



HOLMES BEACH POLICE DEPARTMENT
William L. Tokajer, Chief of Police

PROCEDURAL GENERAL ORDERS

Title: Biased Policing

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525.01 ESTABLISHMENT

I. Purpose:

The purpose of this policy is to unequivocally state that racial and ethnic profiling in law enforcement is totally unacceptable, to provide guidelines for officers to prevent such occurrences and to protect our officers when they act within the dictates of the law and policy from unwarranted accusations in biased policing in traffic contacts, field contacts and in asset seizure and forfeiture efforts.

II. Policy:

It is the policy of the Holmes Beach 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.

III. Definitions:

Biased Policing: The selection of an individual (s) based solely on a trait common to a group for enforcement action. This includes but is not limited to: race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group.

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. **Discussion:**

A fundamental right guaranteed by the Constitution of the United States to all who live in this nation is to equal protection under the law. Along with this right to equal protection is the fundamental right to be free from unreasonable searches and seizures by government agents. Citizens are free to walk and drive our 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 negative effects of criminals, and to drive and walk our public ways safe from the actions of reckless and careless drivers.

This law enforcement agency is charged with protecting these rights, for all, regardless of race, color, ethnicity, sex, sexual orientation, physical handicap, religion or other belief system.

Because of the nature of their business, law enforcement officers are required to be observant, to identify unusual occurrences and law violations, and to act upon them. It is this proactive enforcement that keeps our citizens free from crime, our streets and highways safe to drive upon, and that detects and apprehends criminals.

This policy is intended to assist law enforcement in accomplishing this total mission in a way that respects the dignity of all persons and yet sends a strong deterrent message to actual and potential lawbreakers that if they break the law, they are likely to encounter the police.

V. **Procedure:**

525.02 TRAFFIC STOPS

1. The Holmes Beach Police 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.
2. Officers will receive training in accordance with CJST guidelines, including officer safety, courtesy, cultural diversity, the laws governing search and seizure, and interpersonal communications skills.
3. Training programs will emphasize the need to respect the rights of all citizens to be free from unreasonable government intrusion or police action.
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.

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 time a motorist is stopped, the officer shall radio to the dispatcher the location of the stop, the description of the person or vehicle being detained, and reason for the stop.
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. Ex: “I am Officer Smith of the Holmes Beach Police Department.
 - c. State the reason why the person is being stopped or detained. Ex: “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. Ex: “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 any, 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.
7. Appropriate enforcement action should 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 or 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.
8. 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 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.

9. If the police vehicle is equipped with a video camera, or body cameras are worn, the video and sound shall be activated prior to the stop, to record the behavior of the vehicle or person, and shall remain activated until the person released and resume their journey.
10. In the absence of a specific, credible report 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.
11. The deliberate recording or documentation 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 is cause for disciplinary action, up to and including dismissal.
12. During community service and neighborhood watch gatherings, community education and awareness efforts concerning biased policing will be discussed by the individual over this function.

525.03 COMPLAINTS OF RACIAL/ETHNIC PROFILING

1. Any person may file a complaint with the Holmes Beach Police 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.
2. Any officer contacted by a person who wishes to file such a complaint, shall complete a report to include the person’s name, address, and telephone number, and report the contact to the supervisor prior to the end of the shift.
3. Supervisors receiving such a report shall forward it to the Chief of Police or his designee, and 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. The report and the reviewer’s conclusion shall be filed with the Chief of Police.
4. **The investigator shall act for the Chief of Police as a fact-finding unit and shall make no recommendation as to discipline.**
5. At the conclusion of an internal affairs investigation, the investigator shall review the facts and evidence gathered and shall forward a report with a recommended finding(s) to the Chief of Police who, after review, shall forward the findings to the accused employee’s Supervisor. If the findings are sustained, the supervisor shall make a disciplinary recommendation and/or corrective measures that will become changes in policy, training, or tactics if biased policing occurs in accordance with Procedural General Orders. Subsequent disciplinary action shall

follow the procedures as set forth in the Department Procedural General Orders.

6. An annual administrative review of agency practices, to include citizen complaints and documented reports of all profiling complaints, will be conducted for the year, including the findings as to whether they were sustained, not sustained or exonerated.
7. Supervisors shall review profiling complaints, if any, to include a review of in-car video tapes of stops, reports filed on stops by officers, and respond at random to back up officers on vehicle stops and shall take appropriate action whenever it appears that this policy is being violated, being particularly alert to any pattern or practice of possible discriminatory treatment by individual officers or shifts. In an effort to identify potential compliance problems, each supervisor will conduct periodic reviews of citations.