

	<p style="text-align: center;">JOHNSTON POLICE DEPARTMENT</p> <p style="text-align: center;">POLICY AND PROCEDURE GENERAL ORDER</p>	Distribution	General Order Number
		ALL PERSONNEL	<b>1.09</b>
		Original Issue Date	Reissue/Effective Date
		09/17/19	09/27/19
Order Title:  <b>BIAS BASED POLICING</b>	CALEA Accreditation Standard:	Section	
	1.2.9a	1	
		Section Title DEPARTMENT ROLE AND AUTHORITY	
Rescinds: JPD 8.05	<b>Dennis W. McDaniel</b> <b>Chief of Police</b>		

*This General Order is for departmental use only and does not apply in any criminal or civil proceeding. This General Order should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting*

## I. PURPOSE

The purpose of this policy is to establish policy and procedures to protect citizens and officers from bias based policing.

## II. POLICY

It is the policy of the Johnston Police Department (“Department”) to patrol in a proactive manner, to aggressively investigate suspicious persons and circumstances, and to actively enforce 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 offense.

The Department’s response to bias based profiling shall be a set of procedures that require professional police traffic stops; ensure that officers base their behavior on sound legal reason, safety for officers and citizens, and the accepted best practices of modern policing; and that protect our officers when they act within the dictates of the law and policy from unwarranted accusations.

## III. DEFINITION

Racial Profiling/Discriminatory Practices: For the purpose of this policy, is the detention or other disparate treatment of an individual on the basis of the racial, ethnic or other protected class status of such individual.

## IV. PROCEDURES

### A. Bias Based Profiling Prohibited

1. While profiling can be a useful tool to assist officers in carrying out their duties, the use of bias based profiling, i.e., the practice of using race, ethnicity, religion, gender, sexual orientation, economic status, age, cultural group, or some other identifiable common trait of a group, as the sole reason for stopping, detaining, searching pedestrians and motorists, and in asset seizure and forfeiture efforts is prohibited.

### B. Proactive Enforcement

1. Proactive enforcement requires officers to be observant and to identify and act upon any unusual occurrences and law violations. These enforcement efforts keep our community free from crime and our roadways safe to drive upon, and also deters and/or detects and apprehends criminals. Proactive patrol is an effective strategy to:
  - a. Protect the public from the devastation caused by drug abuse, including the suppression of the activities of drug couriers;
  - b. Reduce street and highway traffic-related death and injury, including the apprehension of drunk drivers;
  - c. Combat illegal trafficking and possession of weapons and drugs;
  - d. Capture and arrest fugitives at-large, and other wanted persons;
  - e. Identify and target violent gangs, terrorists and others who pose a threat to public safety; and
  - f. Otherwise promote and maintain an orderly and law abiding society.

### C. Role of Supervisors

Traffic enforcement, detention, and search procedures will be accompanied by periodic supervisory oversight to ensure that officers do not go beyond the parameters of reasonableness and lawfulness in conducting such activities.

### D. Recording of Motor Vehicle Stops

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 offense. Each time a motorist is stopped, the officer shall radio to the dispatcher the location of the stop, registration number or the description of

vehicle being detained, and the number of occupants and reason for the stop. Communication personnel shall log all pertinent information. All required reports and/or forms shall be completed by the officer upon completion of the stop.

E. Contact with the Public

Officers shall be familiar with the Johnston Police Department Rules and Regulations, as well as all General Orders pertaining to traffic stops, including the provisions requiring professionalism and courtesy. Professional behavior is directly related to the degree of cooperation from the motorist. Officers should never forego their command presence, safety, and control of the situation during a public contact.

F. Stopping and Detaining Prohibited

1. The stopping and detaining of any individual that is not based on factors related to an investigation of a violation of federal law, Iowa statute, Johnston city ordinance, or any combination thereof is prohibited.
2. No officer shall stop, detain, or search any person where such action is motivated by race, color, religion, national origin, disability, age, gender, or sexual orientation.

G. Detention and Search

1. No motorist, 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.
2. In each case where a search is conducted, this information shall be documented, including the legal basis for the search, and the results thereof. It is strongly recommended that consent searches only be conducted with written consent or documented through the use of body-worn camera.
3. If an individual indicates that he/she 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.

H. Completion of Required Reports

Appropriate enforcement action should always be completed, generally in the form of a written warning, citation, or arrest. Police reports shall indicate the reason for the stop.

## I. Pretext Traffic Stops

The police may affect the stop of a motorist whom they have probable cause to believe has committed a traffic violation. The officer's subjective motive for stopping the vehicle plays no role in determining whether or not probable cause exists, even if the stop of the motorist was a pretext to conduct a criminal investigation. However, motor vehicle stops, including pretext stops, are prohibited when based solely upon prohibited considerations, such as race, ethnicity, gender, age or sexual orientation, or any combination therein.

## J. Training

1. Training regarding racial profiling will be included in new officer orientation training administered during the Field Training program.
2. Additional ongoing training in proactive enforcement tactics, including training in officer safety, courtesy, cultural diversity, discrimination and bias based profiling, field contacts, traffic stops, the laws governing search and seizure, and interpersonal communications skills will occur on a regular reoccurring basis.
3. This training shall address the issues pertaining to the practice of racial profiling, including its impact on police and society. Training programs will emphasize the need to respect the rights of all citizens to be free from unreasonable government intrusion or police action. Training will also address the legal aspects of bias based profiling including the possibility of criminal and civil liability for such actions.
4. Additional diversity and sensitivity training shall be designated for employees with sustained racial profiling or other sustained discrimination complaints filed against them.

## K. Corrective Measures

1. Any person may file a complaint with the Department if they feel they have been stopped or searched based on bias 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. All complaints shall be investigated, and corrective measures shall be taken if it is determined that bias based profiling has occurred.
2. Any officer, who is told by a person that they wish to file such a complaint, shall provide the name of their immediate supervisor and the telephone number of the department. Such accusations can often be prevented or

mitigated by explaining to the motorist the reason for the stop. Any officer who is accused on scene of discrimination, bias based profiling, an illegal stop, frisk, and/or search by any person, shall report the incident to his/her immediate supervisor as soon as practical.

3. Supervisors who receive official complaints shall follow Departmental procedures as outlined in Section 4.01, *Citizen Complaints*, and Section 4.02, *Investigation of Misconduct and Citizen Complaints*. When backing up officers on vehicle stops and other calls, they shall be alert to any pattern or practice of possible discriminatory treatment or bias based profiling by officers.

#### L. Reporting Requirements

1. Failure to report any observed or known violations of this order by any Department employee shall result in disciplinary action.
2. The assigned division commander shall conduct an investigation of any formal complaint of racial profiling or discriminatory practice.
3. Command staff shall prepare an annual report of racially motivated internal affairs complaints, if applicable, to the Chief of Police to include, but not limited to:
  - a. Listing of each complaint
  - b. Explaining action(s) taken through investigation
  - c. Recommended training needs
  - d. Recommended policy changes
4. A review committee may be convened by the Police Chief and directed to review and prepare a report of their findings and recommendations, if any, to the Chief of Police by March 1<sup>st</sup> of each year.

#### E. Disciplinary Procedures

1. Appropriate sanctions shall be implemented for noncompliance with this policy.
2. Personnel who are determined to be in violation are subject to discipline as outlined in the City of Johnston Personnel Policies Manual, the Johnston Police Department Policy Manual, up to and including termination. Serious violations will also be reported to the Department of Justice and the Iowa Attorney General's Office for further investigation.