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# MARGATE POLICE DEPARTMENT

## GENERAL ORDER # 58

### BIASED BASED PROFILING

ISSUE DATE: 11/19/18  
EFFECTIVE DATE: 11/19/18  
RESCINDS/AMENDS: ALL PRIOR

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#### 58.1 PURPOSE:

58.1.1 Biased based profiling/policing undermines legitimate law enforcement efforts, alienates community members and fosters community distrust. The purpose of this policy is to emphasize this agency's commitment to unbiased, equitable treatment of all persons.

58.1.2 Biased based profiling/policing is unacceptable and this policy will provide guidelines for officers to prevent such occurrences, and protect officers when they act within the dictates of the law and directives from unwarranted accusations.

58.1.3 It is the policy of the Margate Police Department to patrol in a proactive manner, to aggressively investigate suspicious persons and circumstances, and to actively enforce the motor vehicle laws, while insisting that citizens will only be stopped or detained when there exists reasonable suspicion to believe that they have committed, are committing, or are about to commit an infraction of the law.

58.1.4 Persons having contact with members of this agency shall be treated in a fair, impartial, equitable and objective manner, in accordance with the law, and without consideration of their individual demographics or specific characteristics as defined in this policy.

58.1.5 Biased based profiling in traffic contacts, field contacts, searches and seizures, and in asset seizure and forfeiture efforts is prohibited by department policy.

*CFA 2.06 M*

#### 58.2 DEFINITIONS:

*CFA 2.06 M (c)*

58.2.1 Biased Based Profiling/Policing: The inappropriate consideration of individuals based solely on specific characteristics when enforcing the law or providing police services.

58.2.2 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

**58.1.1 REVISED 11/18**  
58.1.2 & 58.1.3 renumbered to 58.1.3 & 58.1.5

**58.1.2 & 58.1.4 NEW 11/18**  
**58.2.1 REVISED 11/18**

officer combined with his or her training and experience, and/or reliable information received from credible outside sources.

58.2.3 Fair and Impartial Treatment: Persons, irrespective of race or other distinctions, are treated in the same basic manner under the same or similar circumstances. This does not mean that all persons in the same or similar circumstances can or must be treated identically. Reasonable concessions and accommodations may be, and sometimes should be made, when dealing with individuals with physical or mental disabilities, injury, illness or similar conditions, or when information about them necessitates different treatment.

58.2.4 Specific Characteristics: Race, ethnic background, national origin, gender, gender identity, sexual orientation, religion, socioeconomic status, age, disability, or political status.

### **58.3 PROCEDURES:**

58.3.1 The department's efforts will be directed toward assigning officers to those areas where there is the highest likelihood that crashes will be reduced and/or crimes prevented through proactive patrol.

58.3.2 Officers will receive initial and ongoing training in proactive enforcement tactics, including training in officer safety, courtesy, cultural diversity, legal issues, police-citizen interaction, standards of conduct, legal aspects of biased based policing in accordance with CJSTC guidelines, and related topics suitable for preventing incident of biased based policing.

*CFA 2.06 M (a)*

58.3.3 Training programs will emphasize the need to respect the rights of all citizens to be free from unreasonable government intrusion or police action.

58.3.4 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.

58.3.5 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 stop will be in compliance with general orders.

58.3.6 Agency personnel may only consider the specific characteristics when performing law enforcement duties or delivering police services when seeking one or more specific individuals who have been identified or described in part by any of the specific characteristics. In those circumstances, personnel may rely on these characteristics only in combination with other appropriate factors.

58.3.7 It is biased profiling/policing if an officer's decisions/actions are based on the fact that the individual's demographics (e.g.: race, income) are different from the demographics of the majority of the residents in the area in which the individual is found.

58.3.8 The department recognizes that with experience, individual officers may develop individualized approaches that they find work best for them in minimizing conflict during officer/violator

**58.2.3 & 58.2.4 NEW 11/18**  
**58.3.2 REVISED 11/18**

58.3.6-58.3.10 renumbered to 58.3.8-58.3.12  
**58.3.6 & 58.3.7 NEW 11/18**

contacts. Given some better approach, the following is recommended in the order specified below:

