

# Narragansett Police Department

40 Caswell Street, Narragansett, RI 02882

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## Policy 320.02

## Bias Based Profiling Prohibited

### 01 Purpose

The purpose of this policy is to establish guidelines for sworn officers of the Narragansett Police Department to follow to prevent and prohibit the practice of bias based profiling and other discriminatory practices by any member of the department.

### 02 Policy

It is the policy of the Narragansett Police 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. Officers will act, speak and professionally conduct themselves, and maintain a courteous, professional attitude in all contacts with the public. In the absence of any specific report, the actual or suspected immigration or citizenship status, the actual or perceived race, ethnic background, national origin, 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 Narragansett Police Department. Vehicular and pedestrian searches will be conducted by established state law and departmental policy. Searches are to be conducted according to mandates and legislation as it relates to traffic and pedestrian stops and the potential collection of stop statistics. Furthermore, 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.

### 03 Definitions

Bias Based Profiling- Is the detention, interdiction or other disparate treatment of an individual on the basis, in whole or part, of the racial, ethnic status, age, gender, sexual orientation, religion, economic status, cultural group or other identifiable group of such individual, except when 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, when the description is timely and reliable.

Articulable/Reasonable Suspicion- Is based on a specific, articulable set of facts and circumstances that lead a law enforcement officer to believe criminal activity is involved and these facts and circumstances can lead to a stop and temporary detention of a person for questioning. Information must be more substantial than a mere hunch but can be less than probable cause. 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. A frisk (i.e., terry rule) may be appropriate under this definition.

Probable Cause- Is sufficient knowledge of articulable facts and circumstances that would lead a reasonable law enforcement officer to believe that a person has either committed or is about to commit an offense. Probable cause is a necessary element to place a person under arrest and/or to apply for a search warrant to conduct a

search of a home or person's property.

## **04 Procedures**

### **A. Prohibition of Racial Profiling**

1. Bias based profiling of individuals is strictly prohibited by officers of the Narragansett Police Department.
2. Stops or detentions based on citizenship status, race, age, gender, or sexual orientation or any other prejudicial basis by any member of the Narragansett Police Department are prohibited.
3. 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.
4. Officers will not use actual or perceived citizenship status, 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.
5. Officers must be able to clearly articulate the specific police or public safety purpose of any traffic or street stop.
6. 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.
7. With the exception of operators who are subject to federal motor carrier regulations, no operator shall be requested to provide documentation or ID other than a driver's license, motor vehicle registration and proof of insurance when the stop is 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 license.
8. 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.
9. Officers shall advise any motorist who is stopped of the reason for the stop.

### **B. Training**

1. All Police Department officers will receive initial and refresher training on the harms of bias-based profiling and discrimination, including legal aspects and a review of this policy. Once every three years minimum on refresher training.
2. 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.

### C. Duties of Officers and Supervisors

1. Any employee, who believes there is, or is made aware of any violation of this order, will immediately contact his/her immediate supervisor.
2. 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. IMC Mobile Terminal Motorist Data Collection

1. Police Officers of the Narragansett Police Department shall complete a racial profile vehicle entry after each vehicle stop, any motor vehicle accident or motorist assist contact where the operator is on scene and receives a citation. The racial profile vehicle entry shall include the following information:
  - a. The race or ethnicity, gender and approximate age of the driver stopped and passenger(s), provided that the identification of such characteristics shall be based upon the observation and perception of the police officer making the stop and the information shall not be requested of the person stopped.
  - b. Operator residency and date of birth.
  - c. The reason for the stop.
  - d. The vehicle registration and plate type
  - e. Number of occupants.
  - f. Basis for the stop.
  - g. Outcome of the stop (whether any warning or citation was issued etc...)
  - h. The approximate duration of the stop.
  - i. Indicate if the driver has a criminal record.
  - j. Whether a search was instituted as a result of the stop.
  - k. Whether a frisk was instituted as a result of the stop.
  - l. Scope of the Search/Frisk. (motor vehicle, driver and/or passenger)
  - m. Whether an arrest was made as a result of either the stop or search.
  - n. Whether the search was conducted pursuant to incident to arrest, "Terry" frisk, plain view contraband, probable cause, odor of drugs/alcohol, or reasonable articulable suspicion to suspect a crime.
  - o. Whether Consent Requested
  - p. Whether any contraband, including money, was seized during the course of the search, and if so, the nature of the contraband.
2. All required reports and/or forms shall be completed by the officer upon completion of the stop.

