

	EVERMAN POLICE DEPARTMENT	
	Policy 2.2 Bias Based Policing	
	Effective Date: 03/05/2019	Replaces: 01/01/2017
	Approved: C. W. Spencer; Chief of Police 	
Reference: TBP 2.01		

I. POLICY

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, gender, sexual orientation, national origin, ethnicity, age, or religion. Although it is true that all people carry biases, in law enforcement 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 violations, 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 by statutory authority. In all enforcement decisions, officers shall be able to articulate specific facts, circumstances, and conclusions that 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, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. Officers shall base all of their 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. AUTHORITY

1. United States Constitution, 4th Amendment & 14th Amendment
2. Texas Code of Criminal Procedure, Articles 2.131 – 2.138 and 3.05
3. SB 1074 (2001) The Texas Racial Profiling Law
4. HB 3389 (2009) Update on Original Law

5. HB 3051 (2017) Racial and Ethnic Designations
6. SB 1849 (2017) The Sandra Bland Act
(Non-Data Requirements established by SB 1074, HB 3389 and SB 1849)

III. 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.

IV. DEFINITIONS

Most of the following terms appear in this policy statement. 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. Acts Constituting Racial Profiling: are acts initiating law enforcement action, such as a motor vehicle contact, a detention, a search, issuance of a citation, or an arrest based solely upon an individual's race, ethnicity, or national origin, or on the basis of racial or ethnic stereotypes, rather than upon the individual's behavior, information identifying the individual as having possibly engaged in criminal activity, or other lawful reasons for the law enforcement action.
- B. Bias: Prejudice or partiality based on preconceived ideas, a person's upbringing, culture, experience, or education.
- C. 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.
- D. Ethnicity: A cluster of characteristics that may include race but also cultural characteristics or traits that are shared by a group with a common experience or history.
- E. Gender: Unlike sex, a psychological classification based on cultural characteristics or traits.
- F. Motor vehicle contact: means the stopping of a motor vehicle by a police officer for an alleged violation of law and ordinance regulating traffic.
- G. 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.

- H. Race: A category of people of a particular decent, including White, Black, Hispanic or Latino, Asian or Pacific Islander, or Native American or American Indian descent. As distinct from ethnicity, race refers only to physical characteristics sufficiently distinctive to group people under a classification.
- I. 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.
- J. Reasonable suspicion: Articulable, objective facts that lead an experienced officer to suspect that 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 that stops based on reasonable suspicion be "objectively reasonable."
- K. Sex: A biological classification, male or female, based on physical and genetic characteristics.
- L. Stop: An investigative detention. The detention of a subject for a brief period of time, based on reasonable suspicion.
- M. Texas Commission on Law Enforcement: TCOLE is a state agency created in 1965 by an act of 59th Texas Legislature, empowered to establish minimum licensing and training standards for Texas peace officers to improve the proficiency of law enforcement services.

IV. PROCEDURES

A. General responsibilities

1. Officers are prohibited from engaging in bias-based or racial 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, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. 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. Investigative detentions, traffic stops, arrests, searches, and property seizures by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution. Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, subject stops, arrests, nonconsensual searches, and property seizures. Except as provided in number 3 below, officers shall not consider race/ethnicity

in establishing either reasonable suspicion or probable cause. Similarly, except as provided below, officers shall not consider race/ethnicity in deciding to initiate even those nonconsensual encounters that do not amount to legal detentions or to request consent to search.

3. Officers may take into account the reported race or ethnicity of a specific suspect or suspects based on trustworthy, locally relevant information that links a person or persons of a specific race/ethnicity to a particular unlawful incident(s). Race/ethnicity can never be used as the sole basis for probable cause or reasonable suspicion. Except as provided above, race/ethnicity Reasonable suspicion or probable cause shall form the basis for any enforcement actions or decisions. Individuals shall be subjected to stops, seizures, or detentions only 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.
4. 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.
5. 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.
 - 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, officers shall provide information on the complaint's process and shall give copies of "Citizen Complaint Procedures" when appropriate.
6. When feasible, personnel shall offer explanations of the reasons for enforcement actions or other decisions that bear on the individual's wellbeing unless the explanation would undermine an investigation or jeopardize an officer's safety.
7. When concluding an encounter, personnel shall thank him or her for cooperating.

8. 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.
9. 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 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.
4. 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.
5. Supervisors shall be held accountable for repeated instances of biased enforcement of their subordinates.
6. Supervisors shall ensure that all enforcement actions are duly documented per departmental policy. Supervisors shall ensure that all reports show adequate documentation of reasonable suspicion and probable cause, if applicable.
7. Supervisors will ensure that patrol officers are recording their motor vehicle contact, in compliance with agency policy, as well as state law. First-Line Supervisors are responsible to periodically review the videos, monitoring the performance of patrol officers, and taking corrective measures, as warranted, to prevent police misconduct, including racial profiling.
8. Supervisors are required to review random videos each quarter (3 months) per officer. When conducting random, quarterly, supervisory reviews of officer's video, review the footage in a manner intended to gain an understanding of that officer's performance and adherence to policy and law. Supervisors will log their findings in the video review log.

C. Disciplinary consequences

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

D. Public Education.

1. The Chief of Police is responsible to provide public education relating to the agency's complaint process.
2. This public awareness effort may include, but is not limited: to news media, radio, civic club presentations, citizen police academies, the internet, printed pamphlets, as well as City Council Meetings.

E. Training (TBP: 2.01)

Officers, including the Chief of Police, shall complete all training required by state law regarding bias- based profiling.

