

General Order Manual

Decatur Police Department

Chapter 7 - FORCE, DETENTION AND ARREST

Section 09 - Bias Based Profiling

Effective Date: 04-04-2018

Reference: Mobile Video/Audio Recording Equipment, Traffic
Enforcement, Field Interviews

Applicability: All Sworn Personnel

New() Amends(X) Rescinds() 7-09 dated 01-27-2007

I. Purpose:

A. The purpose of this General Order is to provide procedures and guidelines to prevent biased based profiling and to protect employees of the Department from unwarranted accusations when they act within the dictates of the law and policy.

II. Policy:

A. The use of biased based profiling by members of the Decatur Police Department is prohibited. It is the policy of the Decatur Police Department to patrol in a proactive manner, to thoroughly investigate suspicious persons and circumstances, and to actively enforce the motor vehicle laws, while insisting that persons 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. All sworn personnel will receive annual training on biased-based profiling.

III. Discussion:

A. The right to equal protection under the law is a fundamental right guaranteed by the Constitution of the United States. Along with the right to equal protection is the fundamental right to be free from unreasonable searches and seizures by government agents. Persons are free to walk and drive the streets, highways, and other public places without police interference so long as they obey the law. They also are entitled to be free from crime, and from the depredations of criminals, and to drive and walk our public ways safe from the actions of reckless and careless drivers. The Decatur Police Department is charged with protecting these rights for all, regardless of race, color, ethnicity, age, gender, gender identity, sexual orientation, physical handicap, religion, or other belief system. Because of the nature of law enforcement, employees are required to be observant, to identify unusual occurrences and law violations, and to act upon them. This proactive enforcement keeps persons safe from crime, keeps our streets and highways safe to drive upon, and detects and apprehends criminals. This policy is intended to assist the Decatur Police Department in accomplishing its total mission in a way that respects the dignity of all persons and yet sends a strong message to actual and potential lawbreakers that if they break the law, they are likely to encounter the police.

IV. Definitions as Used in this Policy:

A. Biased Based Profiling - The practice of a police officer that incorporates prejudicial judgements

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based on race, ethnicity, age, gender, gender identity, sexual orientation, economic status or religious beliefs in selecting which individuals to subject to routine investigatory activities, or in deciding upon the scope and substance of law enforcement activity following the initial routine investigatory activity, except that Biased- based profiling does not include reliance on such criteria in combination with other identifying factors when the police officer is seeking to apprehend a specific suspect whose race, age, color, ethnicity, gender, gender identity or sexual orientation origin is part of the description of the suspect.

B. Routine Investigatory Activities - The term 'routine investigatory activities' includes the following activities by police officers: traffic stops; pedestrian stops; frisks and other types of body searches; consensual or nonconsensual searches of the persons or possessions (including vehicles) of motorists or pedestrians.

C. 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/her training and experience, and/or reliable information received from credible outside sources.

V. Procedure:

A. Documentation:

1) Appropriate enforcement action shall always be completed, generally in the form of a warning, citation, or arrest. The proper form must be filled out by the officer, and shall include the gender, race, and ethnicity of the person stopped, if this information can reasonably be ascertained by physical appearance or from the driver's license or other documents provided by the individual.

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. 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 appropriate form. If the individual indicates that they will consent to a search but refuse 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.

2) In accordance with General Order Chapter 5 Section 3, officers are mandated to utilize Body Worn Cameras (BWCs) during all traffic stops and citizen contacts, to include criminal and non-criminal incidents, and remain activated until the person is released and resumes his or her journey.

3) In accordance with General Order Chapter 5 Section 3, if the police patrol vehicle is equipped with a video camera, the video and sound shall be, when possible, activated prior to the stop, to record

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the behavior of the vehicle or person, and shall remain activated until the person is released and resumes his or her journey.

4) In the absence of a specific, credible information containing a physical description, 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. The deliberate recording of erroneous information related to the actual or perceived race, ethnicity, gender, or sexual orientation of a person stopped for investigative or an enforcement purpose is prohibited and shall result in disciplinary action, up to and including dismissal.

B. Contact/Traffic Enforcement

1) The Department recognizes that with experience, an officer may develop an individualized approach that he/she finds works best for minimizing conflict during officer/violator contacts. Absent a better approach, the following is recommended, in the order specified below:

Radio the stop indicating the following information:

- * Location of the stop.
- * Tag number and state of issue of the violator's vehicle.
- * Make, model, and color of the vehicle.
- * Description of the person being detained, if available.
- * Reason for the stop, e.g. traffic, suspicious, BOLO, etc.
- * Greet the violator with an appropriate title and in a courteous manner.
("Good morning, Ma'am," "Good evening, sir.")
- * Identify yourself.
- * Politely inform the violator what traffic law he/she has violated; the violator should not be kept in suspense. (Describing the actions of the vehicle rather than personalizing the action to the driver tends to reduce tension. 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.")
- * Politely ask the violator for driver's license, vehicle registration, and proof of insurance, and accept only these forms. Obtain another document of identification if the driver has no driver's license.
- * Ask the violator to discuss the violation. Giving 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.
- * Complete the forms required for the enforcement action, if any, and explain to the violator what he/she must do in response to the action taken.
- * Have the violator sign the citation and return the driver's license,

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registration, proof of insurance, and a copy of the citation.

* 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.

* Assist the violator in safely re-entering the traffic flow.

2) The department's concentrated traffic enforcement efforts will be directed toward areas where there is the highest likelihood that crashes will be reduced and/or crimes prevented through proactive patrol, or in response to traffic complaints. This in no way implies officers should refrain from proactively enforcing traffic regulations within their assigned areas.

3) Traffic enforcement will be accompanied by consistent, ongoing supervisory oversight to ensure officers do not go beyond the parameters of reasonableness in conducting such activities.

C. Complaints of Biased-based Profiling

1) Any person may file a complaint with the department if they feel they have been stopped or searched based on racial, ethnic, age, gender or sexual orientation based profiling. No person shall be discouraged, intimidated, coerced from filing such a complaint, or discriminated against because they have filed such a complaint.

2) Any employee contacted by a person who wishes to file such a complaint shall have the citizen contact either the on-duty supervisor or the appropriate Command Staff.

3) Supervisors receiving such a complaint shall forward it to the appropriate Command Staff. All such complaints shall be reviewed and the complaint acknowledged to the complainant in writing. The complainant shall be informed of the results of the Department's review within a reasonable period. The report and the reviewer's conclusion shall be reviewed in accordance with General Order 10-6.

4) Supervisors shall review profiling complaints, periodically review a sampling of in-car video tapes of stops, review reports filed on stops by officers, and respond at random to backup officers on vehicle stops. Supervisors shall take appropriate action consistent with guidelines established in departmental and City of Decatur policy whenever it appears this policy has been or is being violated. Supervisors shall be particularly alert to any pattern or practice of possible discriminatory treatment by individual officers or squads.

J. M. Booker
Chief of Police