



Portsmouth Police Department
2270 East Main Road
Portsmouth, RI 02871

ORDER	EFFECTIVE DATE	NUMBER	ISSUING DATE
GENERAL	JANUARY 13, 2017	320.02	DECEMBER 9, 2019
SUBJECT TITLE		SUBJECT AREA	
IMPARTIAL POLICING		PATROL FUNCTIONS	
RIPAC REFERENCE		PREVIOUSLY ISSUED DATES	
2.8		2/15, 1/2/17	
DISTRIBUTION	REEVALUATION DATE		PAGES
ALL	ANNUALLY		5

IMPARTIAL POLICING

I. PURPOSE

The purpose of this order is to prevent and prohibit the practice of bias based profiling and other discriminatory practices in traffic stops, field contacts and asset seizure and forfeiture efforts by any member of the Portsmouth Police Department.

II. POLICY

It is the policy of this Department to investigate suspicious persons, incidents and other activities that officers encounter on patrol. It is also the intent of the Department to respect and protect the constitutional rights of all individuals during law enforcement contacts and/or enforcement actions. In addition to respect for those human rights prescribed by law, Department officers will treat all persons with the courtesy and dignity that is inherently due every person. Officers will act, speak and conduct themselves in a professional manner, and maintain a courteous, professional attitude in all contacts with the public. In the absence of any specific report, the actual or perceived race, ethnic background, color, age, gender, sexual orientation, religion, economic status, cultural group or any other identifiable group of any person will not be the basis for the detention, interdiction or other disparate treatment of any individual by any member of the Portsmouth Police Department.

III. DEFINITION

Bias Based Profiling is the arrest, detention, interdiction, or other disparate treatment of an individual on the basis of the race, ethnic background, age, gender, sexual orientation, religion, economic status, cultural group or other identifiable group of such individual, except when the such status is used in combination with other identifying factors in seeking to apprehend a specific suspect whose racial or ethnic status is part of the description of the suspect.

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.

IV. PROCEDURE

- 1) **Prohibition of Racial Profiling-** Officers shall comply with RIGL 21-21.2 “Comprehensive Community-Police Relationship Act of 2015” and refer to RIGL 31-21.2.5 “Law Enforcement Practices”.
 - a) Bias based profiling of individuals is strictly prohibited by officers of the Portsmouth Police Department.
 - b) Stops or detentions based on race, age, gender, or sexual orientation or any other prejudicial basis by any member of the Portsmouth Police Department are prohibited.
 - c) The detention of any individual, which is not based on factors related to a violation of federal law, Rhode Island statutes, Town Ordinances, or any combination thereof is prohibited.
 - d) Officers will not use actual or perceived race, ethnic background, age, gender, sexual orientation, religion, economic status, cultural group or other identifiable group of such individual as the sole basis for developing reasonable suspicion or grounds for a traffic or street stop, or in deciding upon the scope and substance of post-stop action.
 - e) Officers must be able to clearly articulate the specific police or public safety purpose of any traffic or street stop.
 - f) When determining if reasonable suspicion for a stop, search or detention exists, or when developing probable cause for an arrest, officers may consider the factors above, when one or more of those factors are part of the description of a known or

suspected offender wanted in connection with a specific criminal or quasi-criminal incident based on a credible report.

- g) Asset seizure and forfeiture efforts will be based on violations of federal law, Rhode Island statutes or any combination thereof and shall not be motivated by race, color, ethnicity, age, gender, sexual orientation, religion, economic status or cultural group.

2) Training

- a) All officers will receive initial training when hired on the harms of bias-based profiling and discrimination, including legal aspects and a review of this policy. Annual Training will also be provided.
- b) Additional diversity and sensitivity training will be designated for officers with sustained bias based profiling or other sustained discrimination complaints filed against them in addition to possible disciplinary action.

3) Duties of Officers

- a) Any employee who believes there is, or is made aware of any violation of this Order, will immediately contact his/her immediate supervisor.
- b) All complaints of bias based profiling or discriminatory practices will be investigated in accordance with the established internal affairs procedures.
- c) Each supervisor will be responsible for continually monitoring and examining all officers under their direct supervision to ensure that officers' actions and activities adhere to this policy and to discover any indications of racial profiling or discriminatory practices.
- d) Traffic enforcement, detention, and search procedures, will be accompanied by consistent, ongoing supervisory oversight to ensure that officers do not go beyond the parameters of reasonableness and lawfulness in conducting such activities.