### E. Completion of Required Reports and Forms

1. The IMC mobile data collection entry, racial profiling, will be completed by the officer for every motor vehicle stop and for motor vehicle accidents or motorist assists where the driver is on scene and receives a citation. The failure to complete any required forms, computer entry, and/or the deliberate recording of any misleading information related to the reason for the stop, and/or the actual or perceived race, ethnicity, gender, or age of a person stopped for investigative or enforcement purposes is prohibited and is a cause for disciplinary action.

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

#### F. Detention and Search

1. 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. However, a motor vehicle may be detained 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.
2. 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 reasonable articulable suspicion or probable cause of criminal activity exists.
3. No pedestrian shall be requested to consent to a search by a law enforcement officer of his/her person, unless reasonable suspicion or probable cause of criminal activity exists.
4. No juvenile shall be requested to consent to a search by a law enforcement officer unless reasonable suspicion or probable cause of criminal activity exists. In those instances, in which a warrant would otherwise be required, a law enforcement officer must advise the juvenile that he/she may refuse to consent to, or limit the scope of, any requested search.

**NOTE: Nothing in this policy 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.**

#### G. Signal 7 Procedure

1. When a department member stops a car or makes contact with a pedestrian, he/she will radio the location of the stop or contact.
2. The dispatcher will enter the code for motor vehicle stop or pedestrian contact into IMC.
3. When reasonable suspicion or probable cause exists and at the officer's discretion, she/he chooses to conduct a consent search, then the officer is hereby directed to radio for a supervisor or other officer. This allows for better officer safety and also gives the primary officer an opportunity to discuss the reasonable suspicion or probable cause for a second opinion if desired.
4. If the officer requests a consent search, then she/he will notify dispatch to change the call reason from Motor Vehicle Stop to Motor Vehicle Search or to change the Pedestrian Contact to Pedestrian Search.
5. If pursuant to the search an arrest is made, then the dispatcher will assign an arrest screen ("AR") as they normally would provide. If the officer clears the call dispatcher will then give the call an "OF".
6. The officer is obligated to articulate the reasonable suspicion in the narrative section of the non-crime offense report and the supervisor will then review the narrative.

7. The appropriate customization in the system will be maintained to block any search of a Motor Vehicle or Pedestrian, with no arrest, from appearing in the “press log”.
8. When written requests are received Signal 7 reports will be released as public records.

#### H. Complaints of Racial/Ethnic Profiling:

1. All complaints of bias based profiling or discriminatory practices will be investigated in accordance with the established internal affairs procedures.
2. 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.
3. 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.
4. Supervisors who receive official complaints shall follow Departmental procedures as outlined in Policy # 130.01 entitled “Citizen & Internal Complaints”.
5. Supervisors shall review documented profiling accusations and complaints that have been made against their subordinates. When backing up officers on vehicle stops and other calls they shall take appropriate action whenever it appears that this policy is being violated. They will be alert to any pattern or practice of possible discriminatory treatment by officers.
6. The Chief of Police or his/her designee shall compile information on complaints received on an annual basis and publish it on the department website. The information will include at a minimum the total number of complaints received from the public, a breakdown by category of the type of complaint and a further breakdown by category of the disposition of the complaints.

#### I. Disciplinary Procedures

1. Progressive discipline consistent with Policy #130.09 entitled “Disciplinary Procedures” will be implemented for non-compliance with this policy up to and including dismissal.
2. Failure to report any observed or known violations of this order by any member of the Department will result in disciplinary action.

#### J. Administrative Review

1. The oversight of vehicle and pedestrian searches will be monitored by the department’s civil rights officer who is required to report any issues with searches directly to the Chief of Police.
2. There will be an annual administrative review of agency practices, including citizen concerns, conducted by the Chief of Police, or his/her designee.

3. The Civil Rights Officer will review Racial Profiling Statistics with the Command Staff at Command Staff meetings.

By Order of:

Chief of Police