



WEST LAKE HILLS POLICE DEPARTMENT

GENERAL ORDERS

104.00 BIASED BASED POLICING

SCOTT E. GERDES
CHIEF OF POLICE

Revised June, 2020

West Lake Hills Police Department General Orders 104.00 BIASED BASED POLICING

We 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, sexual orientation, 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.

104.01 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.

104.02 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 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 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



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- 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 that an offense has been or is being committed, and that the suspect has committed it.
 - F. Race: A category of people of a particular descent. As distinct from ethnicity, race only refers to physical characteristics sufficiently distinctive to group people under a classification. Current race/ethnicity guidelines from the Texas Department of Public Safety are broken down as follows: African American, Asian, Hispanic, Native American, and White.
 - 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.
 - H. Reasonable 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 to believe that an infraction of the law has been committed, is about to be committed, or is in the process or being committed, by the person or persons under suspicion. 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 that 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.

104.03 Procedures

General responsibilities:

- A. 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.
- B. 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.
- C. Officers will receive initial and ongoing training in proactive enforcement tactics, including training in officer safety, courtesy, cultural diversity, laws governing search and seizure, de-escalation, and interpersonal communications skills. Training programs will emphasize the need to respect the rights of all citizens to be free from unreasonable government intrusion or police action. Traffic enforcement will be accompanied by consistent, ongoing supervisory oversight to ensure that officers do not go beyond the parameters of reasonableness in conducting such activities.
- D. No motorist or pedestrian, once cited or warned, shall be detained beyond the point where there exists no probable cause of further criminal activity. No person or vehicle shall be searched in the absence of a warrant, a legally recognized



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- exception to the warrant requirement, or the person's voluntary consent (verbal or written). Consent searches shall be conducted after documenting the consent, as well as any specific search parameters, on video and in writing. If there is no video and audio recording equipment available or working, the consensual search shall be documented by using the proper department written consent form. In each case where a search is conducted without video and audio support, the consent shall be logged on the appropriate written form when applicable or needed, including the legal basis for the search, and the results thereof.
- E. Officers shall observe all constitutional safeguards and shall respect the constitutional rights of all persons.
 - F. 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.
 - G. 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.
 - H. 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.
 - I. When feasible, personnel shall offer explanations of the reasons for enforcement actions or other decisions that bear on individual's well-being unless the explanation would undermine an investigation or jeopardize an officer's safety. When concluding an encounter, personnel should thank him or her for cooperating.
 - J. When feasible, all personnel shall identify themselves by name. When a person requests the information, personnel shall give their Departmental identification number (badge number), name of the immediate supervisor, or any other reasonable information.
 - K. All personnel are accountable for their actions. Personnel shall justify their actions when required.

104.04 Supervisory responsibilities

- A. 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.
- B. Supervisors shall use the disciplinary mechanisms of the Department to ensure compliance with this order and the constitutional requirements of law enforcement.
- C. 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.
- D. 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. Supervisors shall be held accountable for repeated instances of biased enforcement of their subordinates.
- E. Supervisors shall ensure that all enforcement actions are duly documented per



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Departmental policy. Supervisors shall ensure that all reports show adequate documentation of reasonable suspicion and probable cause, if applicable.

- F. Supervisors shall facilitate the filing of any complaints about law enforcement service, to include complaints alleging racial profiling on the part of any officer.

104.05 Disciplinary consequences

- A. Actions prohibited by this order shall be cause for disciplinary action, up to and including dismissal.
- B. Officers shall complete all training required by state law regarding bias-based profiling.

104.06 Complaints

- A. Any person who believes that a peace officer employed by the City of West Lake Hills has engaged in racial profiling with respect to that person may file a complaint with the City, and no person shall be discouraged, intimidated or coerced from filing such a complaint, or be discriminated against because they have filed such a complaint.
- B. The City shall accept and investigate citizen complaints alleging racial profiling by its peace officers. Such complaints shall be in writing and should include the time, place and details of the incident of alleged racial profiling, the identity or description of the peace officer or officers involved, and the identity and manner of contacting the complainant.
- C. Any peace officer, City employee, or City official who receives a citizen complaint alleging racial profiling shall forward the complaint to the Chief of Police. Receipt of each complaint shall be acknowledged to the complainant in writing, all such complaints shall be reviewed and investigated by the Chief of Police within a reasonable period of time, and the results of the Chief's review and investigation shall be filed with the City Administrator and with the complainant.
- D. In investigating a complaint alleging racial profiling, the Chief of Police shall seek to determine if the officer who is the subject of the complaint has engaged in a pattern of racial profiling that includes multiple acts constituting racial profiling for which there is no reasonable, credible explanation based on established police and law enforcement procedures. A single act constituting racial profiling may not necessarily be considered a pattern of racial profiling.
- E. After investigation, any officer shall be subject to corrective action who is found to have engaged in racial profiling in violation of this policy. This action may include reprimand; diversity, sensitivity or other appropriate training or counseling; paid or unpaid suspension; termination of employment in compliance with City of West Lake Hills Policy, or other appropriate action as determined by the Chief of Police.
- F. Supervisors shall review racial profiling complaints, periodically review a sampling of in-car video of stops, review reports filed on stops by officers, and respond at random to back up officers on vehicle stops. Supervisors shall take appropriate action whenever it appears that this policy is being violated, being particularly alert to any pattern or practice of possible discriminatory treatment by individual officers or shifts of officers.
- G. In the event that a complaint of racial profiling filed by an individual involves an occurrence that was recorded on audio or video, the Chief of Police shall, upon commencement of the investigation of the complaint and upon written request of the officer, promptly provide a copy of the recording to the peace officer that is the subject of the complaint.



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104.07 Record Keeping

- A. The Department will maintain all required records on traffic stops whether a citation or warning is issued or where an arrest is made subsequent to a traffic stop pursuant to state law. This may be modified to conform to changes in State or Federal Law.
- B. The information collected above will be reported to the City Council annually.
- C. The information will also be reported to TCOLE in the required format.