4) Recording of Motor Vehicle Stops

- a) 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 time a motorist is stopped, the officer shall radio to the dispatcher the location of the stop. The description of vehicle being detained, and the number of occupants and reason for the stop, may also be radioed when warranted. Communication Personnel shall log all pertinent information. All required reports and/or forms shall be completed by the officer upon completion of the stop.

Proper reports must be filled out by the officer for every motor vehicle stop, when required by statute or policy.

5) Detention and Search

- a) 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, or a legally recognized exception to the warrant requirement.

No operator or owner-passenger of a motor vehicle shall be requested to consent to a search by a law enforcement officer of his or her motor vehicle which is stopped solely for a traffic violation, unless there exists articulable reasonable suspicion or probable cause of criminal activity.

- b) In each case where a search is conducted, this information shall be recorded in an incident report, 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.

6) Complaints of RACIAL/ETHNIC PROFILING:

- a) 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.
- b) Any person who tells an officer that they wish to file such a complaint shall be provided with the name of the officer’s immediate supervisor, and the telephone number of the Department. Any officer who is accused on scene of discrimination, racial profiling, an illegal stop, frisk, and/or search by any person, shall report the incident to the officer’s supervisor as soon as practical at the conclusion of the contact. Such accusations can often be prevented or mitigated by explaining to the motorist the reason for the stop.
- c) Supervisors who receive official complaints shall follow Departmental procedures as outlined in the General Order pertaining to the Citizen Complaint Process. Supervisors shall review profiling accusations and complaints, formal or informal, that they are aware of against their subordinates. When backing up officers on vehicle stops and other calls, and shall take appropriate action whenever it appears that this policy is being violated, and be alert to any pattern or practice of possible discriminatory treatment by officers.
- d) The Chief of Police or his designee shall prepare a report regarding information on the complaints received by the Portsmouth Police Department and submit on an annual basis under uniform criteria established by the Select Commission on Race and Police-Community Relations. The information provided by the Portsmouth Police Department shall include the total number of complaints received, a breakdown by category of the type of complaint and a further breakdown by category of the disposition of the complaints.

7) Disciplinary Procedures

- a) Progressive discipline consistent with, Disciplinary Procedures, will be implemented for non-compliance with this policy up to and including dismissal.
- b) Failure to report any observed or known violations of this order by any member of the department will result in disciplinary action.

8) Administrative Review

- a) There will be a documented annual review of this order and department practices conducted by the Chief of Police, or his designee. The review will include concerns expressed by citizens.

By Order of:

A handwritten signature in black ink, appearing to read 'BP Peters', with a long horizontal stroke extending to the right.

Brian P. Peters
Chief of Police

TITLE 31

Motor and Other vehicles

CHAPTER 31-21.2

Comprehensive Community-Police Relationship Act of 2015

SECTION 31-21.2-5

§ 31-21.2-5 Law enforcement practices.

(a) Unless there exists reasonable suspicion or probable cause of criminal activity, no motor vehicle stopped for a traffic violation shall be detained beyond the time needed to address the violation. Nothing contained herein shall prohibit the detention of a motor vehicle for a reasonable period of time for the arrival of a canine unit or subsequent criminal investigation if there is reasonable suspicion or probable cause of criminal activity.

(b) No operator or owner-passenger of a motor vehicle shall be requested to consent to a search by a law enforcement officer of his or her motor vehicle, that is stopped solely for a traffic violation, unless there exists reasonable suspicion or probable cause of criminal activity. No pedestrian shall be requested to consent to a search by a law enforcement officer of his or her person, unless there exists reasonable suspicion or probable cause of criminal activity. No juvenile shall be requested to consent to a search by a law enforcement officer unless there exists reasonable suspicion or probable cause of criminal activity. In those instances in which a warrant would be required, a law enforcement officer must advise the juvenile that he or she may refuse to consent to, or limit the scope of, any requested search. The determination of age of the individual shall be based on the perception of the officer making a good faith effort in advance of requesting consent. Nothing contained in this subsection shall be construed to prohibit a law enforcement officer from conducting a pat down search for weapons based upon a reasonable belief that the officer's personal safety may be jeopardized.

(c) Each search conducted by a law enforcement officer that does not result in criminal charges shall be documented in a computer-aided dispatch (CAD)

entry or other police-generated report. Each search conducted by a law enforcement officer that results in criminal charges shall be documented in a police-generated report. The CAD entry or formal police report shall include the date, time, and location of the stop/search, along with the "reasonable suspicion" or "probable cause" leading to the search. The CAD entry or formal police report shall also include the race, age, and gender of the individual(s) searched and the results of the search. The document, exclusive of information identifying the law enforcement officer, shall be a public record, subject to the access to public records act, § 38-2-2(4)(D), law enforcement exemptions. For purposes of this section, "computer-aided dispatch" (CAD) means an electronic system used by public safety agencies to facilitate incident response and communications in the field that electronically records information on call taking, dispatching, location verification, mapping, and other functions for public safety.