- a. Give a greeting, such as "Good morning, ma'am", "Good evening, sir", etc.
- b. Identify yourself. For example, "I am Officer Smith of the Margate Police Department".
- c. State the reason why the person is being stopped or detained. For example, "I stopped you because I saw your vehicle come through the stop sign at that last intersection without coming to a complete stop." (Describing the actions of the vehicle rather than personalizing the action to the driver tends to reduce tension).
- d. It may defuse tension to ask a motorist if there was some reason for the violation. This gives them the opportunity to "have their say", often leads to an admission that the violator realized they were in violation, and precludes a defendant from offering a different excuse at trial. If you choose not to ask but the motorist wishes to give a reason or excuse, listen politely and give them ample opportunity to tell their story.
- e. Politely ask for identification and any required documents. For example, "May I please see your license, registration, and proof of insurance?"
- f. After completing any necessary paperwork, inform the driver or pedestrian as to what action is being taken and what, if anything, the person must do as a result, such as how to pay any fine involved, obtain a traffic court hearing, etc.
- g. Give an appropriate closing. For example, if the motorist was cooperative, "Thank you for your cooperation" may be in order. Do

not use the trite expression, "Have a nice day", which would be inappropriate in these circumstances. "Please drive carefully, your safety is important to us" is more appropriate.

- h. Make sure the driver is able to merge safely back into the traffic stream.

58.3.9 Appropriate enforcement action should always be completed in any officer-initiated stop. The officer shall notify communications of the gender and race / ethnicity of the driver of each vehicle stopped or pedestrian stop if this information can reasonably be ascertained by physical appearance or from the driver's license or other documents provided by the individual. Officers shall utilize the following identifiers:

Gender: Male  
Female

Race: American Indian/Alaskan  
Asian  
Black  
White

Ethnicity: Hispanic or Latino  
Non-Hispanic or Latino

58.3.10 No motorist or pedestrian, once cited or warned, shall be detained beyond the point where there exists no reasonable suspicion of further criminal activity, and no person or vehicle shall be searched in the absence of a warrant, a legally recognized exception to the warrant requirement, or the person's voluntary consent. In each case where a search is conducted, this information shall be recorded, including the legal basis for the search, and the

results thereof. It is strongly recommended that consent searches only be conducted with written consent, using the proper department form. 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.

58.3.11 A person's race, ethnicity, gender or sexual orientation (or any combination of these) shall not be a factor in determining probable cause for an arrest or reasonable suspicion for a stop, absent specific credible information containing a physical description.

58.3.12 The deliberate recording of any misleading information related to the actual or perceived race, ethnicity, gender, or sexual orientation of a person stopped for investigative or enforcement purposes is prohibited and a cause for disciplinary action, up to and including termination.

#### **58.4 COMPLAINTS OF BIASED BASED PROFILING:**

*CFA 2.06 M (f)*

58.4.1 Any person may file a complaint with the department if they feel they have been stopped or searched based on racial, ethnic, or gender-based 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.

58.4.2 Any officer contacted by a person who wishes to file such a complaint shall immediately notify a

supervisor. If a supervisor is not available, they shall record the person's name, address, and telephone number, and report the contact to their immediate supervisor prior to the end of the shift.

58.4.3 Any supervisor receiving such a report shall forward it to the Chief of Police through the chain of command. All such complaints shall be reviewed, the complaint acknowledged to the complainant in writing, and the complainant shall be informed of the results of the department's review within a reasonable period of time.

58.4.4 Supervisors shall review profiling complaints, reports or citations filed on stops by officers, and respond at random to back up officers on vehicle stops, and shall take appropriate action in accordance with General Order 8 whenever it appears that this general order is being violated, being particularly alert to any pattern or practice of possible discriminatory treatment by individual officers or components.

*CFA 2.06 M (b)*

58.4.5 Officers who witness or who are aware of instances of biased profiling/policing shall report the incident to a supervisor. Also, where appropriate, officers are encouraged to intervene at the time the incident occurs.

#### **58.5 EDUCATION MATERIAL FOR THE PUBLIC:**

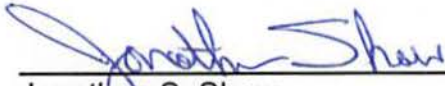
*CFA 2.06 M (d)*

58.5.1 Public education and awareness will be accomplished through:

- a. The availability of this general order on the department website; and
- b. Informational pamphlets which will be made available to the public.

**58.6 ANNUAL REVIEW:***CFA 2.06 M (e)*

58.6.1 Annually, in January, the Internal Investigations Investigator shall conduct a review of traffic stop procedures related to bias-based profiling. These findings shall be submitted in a report to the Chief of Police.

**APPROVED:**

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Jonathan S. Shaw  
Chief of Police