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| Effective Date  | September 2001 |  |
| Revision Date   | 11/2017        |   |
| Review Date   | 12/2019        |   |
| Previous Revision Date                                | 10/2014        |   |
| Affects: Sworn Personnel                              |                |   |
| <b>Chapter 2 Section 6<br/>Biased-Based Profiling</b> |                |   |

I. STATEMENT OF PURPOSE

The purpose of this order is to define departmental policy and provide guidance to employees regarding bias-based profiling. Profiling can be a useful tool to assist law enforcement officers in carrying out their duties. Bias-based profiling, however, is the selection of individuals based solely on a common trait of a group. The practice of bias-based profiling by law enforcement personnel undermines legitimate law enforcement efforts and may lead to claims of civil rights violations. Additionally, bias-based profiling alienates citizens, fosters distrust of law enforcement by the community, invites media scrutiny, and judicial intervention.


This policy does not prohibit department personnel from stopping or detaining individuals if a specific report exists in which an individual's race, national origin, citizenship, religion, ethnicity, age or gender is a factor in determining the existence of reasonable suspicion and/or probable cause for taking police action. Nor does this policy prohibit officers from offering assistance to the public or stopping someone suspected of a crime based upon observed actions and/or information received about the person.

II. GENERAL POLICY

It is the policy of the Midland Police 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 that they have committed, are committing, or are about to commit a violation of the law. It is the policy of the Midland Police Department to protect the fundamental rights of all citizens, and to provide equal protection under the law. Therefore, the Midland Police Department prohibits the use of bias-based profiling in traffic contacts, field contacts, and in asset seizure and forfeiture. (CALEA 1.2.9.a)

III. DEFINITIONS

- A. Arrest - To deprive a person of his liberty by legal authority.
- \* B. Bias-based profiling – A law-enforcement initiated action based on an individual's race, ethnicity, national origin, gender, sexual orientation/identity, religion, economic status, age, cultural group, or any other identifiable group rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity. For purposes of this policy this term may be used interchangeably with the term "racial profiling."


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Examples of bias-based profiling include, but are not limited to the following:


1. Using racial or ethnic stereotypes as factors in selecting whom to stop and search.
  2. Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity or national origin is unlikely to possess that specific make or model of vehicle.
  3. Detaining an individual based upon the determination that a person of that race, ethnicity or national origin does not belong in a specific part of town or a specific place.
- C. Detention – Any restriction upon a person’s liberty imposed by a peace officer, based upon reasonable suspicion. If the individual is not free to go, the individual will be considered detained.
- \* D. Race or Ethnicity – Heritage of a particular decent, including White, Black, Hispanic, Asian/Pacific Islander, Native American/Alaskan Native.
- E. Motor Vehicle Stop – means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

IV. DATA COLLECTION AND REPORTING

- \* A. For each motor vehicle stop, regardless of the enforcement action, the peace officer conducting the motor vehicle stop shall collect information identifying the race or ethnicity of the individual detained, stating whether a search was conducted, and if a search was conducted, whether the individual detained consented to the search, and whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual. Motor vehicle stops made pursuant to a pre-existing investigation are exempt from the collection of the above information.
- \* B. If a response to resistance incident occurs during a traffic stop the Officer must report this incident on the same data collection report. The Officer must also report: if injury was sustained, the type of force used, location, and reason for stop pursuant to the response to resistance.

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- \* C. If an officer chooses to make a discretionary search on a motor vehicle stop, the officer must notify a supervisor prior to the search. The supervisor will be responsible for assuring that an MPD Racial Data Collection scantron form is submitted through the chain of command to the office of Professional Standards.
  - \* D. Effective January 1, 2018, the Chief of Police shall submit a report to the Texas Commission on Law Enforcement and the City Council containing the information compiled during the previous calendar year. The report shall be submitted to TCOLE by March 1 of each year and shall include:
    1. A breakdown of citations by race or ethnicity;
    2. Number of citations that resulted in a search;
    3. Number of searches that were consensual; and
    4. Number of citations that resulted in custodial arrest for this cited violation or any other violation.
  - \* 5. Force resulting in injury, and if so, place and reason for stop.
  - E. The report shall not include any information identifying the peace officer that has made a motor vehicle stop or any information about an individual who has been stopped or arrested.
- V. USE OF VIDEO AND AUDIO EQUIPMENT
- A. Each motor vehicle stop made by an officer of this department that is capable of being recorded by video and audio, or audio, as appropriate, is recorded.
  - B. Officers shall adhere to the mobile video operating procedures outlined in Chapter 8, Section 17, Mobile Video Recording System.
  - C. If the equipment used to record audio and/or video of motor vehicle stops is malfunctioning or otherwise not operable, the officer making the stop shall properly record and report the information on the MPD Data Collection scantron form.
- VI. COMPLAINT PROCESS
- A. Any person who believes that a peace officer employed by the City of Midland has engaged in bias-based profiling with respect to that person may file a


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complaint with the Professional Standards Division. Furthermore the information on how to file a complaint regarding any citation or warning issued by an Officer is made available in person at the Midland Police Department and through the Police Department website.

- B. No person shall be discouraged, intimidated, or coerced from filing such a complaint, or be discriminated against because they have filed such a complaint.
- C. If there is a departmental video or audio recording of the events upon which a complaint of bias-based profiling is based, upon commencement of an investigation by this department into the complaint and written request of the officer made the subject of the complaint, the department shall promptly provide a copy of the recording to that officer.
- D. Dependant on the findings of each complaint as well as the specific factors involved, corrective measures will be taken to remedy violations of this policy. Corrective measures may include but are not limited to training, counseling, policy review, and disciplinary action up to and including termination of employment. (CALEA 1.2.9.c)
- E. Annually, the Professional Standards Division will compile a statistical summary of all bias-based profiling complaints and bias-based citizen concerns, which will include the outcome of each complaint or concern. The statistical summary will be made a component of the annual published summary of internal investigations provided by the Professional Standards Division.
- F. The statistical summary will be used in an annual administrative analysis of these complaints and concerns, which will take into account a review of agency policy and practices. (CALEA 1.2.9.c)

VII. SUPERVISOR RESPONSIBILITIES

- A. Supervisors shall ensure that officers follow the policies and procedures outlined in this document. It is the responsibility of supervisors to monitor the activities of their personnel and to identify potential bias-based policing activity.
- B. An on-duty supervisor will promptly respond to an incident when advised that a person is making a complaint alleging profiling or other improper conduct.
- C. Supervisors will be apprised of all bias-based profile complaints involving personnel under their command.

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- D. Supervisors shall randomly review recordings of their officers to assist in periodic assessment of officer performance, determine whether MVR equipment is being fully and properly used, and identify material that may be appropriate for use in training.
- E. Supervisors will be particularly alert to potential patterns and practices of their personnel that may indicate bias-based profiling and treatment of individuals.
- F. Supervisors will document in their monthly report which officer's recordings were randomly reviewed and the results of the review.

VIII. TRAINING

Officers of the department will receive initial and annual training regarding bias-based profiling related issues according to TCOLE guidelines. (CALEA 1.2.9.b)

IX. PUBLIC EDUCATION

This department will inform the public of its policy against racial profiling and the complaint process. Methods that may be utilized to inform the public are the news media, radio, service or civic presentations, the Internet, as well as governing board meetings. Additionally, information will be made available as appropriate in languages other than English.