



MARGATE POLICE DEPARTMENT

GENERAL ORDER # 58

BIASED BASED PROFILING

ISSUE DATE: 10/14/05
EFFECTIVE DATE: 10/14/05
RESCINDS/AMENDS: ALL PRIOR

58.1 PURPOSE:

CALEA 1.2.9

58.1.1 The purpose of this general order is to state that biased based profiling is unacceptable, to provide guidelines for officers to prevent such occurrences, and to protect officers when they act within the dictates of the law and directives from unwarranted accusations.

58.1.2 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 they have committed, are committing, or are about to commit, an infraction of the law.

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

(a)

58.2 DEFINITIONS:

58.2.1 Biased Based Profiling: The selection of individuals based solely on a common trait of a group. This includes but is not limited to race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable groups.

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

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, the legal issues, and interpersonal communications skills.

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.

(b)
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 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 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. e.g. "I am Officer Smith of the Margate Police Department."
- c. State the reason why the person is being stopped or detained. e.g. "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. e.g. "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.

58.3.7 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

58.3.8 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.

53.3.7 REVISED 10/2005

58.3.9 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.

58.3.10 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:

CALEA 1.2.9(c)

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.

58.5 EDUCATION MATERIAL FOR THE PUBLIC:

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:

CALEA 1.2.9(D)

58.6.1 Annually, in January, the Professional Standards Investigator shall conduct an annual review of department practices, including citizen concerns that relate to biased based profiling. His findings shall be submitted in a report to the Chief of Police.

APPROVED:

Jerry A. Blough
Chief of Police