or not.
4. As part of that report, the Shift Commander, or designee receiving the complaint will describe the nature of the complaint and the circumstances surrounding the incident that was reported.
5. The Chief of Police or designee, will be responsible for reviewing the complaint and will ensure that the individual filing the complaint receives written acknowledgement of the complaint, which also explains that there will be follow up contact with respect to the outcome of the investigation.
6. The Chief of Police will discuss the investigative process to be followed, with the supervisor assigned and it will be this assigned supervisor's responsibility to ensure that the complaint is fully investigated in a timely fashion.
7. The investigation of the complaint will be fully documented by the investigating officer in accordance with the format that is outlined within the department's policy governing internal investigations.
8. Once the investigation report has been filed, the Chief of Police shall make a determination as to the final disposition of the complaint consistent with relevant rules & regulations.

9. If it is determined that bias free profiling occurred, corrective measures will be taken with regard to the specific officer(s) involved and changes will be made to any policy, procedures, or practices if applicable. These measures will be dealt with on a case-by-case basis and could include anything from verbal counseling sessions to suspension. **[41.4.0c]**

ADMINISTRATIVE REVIEWS:

The Waltham Police Department will conduct an annual review of agency practices and policies. The review will include a significant representative sampling, sufficient enough to ensure the integrity of the system. The review encompasses traffic contacts, field contacts, asset seizures, forfeiture efforts, as well as any reported citizen concerns. **[41.4.0]**

COMPLAINT REVIEW:

On an annual basis, as part of the Waltham Police Department's review and analysis of internal complaints, complaints alleging bias free profiling will be identified specifically and will become a sub-section of the annual report. This is typically conducted by all divisions including Investigations Division, Southern Middlesex County Task Force, Community Services, and Patrol. **[41.4.0d]**

PURPOSE OF REVIEW:

The purpose of this review and analysis is to determine if there appears to be any patterns or trends that may suggest racial, ethnic, or gender-free profiling may be taking place or creating the perception that such activity is taking place.

The review will also take into consideration departmental practices or activities that could possibly create the impression that racial, ethnic, or gender-free profiling is taking place.

As part of that review and analysis, the report summarizing the findings will make recommendations with respect to changing department policies, procedures, practices, or activities that may lend themselves to creating any bias impressions.

OFFICER – CITIZEN CONTACTS:

Contacts with citizens made by police officers during different types of encounters are extremely important. During these types of encounters officers must focus on being impartial, fair, and reasonable to ensure that they are providing all persons with quality services.

MOTOR VEHICLE STOPS:

An officer may stop a motor vehicle upon suspicion that the driver or any occupant had committed a motor vehicle violation or any other violation of the law.

Such vehicle stops shall be in conformance with this Department's Policy and Procedures and Massachusetts General Laws and Procedures.

1. Officers may not use a person's race, color, age, gender, ethnicity or sexual orientation as the sole consideration for stopping the person.
2. Officers shall follow the Executive Office of Public Safety's protocol when issuing Uniform Traffic Citations to motorist.

THRESHOLD INQUIRIES AND FIELD INTERVIEWS:

Officers can detain a person free upon specific and articulable facts that a person has, is or is about to commit a crime. The detention of a person on a mere "hunch" or because of their race, color, gender, ethnicity or sexual orientation is unlawful and strictly prohibited by Departmental Policies and Procedures.

Officers shall adhere to the following procedures when conducting threshold inquiries or field interviews of persons:

1. Officers receiving information concerning persons involved in criminal activity, who subsequently detain an individual free upon that information must contact the station via the radio and report the location of the detention and give a general description of the individual detained.
2. Officers must appropriately identify themselves and explain to the person the reason for the detention. Officers must remain calm and in control during these contacts.

DISENGAGEMENT:

The officer must inform a person detained and found not involved in the criminal activity that they are no longer a suspect. The officer must provide any necessary explanation and **should not abruptly disengage** from the person.

ASSET SEIZURES AND FORFEITURE EFFORTS: [41.4.0]

The OIC of the Drug Task Force will review all asset seizures and forfeiture efforts for any signs of bias free profiling. This information will also be recorded in the yearly Bias-Free Policy Review Form.