II. COMPLAINTS

1. Any individual may file a complaint with the Chief of Police, if the individual believes that a Everman Police Officer has engaged in racial profiling with respect to the individual. No person shall be discouraged, intimidated, or coerced from filing such complaint or discriminated against because they filed such a complaint.
2. To make a compliment or complaint with respect to each ticket, citation, or warning issued by a police officer, send to the following:

Chief of Police
404 W. Enon Avenue
Everman, Texas 76140
(817) 293-2923
E-mail: cspencer@evermantx.net

3. The Everman Police Department shall accept and investigate citizen complaints alleging racial profiling by its police officers in the same consistent manner as other complaints of police misconduct as described under Policy 2.4.
4. Any police officer, city employee or city official who receives a citizen complaint alleging racial profiling shall direct the complaint to the Chief of Police, who retains the right to assign the complaint to an investigator, within or outside the police department, including the Tarrant County Sheriff's Office, Tarrant County District Attorney, Texas Rangers, Texas Attorney General, or FBI.

5. The accused officer will be given the opportunity to respond, in writing, to the citizen's allegations. Depending upon the circumstances and facts, the investigation may be either administrative, criminal, or both.
6. The investigator shall seek to determine if the accused officer 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.
7. The investigator shall record findings supporting sustained, unfounded or exonerated. Any recommendations for disciplinary action or changes in policy, training or patrol tactics should be included.
8. If a complaint involves an audio/video recording, the Chief of Police shall, upon the commencement of the investigation and written request of the officer, provide a copy of the recording to the accused police officer.
9. The Chief of Police will acknowledge in writing receipt of the complaint. Upon conclusion of the investigation, the Chief of Police shall notify the complainant of the final results. If a racial profiling complaint is sustained against an officer, it will result in appropriate corrective and/or disciplinary action, as directed by the Chief of Police. The Chief of Police will make the final determination about the disposition of any complaint.

III. RECORD KEEPING

- A. The Everman Police Department collects racial profiling data.
- B. Patrol officers are required to record the following information relating to motor vehicle contacts, resulting in a citation or arrest: the violators race or ethnicity, whether a search was conducted, and if so, was the search consensual.
 1. Gender
 2. Race or Ethnicity (as stated by the person or as determined by the officer to the best of the officer's ability)
Race or Ethnicity means only the following categories:
 - a) White
 - b) Black
 - c) Hispanic or Latino
 - d) Asian or Pacific Islander
 - e) Alaska Native or American Indian

3. Initial reason for the stop
 - i. Violation of the law
 - ii. Pre-existing knowledge (i.e., warrant)
 - iii. Moving Traffic Violation
 - iv. Vehicle Traffic Violation (Equipment, Inspection or Registration)
4. If a search was conducted as a result of the stop?
 - i. If so, did the person detained consent to the search?
5. Was contraband or other evidence discovered as a result of the search?
6. Description of the contraband or evidence found:
 - i. Illegal drugs/drug paraphernalia
 - ii. Currency
 - iii. Weapons
 - iv. Alcohol
 - v. Stolen Property
 - vi. Other
7. Reason for the search:
 - i. Consent
 - ii. Contraband/Evidence in Plain Sight
 - iii. Probable Cause or Reasonable Suspicion
 - iv. Inventory Search Performed as a Result of Towing
 - v. Incident to Arrest/Warrant
8. Information on arrests:
 - i. Did officer make an arrest as a result of the stop or search?
 - ii. Reasons for Arrest:
 1. Violation of Penal Code
 2. Violation of a Traffic Law
 3. Violation of City Ordinance
 4. Outstanding Warrant
9. Street Address or approximate location of the stop:
 - i. City Street
 - ii. US Highway
 - iii. County Road
 - iv. Private Property or Other
10. Verbal or Written Warning or a Ticket or Citation as a result of the stop?
11. Whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code (“means physical pain, illness, or any impairment of physical condition), during the stop;
 - a. The location of the stop; and
 - b. The reason for the stop

C. Annual Administrative Review/Report: Annually, this administration shall review agency practices related to motor vehicle contacts. One purpose of this administrative review is to identify any violations related to this written directive, state, or federal laws, including training deficiencies.

1. As a part of the Annual Police Report, the Chief of Police shall report to the Everman City Council, and the Texas Commission on Law Enforcement, a statistical summary of motor vehicle contacts, resulting in a citation, arrest and/or search.
2. The information collected shall be compiled in an annual report covering the period of January 1 through December 31 of each year, and shall be submitted to the Everman City Council, and the Texas Commission on Law Enforcement, no later than March 1 of the following year.
3. The agency shall review the data collected to identify any improvements the agency could make in its practices and policies regarding motor vehicle contacts.
4. The report will contain required information including:
 - a. Number of citations by race or ethnicity;
 - b. Number of citations resulting in a search;
 - c. Number of consensual searches; and
 - d. Number of citations resulting in custodial arrest.
5. The annual report shall not include identifying information about any individual stopped or arrested, and shall not include identifying information about any police officer involved in a motor vehicle contact or arrest.
6. This data collected as a result of reporting requirements (State Law) shall not constitute prima facie evidence of racial profiling.

D. Audio and Video Equipment

1. MVR systems are installed in all patrol vehicles to accomplish the many patrol objectives, including officer accountability, documentation, evidence and training.
2. Every Patrol Officer is equipped with a body worn camera, as the term is defined by Section 1701.651, Occupations Code.
3. All motor vehicle contacts shall be recorded. During motor vehicle contacts, MVR and Body Worn Camera equipment shall activate and remain on until the motor vehicle contact is terminated.

4. If a complaint is filed with this department, the agency shall retain that videotape until the final disposition of the complaint.
5. Any evidence of racial profiling or police mis-conduct, the First-Line Supervisor will forward the videotape to the Chief of Police for corrective measures, including sanctions.