(d) With the exception of operators who are subject to federal motor carrier regulations, no operator of a motor vehicle shall be requested to provide any documentation or identification other than a driver's license, motor vehicle registration, and/or proof of insurance when the motor vehicle has been stopped solely for a traffic violation, unless there exists reasonable suspicion or probable cause of criminal activity or the operator has failed to produce a valid driver's license.

(e) If a violation of the traffic laws in this title is used to stop a motor vehicle for non-related investigatory reasons, the law enforcement officer shall document in writing or electronically the investigatory basis for the stop. The documentation of such stops shall commence no later than twelve (12) months after passage of this act and shall be assessed every six (6) months by the respective police department as to whether the suspicion was justified and the data be made publicly available, subject to the access to public records act, § 38-2-2(4)(D), law enforcement exemptions.

(f) Any evidence obtained as a result of a search prohibited by subsection (a) or (b) shall be inadmissible in any judicial proceeding. Nothing contained herein shall be construed to preclude any search otherwise based upon any legally sufficient cause.

(g) Law enforcement agencies using video and/or audio surveillance cameras in their vehicles shall adopt written policies and procedures regarding the use of such cameras, which shall be public records, and which shall include, but not be limited to, the following standards:

(1) All motor vehicle stops conducted by police vehicles with such equipment shall be recorded barring exceptions outlined below. In an effort to objectively

memorialize relevant observations, the recording shall begin no later than when an officer first signals the vehicle to stop; and, barring conditions that could compromise a sensitive investigation, jeopardize the safety of a vehicle occupant or cooperating victim/witness and/or unforeseen equipment malfunction, the recording shall continue until the motor vehicle stop is completed and the stopped vehicle departs, or until the officer's participation in the motor vehicle stop ends;

(2) Law enforcement agencies that acquire video and/or audio surveillance cameras for use in their vehicles shall:

(i) Notify the office of highway safety of the Rhode Island department of transportation that such equipment has been acquired and will be in use and the department of transportation shall post notice of such use on its website;

(ii) Issue a press release advising the public that such equipment will be in use; and

(iii) Post notice on its website that such equipment will be in use;

(3) A chain of custody of the video/audio recordings, hereafter referred to as "recording(s)", shall be maintained;

(4)(i) A driver of a motor vehicle who was recorded by a video/audio surveillance camera, and/or his or her legal counsel, shall have the right to view the in-car recording at the police station, provided that the viewing does not compromise an active investigation;

(ii) A passenger of a motor vehicle who was recorded by a video/audio surveillance camera, and/or his or her legal counsel, shall have the right to view the in-car recording at the police station if that passenger became the subject of the police interaction recorded, provided that the viewing does not compromise an active investigation;

(5) The policy shall address the period of retention for such recordings, and procedures to be used to ensure that the recording equipment is in proper working order, and shall bar the destruction of any recording of an incident that is the subject of a pending complaint, misconduct investigation, or civil or criminal proceeding. Such recordings shall be retained for a minimum of ten (10) days after the final resolution of such investigation or proceeding, including the time for any appeal;

(6) The policy shall explicitly prohibit any violation of these requirements, including any attempts to disengage or tamper with the video/audio

surveillance equipment, deliberately and prematurely erase or alter a recording, or to otherwise fail to record stops as specified herein barring the aforementioned limited exceptions; and

(7) The video/audio surveillance recordings regulated by this section shall not be deemed public records under the access to public records act, § 38-2-1, et seq. A court may impose any appropriate remedy in any civil or criminal proceeding where a knowing and willful violation of these standards is found to have been committed.

(h) Law enforcement officers shall advise any motorist who is stopped of the reason for the stop.

(i) Law enforcement agencies with mobile display terminals in police vehicles shall adopt policies and procedures governing their use that shall include the criteria necessary to initiate a record check on a motor vehicle license or registrant. All law enforcement agencies must comply with state and federal guidelines related to the use and access of Rhode Island law enforcement telecommunication system (RILETS) and National Criminal Identification Center (NCIC).

(j) The policies and procedures established by this section shall be added to, and prominently placed in, all relevant departmental policy and training manuals. Other appropriate training about the requirements of this chapter shall also be provided to all officers.

History of Section.

(P.L. 2004, ch. 331, § 1; P.L. 2004, ch. 356, § 1; P.L. 2015, ch. 214, § 2; P.L. 2015, ch. 235, § 2.)